

After recording return to:

Michael C. Robinson
Perkins Coie LLP
1120 NW Couch Street,
Tenth Floor
Portland, OR 97209-4128

This space reserved for recorder's use.

**STATUTORY DEVELOPMENT AGREEMENT FOR PHASES 3, 4, 5, AND 6 OF THE BOONES
CROSSING PLANNED UNIT DEVELOPMENT**

between

**CITY OF WOODBURN, OREGON; PREMIER DEVELOPMENT, LLC; WOODBURN
DEVELOPMENT, LLC; NANCY BOCCHI; and FAYE ZIMMER**

This Statutory Development Agreement (the "Agreement") is made and entered on the dates executed as shown below by and between the **CITY OF WOODBURN, OREGON**, a municipal corporation of the State of Oregon ("City"); **PREMIER DEVELOPMENT, LLC**, an Oregon limited liability company ("Premier"); **WOODBURN DEVELOPMENT, LLC**, an Oregon limited liability company ("Woodburn Development"); **NANCY BOCCHI** ("Bocchi"); and **FAYE ZIMMER** ("Zimmer") (also referred to as "Phase 6 Owners"); pursuant to ORS 94.504 to 94.528. City, Premier, Woodburn Development, Bocchi, and Zimmer may be referred to jointly in this Agreement as the "Parties" and individually as a "Party." Premier, Woodburn Development, Bocchi, and Zimmer may be referred to jointly in this Agreement as the "Owners" and individually as an "Owner."

RECITALS

A. Premier is the legal owner of Boones Crossing Phase 3, containing approximately 8.45 acres of real property in the City located near SW Boones Ferry Road, more particularly described in **Exhibit A** and depicted in **Exhibit B**, both exhibits attached hereto and incorporated herein by reference ("Phase 3 Property").

B. Woodburn Development, the successor to ICON Construction and Development, LLC, is the legal owner of Boones Crossing Phases 4 and 5, containing approximately 22.12 acres of real property in the City located immediately southeast of the Phase 3 Property and described in **Exhibit A** and depicted in **Exhibit B**, both exhibits attached hereto and incorporated herein by reference ("Phases 4 and 5 Property").

C. Bocchi and Zimmer are the legal owners of Boones Crossing Phase 6, containing approximately 11.42 acres of real property in the City located immediately west of the Phases 4 and 5 Property and also described in **Exhibit A** and depicted in **Exhibit B** ("Phase 6 Property"). The Phase 3, Phases 4 and 5, and the Phase 6 Properties may be collectively referred to in this Agreement as the "Property."

D. The City originally approved development of the Property, subject to conditions, as the Boones Crossing Annexation Case No. 97-08; Zone Change No. 97-12; Conditional Use No. 97-03, Planned Unit Development, No. 97-03 ("PUD") and Variance No. 97-12, when the City Council adopted Ordinance No. 2246 ("Boones Crossing Decision") to be developed in four (4) phases. Numerous modifications and approvals have occurred to the Boones Crossing Decision, including but not limited to City Ordinance No 2275 (Nov. 2007 modification of conditions of approval) and a 2003 staff decision approving revision to development in six (6) phases. A copy of the original Boones Crossing Decision and its exhibits is set forth in **Exhibit C**, attached hereto and incorporated herein by reference.

E. The conditions of approval of Ordinance No. 2246, as modified by City Ordinance 2275, require the Owners to construct various public improvements. Some of these improvements were completed in conjunction with Phases 1 and 2 of the PUD. Others, however, have not been completed.

F. The Parties agree that the passage of time, changes in ownership and modifications to the Boones Crossing Decision have created substantial uncertainty, including but not limited to the extent of Owners' responsibility for the cost of the remaining public improvements, all of which likely would unreasonably burden and delay development of the Property.

H. The Parties desire to enter this Agreement to: (1) clarify the remaining public improvements needed to support development of the Property consistent with the PUD; (2) clarify and establish Owners' obligations regarding payment for the public improvements; (3) make related determinations regarding the conditions of the PUD; and (4) resolve ongoing disagreements and potential litigation pertaining to development of the Property, including Woodburn Development's December 4, 2014, appeal ("Appeal") of the City's denial of system development charge ("SDC") credits for Woodburn Development's construction of a public lift station.

I. The City finds that entering this Agreement is in the public interest as it resolves uncertainties regarding the terms and conditions of the PUD approvals, avoids

potential litigation between and among the City and the Owners and encourages the development of housing and public improvements serving the residents of the City.

AGREEMENT

In consideration of the mutual promises and performance obligations of each Party as set out in this Agreement, City, Premier, Woodburn Development, Bocchi, and Zimmer hereby agree to the following terms and conditions:

1. Effective Date and Term of Agreement.

1.1 This Agreement shall be effective upon the later of: (1) adoption of an ordinance by the Woodburn City Council approving this Agreement pursuant to ORS 94.508; and (2) execution of this Agreement by all Parties. As used herein, "adoption of an ordinance by the Woodburn City Council" means the date upon which the ordinance becomes effective. The Agreement shall continue in effect for a period of ten (10) years after its effective date, unless it is terminated in accordance with Section 11 of this Agreement. Any party may request one five-year extension which the other parties shall not unreasonably refuse provided the requesting party demonstrates that factors beyond its reasonable control resulted in delay in implementing this Agreement and the Boones Crossing PUD. In no event shall this Agreement extend beyond 15 years unless amended as provided by law.

1.2 If Phase 4, 5 or 6 has not received final development approval on the date that is 30 days prior to termination of this Agreement pursuant to paragraph 1.1, termination shall constitute an amendment to the Boones Crossing Planned Unit Development removing the Phase that has not received final development approval from the Planned Unit Development.

2. Description of Development Authorized by this Development Agreement.

2.1 Permitted Use. The permitted uses shall be those provided for in the Boones Crossing Decision.

2.2 Density. The maximum density applicable to development of the Property shall be as provided for in the Boones Crossing Decision; provided, however, that the number and configuration of approved lots in Phases 4, 5 and 6 shall be as approved by the City in subsequent final plats. This Section shall not preclude a zoning map amendment for Phase 6. A zone map amendment shall not require an amendment to the Boones Crossing PUD or this agreement provided that it does not alter the public improvement and reimbursement obligations in this Agreement.

2.3 Maximum Height and Size of Structures. The maximum height and size of structures on the Property shall be as provided for in the Boones Crossing Decision.

2.4 Future Land Division Approvals for Phases 4, 5, and 6. Development of the Property in accordance with the Boones Crossing Decision, as modified by this Agreement, shall require Owners to obtain final plat approval for Phases 4, 5, and 6. The conditions, terms, restrictions, and requirements for final land division approval for Phases 4, 5, and 6 shall be as provided for in the Boones Crossing Decision, as modified by this Agreement, and the City's land development regulations. Commercial and multi-family development shall require discretionary design review approval. In the event of a conflict between these documents, this Agreement shall control. No other future discretionary approvals are required in order to develop the Property in accordance with the Boones Crossing Decision.

2.5 Final Plat for Phase 3. The Parties agree that upon the Effective Date of this Agreement, the City may approve the final plat for Phase 3, provided all other applicable standards are met.

2.6 Final Plats for Phases 4, 5 and 6. The Parties agree that the final plats filed pursuant to the Boones Crossing preliminary plat approvals for Phases 4, 5, and 6 shall be subject to the current approval criteria in Woodburn Development Code ("WDO") Sections 3.08.01 and 5.01.06.

2.7 Development Schedule. Construction of the development shall commence and be completed within ten (10) years after the effective date of this Agreement unless the parties agree to a five-year extension of this Agreement as provided in Section 1.1. Provided, however, City shall allow the final plat for Phase 3 to be recorded upon execution of this Agreement provided that all applicable standards are met; and further provided that Woodburn Development shall obtain land division approvals and record the final plat for the Phases 4 and 5 Property within sixty (60) months after the execution of this Agreement.

3. Infrastructure Improvements and Dedications; Reimbursements.

3.1 Reimbursements. Parties making improvements to serve their respective phases ("Building Phase Owner") may also provide for other phases to be served by the improvements ("Benefiting Phase Owner"). In such case, the Benefitting Phase Owner shall make payments as provided for in Section 3.2.1 and 3.3.1 and 3.5.2 of this Agreement.

3.2 Construction of Public Improvements. Except as modified herein, Owners shall be responsible, at their expense, for construction of the public improvements conditioned in the Boones Crossing PUD approval and as provided below. Upon completion of construction, Owners, respectively, shall dedicate the respective improvements to City. Upon proper dedication of an improvement that meets the requirements of this Agreement, City shall accept that improvement and shall be responsible for maintenance of that improvement. In the event that an Owner(s) unilaterally constructs an improvement identified as eligible for reimbursement below,

each Benefitting Owner shall reimburse the Building Owner(s) for that Benefitting Owner's proportionate share of the improvement, as set for below in Sections 3.2.1, 3.3.1 and 3.5.2 of this Agreement.

3.2.1 Pro Rata Reimbursement. The Benefitting Owner shall be permitted to reimburse the Building Owner(s) for the Benefitting Owner's proportionate share of the improvement on a pro rata per lot basis or a per multi-family residential unit basis should a portion of Phase 6 be developed for multi-family use. Prior to issuing a building permit, the Benefitting Phase Owner shall provide a receipt or other proof reasonably acceptable to City that the Benefitting Phase Owner has paid the pro rata payment for that lot to the Building Phase Owner. Provided such documentation is obtained by City, there shall be no recourse against City for any claim by the Building Phase Owner.

3.3 Sanitary Sewer Wet Well and Pump Apparatus. City shall not apply Condition D.1, p. 11 of Ordinance 2246, as subsequently modified, to development of the Property. Instead, to ensure adequate sanitary sewer service, Woodburn Development shall install a wet well and pump apparatus for a sanitary sewer lift station consistent with standards identified by the City Engineer on the Phases 4 and 5 Property, or other location if mutually agreeable to City and Woodburn Development, before recording the final plat for Phases 4, and 5. The wet well shall be adequate for a regional lift station, and the pump apparatus shall be adequate for a lift station to service Phases 4, 5, and 6 of the Boones Crossing development and the adjacent properties within the Urban Growth Boundary. The exact location shall be subject to approval by the City Engineer.

3.3.1 Payment by Phase 6 Owners to Phase 4 and 5 Owner. Phase 6 Owners shall reimburse Woodburn Development the sum of One Hundred Thousand Dollars (\$100,000) as reimbursement for Phase 6 benefitting from the wet well and pump apparatus. In accordance with Section 3.2.1, based on the number of lots in the final plat of Phase 6, the Phase 6 Owners shall reimburse Woodburn Development on a pro rata per lot basis or a per multi-family residential unit basis for each lot prior to the issuance of each building permit for Phase 6.

3.3.2 Sewer Line Easement. Phase 6 Owners have a Temporary Access and Utility Easement in favor of Phase 6 on property owned by DMHP, LLC, recorded as instrument number 2014 00024293 . Phase 6 Owners agree to assign the easement to Woodburn Development for the purpose specified, if requested by Woodburn Development.

3.4 South Arterial. Woodburn Development shall construct the improvements specified in Condition E 3 (a) Ordinance 2246 for a public minor arterial for the portion of the South Arterial located on the Phases 4 and 5 Property before recording the final plat for Phases 4 or 5. Phase 6 Owners shall construct the improvement specified in Condition 3 E.3 (a) of Ordinance 2246 for the portion of the

South Arterial located on the Phase 6 Property before recording the final plat or obtaining design review approval for Phase 6.

3.5 Parks.

3.5.1 The Parties agree that Woodburn Development shall not be required to develop a mini-park on the Phases 4 and 5 of the Property.

3.5.2 City Park.

(a) Phase 6 Owners shall dedicate three acres of land located within Phase 6 to the City for park purposes, with the specific location and configuration mutually acceptable to Phase 6 Owners and City (but the park area shall be adequately separated from Boones Ferry Road and the South Arterial). The 3-acres shall be dedicated within one year of the execution of this Agreement or within 120 days of the date of approval of the final plat for Phases 4 and 5, whichever first occurs. This park dedication is not eligible for SDC credits. City staff will cooperate and assist, but the Phase 6 Owners shall take such steps and pay such costs as are necessary to effectuate the dedication.

(b) The Parties agree that the three (3) acres within Phase 6 to be dedicated as a City park has a fair market value of \$300,000. The Parties further agree that Phases 3, 4 and 5 are Benefitting Phase Owners of this park dedication and shall reimburse the Phase 6 Owners for the park dedication on a per-lot basis (\$1,239.67 per lot), as follows:

Phase 3 (Premier):

$$42 \times \$1,239.67 \text{ per lot} + \$10,000 = \$62,066.$$

Phases 4 & 5 (Woodburn Development):

$$111 \text{ lots} \times \$1,239.67 \text{ per lot} + \$30,000 = \$167,603.$$

Prior to issuing a building permit, the Benefitting Phase Owner shall provide a receipt or other proof reasonably acceptable to the City that the Benefitting Phase Owner has paid the pro rata payment for that lot to the Phase 6 Owners. The Benefitting Phase Owner may, at its sole discretion, make payments for more than one lot at a time.

(c) Condition No. A-15 of Ordinance No 2246 is deleted. No party shall be required to pay for or construct improvements on or for the Community Park, other than payment of the City Park SDC as provided in Section 4.4. Nothing in this Agreement, however, precludes the parties from mutually agreeing to dedication of additional land for

parks or making park improvements and in exchange for appropriate SDC credits.

(d) Once dedicated, the City agrees to maintain the three (3) acre park land by periodically cutting and disposing of grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly or, in the case of weeds or other noxious vegetation, from maturing or from going to seed.

3.6 Stormwater. Woodburn Development and the Phase 6 Owners shall, at their individual expense, construct and dedicate stormwater facilities to serve the Phases 4 and 5 Property and the Phase 6 Property in accordance with Condition E.1 (Public Works – Drainage) of Ordinance 2246. Phase 6 shall be permitted to use the stormwater improvement serving Phases 4 and 5. Woodburn Development shall install the storm line in Phase 5 up to the Phase 6 property line which shall be of adequate size to accommodate the storm water discharge from Phase 6.

4. Fees, Charges, and Credits.

4.1 Except as otherwise provided in this section of the Agreement, fees and charges applicable to development of the Property shall be as provided for in the City's land development regulations and adopted City ordinances.

4.2 The City shall not apply Condition B.11 of Ordinance 2246 (Public Works – General Conditions) to the Property and agrees to allow Owners to apply for SDC credits as provided in the City SDC ordinance for completion of the public improvements described in Section 3 of this Agreement or otherwise required by the Boones Crossing decision and completed after the date of this Agreement. Park SDC's shall be adjusted as provided in Section 4.4. The regional sanitary sewer lift station is now part of the adopted City CIP and is creditable as provided by the SDC ordinance. The City shall review any SDC credit request from an Owner(s) in good faith, and the City shall grant such request, provided that it complies with the City's required procedures and applicable local or state substantive approval criteria. Owners may appeal any credit denial as provided by ordinance or state law. An example illustrating the calculation of SDC credits, including City reimbursement as provided in Section 4.3 is attached and incorporated herein as Exhibit D. It is understood and agreed that the numbers set forth therein are estimates only. The actual amounts, including which costs are eligible for credits, will be calculated as provided in the City SDC ordinances and regulations. Nothing herein precludes any party from appealing such determination as provided for by law.

4.3 Pump Station Reimbursement. In addition to any SDC credits, City shall reimburse Woodburn Development in cash equal to the amount of unusable SDC credits against the cost of oversizing the pump station up to a maximum reimbursement of \$80,000.

4.4 Payment of SDC Fees.

4.4.1 The owners of Phases 3 – 6 agree that they are responsible to pay Recreation and Park SDC fees in effect on the date building permits are issued for each lot. City acknowledges receipt of \$161,805.00 in payment of Recreation and Parks SDC fees for the Property ("Prior Payment"). City agrees that the credit for the Prior Payment shall be allocated among Phases 3 through 6 of the Property as follows:

Phase 1	\$	29,463.00
Phase 2	\$	15,456.00
Phase 3	\$	20,286.00
Phases 4 & 5	\$	53,613.00
Phase 6	\$	42,987.00

At the time of building permit issuance, Park SDC credits shall be issued for the Prior Payment as follows:

- Phase 3 - \$20,286.00 (\$483 per lot assuming 42 lots)
- Phase 4 & 5 - \$53,613.00 (\$483 per lot assuming 111 lots)

In lieu of SDC credits for the Prior Payment, City shall pay to the owner of Phase 6, the sum of \$42,987 at the time the deed to the City Park is provided to City as required pursuant to paragraph 3.5.2.

4.4.2 Premier Development and Woodburn Development assert that they paid the then current Park SDC at the time of obtaining building permits for some or all lots in phases 1 and 2, respectively in addition to City receipt of the Prior Payment, and that this constituted a "double payment." City agrees to refund to Premier Development or Woodburn Development the amount over \$483.00 for each such lot if City receives documentation that Premier Development or Woodburn Development in fact paid the then current Park SDC on that lot. Documentation may include cancelled checks, receipts issued by the City or other documentation reasonably satisfactory to City. City shall cooperate in resolving any alleged double payments but the burden of proof is on the party seeking a refund. Claims for refunds, including all supporting documentation, must be filed with the City no later than the date that is six months from the date this Agreement is approved by the City Council. Nothing in this Agreement constitutes an admission by City that any such payments were made or that any refunds are due for any such payments.

4.5 Additional Amendments to Conditions of Approval.

4.5.1 Modification of Condition C (4). Owners shall not be required to provide connector paths of grass-crete material for Phase Three, Four, Five and Six, as previously required by Condition C(4). In its place, Owners shall submit an alternative

design (other than standard asphalt paving) that will require less maintenance. The remainder of Condition C (4) shall remain in effect.

4.5.2. Modification of Condition C (3). Owners shall not be required to build the interior residential connector streets with a 10-foot wide landscaped boulevard for Phase Three, Four, Five and Six; as previously required by Condition C(3). In its place, Owners shall submit an alternative design which will require no ongoing vegetative maintenance and shall transition the existing island in the connector street. Allowable parking and signage will be reviewed during engineering plan review, based on final transition design and street cross-section. The remainder of Condition C (3) shall remain in effect.

4.5.3 Homeowner's Association. Unless the Boones Crossing Decision is modified as provided under current City Code, each phase shall provide for a Homeowner's Association. The Phase 3 Homeowner's Association shall at a minimum be responsible for Phase 3's impact on the stormwater facility located in Phase 1.

4.5.4. Maintenance of Pedestrian Pathway. The Boones Crossing PUD included pedestrian paths (labeled tract "E" and "F") connecting from internal streets to the neighborhood park. The requirement to for these pedestrian paths is deleted. This does not impact sidewalks.

4.5.5 Modification of Condition A.3 (Planning). Condition A.3 (Planning) is modified to read: The Planned Unit Development (hereinafter the "PUD") shall be in substantial conformity with the preliminary plan as modified by this Agreement.

5. Withdrawal of SDC Credit Appeal.

Within two (2) business days after the later of: (1) the Effective Date of this Agreement; and (2) written notification by City to Woodburn Development that the Woodburn City Council has adopted an ordinance approving this Agreement, Woodburn Development shall submit a written withdrawal to the City of its Appeal of the City's System Development Charge credit decision.

6. Schedule and Procedure for Compliance Review.

The schedule and procedure for compliance review shall be as provided for in the City's current land use regulations and adopted City ordinances.

7. Effect of Development Agreement on Boones Crossing Decision.

The Boones Crossing Decision shall not be amended or affected in any way by this Development Agreement except as specifically provided herein.

8. Continuing Effect of Agreement.

8.1 In the case of any change in regional policy or federal or state law or other change in circumstance which renders compliance with this Agreement impossible or unlawful, the Parties will attempt to give effect to the remainder of this Agreement, but only if such effect does not prejudice the substantial rights of any Party under this Agreement. If the substantial rights of any Party are prejudiced by giving effect to the remainder of this Agreement, then the Parties shall negotiate in good faith to revise this Agreement to give effect to its original intent. If, because of a change in policy, law or circumstance, this Agreement fails of its essential purpose (vesting of allowed uses and limitations on development conditions and fees and charges) then the Parties shall be placed into their original position to the extent practical. It is the intent of this Agreement to vest development rights and conditions, including but not limited to the permitted uses, density and intensity of uses, infrastructure improvements, fees, and charges as set for in this Agreement, notwithstanding any change in local ordinance or policy.

8.2 The Property is within the City limits of the City of Woodburn, therefore the requirements of ORS 94.504(2) (L) are not applicable to this Agreement.

9. Assignability of Agreement.

This Agreement shall not be assigned by an Owner, in whole or in part, without the advance written approval of the City, which shall not be unreasonably withheld. The terms and conditions contained in this Agreement shall, subject to the provisions of this assignment, apply to and bind the heirs, successors, personal representatives, and assigns of all of the Parties hereto.

10. Default; Remedy.

10.1 Default/Cure. The following shall constitute defaults on the part of a Party:

10.1.1 A breach of a material provision of this Agreement, whether by action or inaction of a Party which continues and is not remedied within sixty (60) days after the other Party has given notice specifying the breach; provided that if the non-breaching Party determines that such breach cannot with due diligence be cured within a period of sixty (60) days, the non-breaching Party may allow the breaching Party a longer period of time to cure the breach, and in such event the breach shall not constitute a default so long as the breaching Party diligently proceeds to affect a cure and the cure is accomplished within the longer period of time granted by the non-breaching Party; or

10.1.2 Any assignment by a Party for the benefit of creditors, or adjudication as a bankrupt, or appointment of a receiver, trustee or creditor's committee over a Party.

10.2 Remedies. Each Party shall have all available remedies at law or in equity to recover damages and compel the performance of the other Party pursuant to this Agreement. The rights and remedies afforded under this Agreement are not exclusive and shall be in addition to and cumulative with any and all rights otherwise available at law or in equity. The exercise by any Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different time, of any other such remedy for the same default or breach or of any of its remedies for any other default or breach by any other Party, including, without limitation, the right to compel specific performance.

11. Amendment, Termination or Extension of Agreement.

This Agreement may only be amended, terminated or extended by the mutual consent of the Parties, or their successors in interest pursuant to ORS 94.522.

12. Release and Waiver of Claims.

Each Party hereby releases, waives and covenants not to sue any other Party, their officers, employees and agents, for any claim, known or unknown, arising from or relating to the Boones Crossing Decision, as modified and any prior decisions, actions or failure to act arising under or relating to such approvals or this Agreement. Owners expressly represent, warrant and agree that the conditions of approval and financial obligations, as modified herein, are reasonable, proper and proportionate and acknowledge that execution of this Agreement by City is expressly reliant on this Section 12. Nothing in this Section, however, shall limit or restrict any Party from enforcing the terms of the Boones Crossing Decision as modified, and this Agreement.

13. Miscellaneous Provisions.

13.1 Notice. A notice or communication under this Agreement by any Party shall be in writing and shall be dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered by either personal delivery or nationally-recognized overnight courier (such as UPS or Federal Express), and

13.1.1 In the case of a notice or communication to City, addressed as follows:

City of Woodburn
ATTN: City Manager
270 Montgomery Street
Woodburn, Oregon 97071

With copy to: N. Robert Shields, City Attorney
270 Montgomery Street
Woodburn, Oregon 97071

13.1.2 In the case of a notice or communication to Woodburn Development, addressed as follows:

Premier Development, LLC
Attn: Lori Zumwalt
1312 NE Highway 99W
McMinnville, OR 97128

With copy to: Andrew H. Stamp
Andrew H. Stamp, P.C.
Kruse Mercantile Prof. Offices, Ste 16
4248 Galewood Street
Lake Oswego, OR 97035

13.1.3 In the case of a notice or communication to Woodburn Development, addressed as follows:

Woodburn Development, LLC
Attn: Mark Handris
1980 Willamette Drive, Suite 200
West Linn, OR 97068

With copy to: Michael C. Robinson
Perkins Coie LLP
1120 NW Couch Street, Tenth Floor
Portland, OR 97209

13.1.4 In the case of a notice or communication to Bocchi, addressed as follows:

Nancy Bocchi
3718 Lake Grove Ave
Lake Oswego, OR 97035



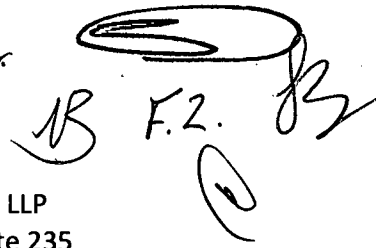


F.Z.

With copy to: Gregory S. Hathaway
Hathaway Koback Connors LLP
520 SW Yamhill Street, Suite 235
Portland, OR 97204

13.1.5 In the case of a notice or communication to Zimmer, addressed as follows:

Faye Zimmer
16175 NW Blueridge Dr.
Bend, OR 97004



Handwritten initials 'B F.Z.' and a signature 'FZ' with a circled 'a' below.

With copy to: Gregory S. Hathaway
Hathaway Koback Connors LLP
520 SW Yamhill Street, Suite 235
Portland, OR 97204

or addressed in such other way in respect to a Party as that Party may, from time to time, designate in writing dispatched as provided in this section.

13.2 Headings. Any titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

13.3 Counterparts. In the event this Agreement is executed in two (2) or more counterparts, each counterpart shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

13.4 Waivers. No waiver made by any Party with respect to the performance, or manner or time thereof, of any obligation of any other Party or any condition inuring to its benefit under this Agreement shall be considered a waiver of any other rights of the Party making the waiver. No waiver by a Party of any provision of this Agreement or any breach thereof shall be of any force or effect unless in writing; and no such waiver shall be construed to be a continuing waiver.

13.5 Time of the Essence. Time is of the essence under this Agreement.

13.6 Choice of Law. This Agreement shall be interpreted under the laws of the State of Oregon.

13.7 Calculation of Time. All periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday in the State of Oregon, the period shall be extended to include the next day which is not a Saturday, Sunday, or such a holiday.

13.8 Construction. In construing this Agreement, singular pronouns shall be taken to mean and include the plural and the masculine pronoun shall be taken to mean and include the feminine and the neuter, as the context may require.

13.9 Severability. Consistent with Section 8 above, if any clause, sentence or any other portion of the terms and conditions of this Agreement becomes illegal, null or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law.

13.10 Place of Enforcement. Any action or suit to enforce or construe any provision of this Agreement by any Party shall be brought in the Circuit Court of the State of Oregon for Marion County, or the United States District Court for the District of Oregon.

13.11 Good Faith and Reasonableness. The Parties intend that the obligations of good faith and fair dealing apply to this Agreement generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Agreement. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of a Party being given "sole discretion" or being allowed to make a decision in its "sole judgment."

13.12 Condition of City Obligations. All City obligations pursuant to this Agreement that require the expenditure of funds are contingent upon future appropriations by City as part of the local budget process. Nothing in this Agreement implies an obligation on City to appropriate any such monies.

13.13 Cooperation in the Event of Legal Challenge. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties agree to cooperate in defending such action.

13.14 Enforced Delay, Extension of Times of Performance. In addition to the specific provisions of this Agreement, performance by any Party shall not be in default where delay or default is due to war; insurrection, strikes, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the City, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance which is not within reasonable control of the Party to be excused; provided, however, that the Parties agree to proceed in accordance with Section 9 in the event of the occurrence of any of the foregoing events also described in Section 9.

13.15 Other Necessary Acts. Each Party shall execute and deliver to the other all such further instruments and documents and take such additional acts (which, in the case of City, shall require adopting necessary ordinances and resolutions) as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other Parties the full and complete enjoyment of rights and privileges hereunder.

13.16 Entire Agreement. This Agreement constitutes the entire agreement between the Parties as to the subject matter covered by this Agreement.

13.17 Interpretation of Agreement. This Agreement is the result of arm's length negotiations between the Parties and shall not be construed against any Party by reason of its preparation of this Agreement.

13.18 Capacity to Execute; Mutual Representations. The Parties each warrant and represent to the other that this Agreement constitutes a legal, valid, and binding obligation of that Party. Without limiting the generality of the foregoing, each Party represents that its governing authority has authorized the execution, delivery, and performance of this Agreement by it. The individuals executing this Agreement warrant that they have full authority to execute this Agreement on behalf of the entity for whom they purport to be acting. Each Party represents to the others that neither the execution and delivery of this Agreement, nor performance of the obligations under this Agreement will violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government, government agency, or court to which it is subject or any provision of its charter or bylaws; or conflict with, result in a breach of, or constitute a default under, any other agreement to which it is a party or by which it is bound.


13.19 Recording; Covenant. City shall cause this Agreement to be recorded among the Deed Records in and for Marion County, Oregon, pursuant to ORS 94.528. This Agreement shall constitute a covenant running with the Property and shall be binding on and enforceable by the Parties and their successors and assigns.

13.20 Non-appropriation. To the extent that this Agreement obligates City to expend moneys such expenditures are contingent on future appropriations as part of the local budget process and City is not obligated to appropriate such moneys.

13.21 Form of Agreement; Exhibits. This Agreement consists of 20 pages and four (4) exhibits.

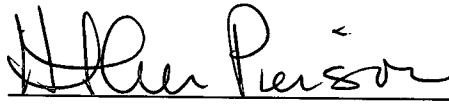
Executed this 12 day of Dec, 2016.

CITY OF WOODBURN, OREGON,
a municipal corporation of the State of Oregon

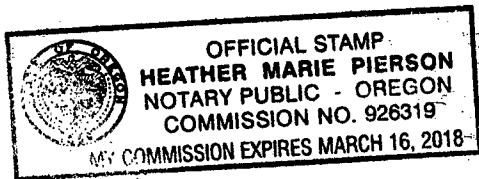
By: 
Print Name: Scott Derickson
Title: City Administrator

STATE of OREGON)
COUNTY of MARION)

On this 12 day of December, 2016, Scott Derickson personally appeared before me and stated that (s)he is the City Administrator of the City of Woodburn, a municipal corporation of the State of Oregon, and that the instrument was signed on behalf of said entity and acknowledged said instrument to be its voluntary act and deed. Before me:


Notary Public for Oregon
Print Name: Heather Pierson
My Commission Expires:
March 16, 2018.

SEAL:



PREMIER DEVELOPMENT, LLC, an Oregon Limited Liability Company

By: Lori Zumwalt Member
Print Name: LORI ZUMWALT
Title: Member

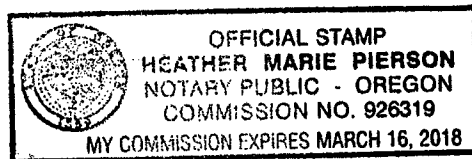
STATE of OREGON)
COUNTY of Marion)

On this 12 day of December, 2016, Lori Zumwalt personally appeared before me and stated that he/she is the member of Premier Development, LLC, a Limited Liability Company and that the instrument was signed on behalf of said company and acknowledged said instrument to be its voluntary act and deed. Before me:

Heather Pierson
Notary Public for Oregon
Print Name: Heather Pierson

My Commission Expires:
March 16, 2018

SEAL:



WOODBURN DEVELOPMENT, LLC, an Oregon limited liability company

By: [Signature]
Print Name: MARK HANDRIS
Title: Managing Member

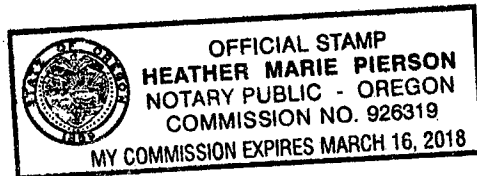
STATE of OREGON)
COUNTY of Marion)

On this 13 day of December, 2016, Mark Handris personally appeared before me and stated that he/she is the Managing Member of Woodburn Development, LLC, an Oregon limited liability company, and that the instrument was signed on behalf of said company and acknowledged said instrument to be its voluntary act and deed. Before me:

[Signature]
Notary Public for Oregon
Print Name: Heather Pierson

My Commission Expires:
March 16, 2018

SEAL:



NANCY BOCCHI

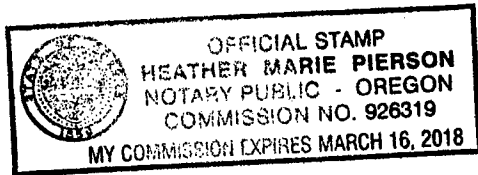
Nancy Bocchi

STATE of OREGON)
COUNTY of Marion)

On this 12 day of December 2016, this instrument was acknowledged before me by Nancy Bocchi. Before me:

Heather Pierson
Notary Public for Oregon
Print Name: Heather Pierson
My Commission Expires:
March 16, 2018

SEAL:



FAYE ZIMMER

Faye Zimmer

STATE of OREGON)
COUNTY of Marion)

On this 12 day of December, 2016, this instrument was acknowledged before me by Faye Zimmer. Before me:

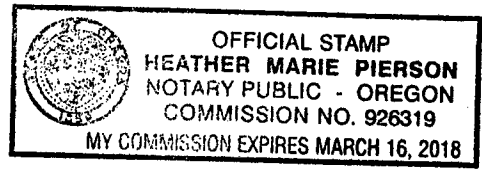
Heather Pierson

Notary Public for Oregon

Print Name: Heather Pierson

My Commission Expires:
March 16, 2018.

SEAL:





AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 F: (503) 563-6152

AKS Job #1434

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - SALEM-KEIZER, OR

EXHIBIT A

Legal Description

Boones Crossing Phase 3: Parcel 2 of Partition Plat No. 2005-29, Marion County Book of Partition Plats.

Boones Crossing Phase 4: Parcel 1 of Partition Plat No. 2006-55, Marion County Book of Partition Plats.

Boones Crossing Phase 5: Parcel 2 of Partition Plat No. 2006-55, Marion County Book of Partition Plats.

Boones Crossing Phase 6: Parcel 3 of Partition Plat No. 2006-55, Marion County Book of Partition Plats.

12/13/2016

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/18

2005-29

PARTITION PLAT 2005-29

LOCATED IN THE PETER RAYMOND DLC NO. 58 AND THE SOUTHWEST ONE-QUARTER OF SECTION 18, TOWNSHIP 5 SOUTH, RANGE 1 WEST AND THE SOUTHEAST ONE-QUARTER OF SECTION 13, TOWNSHIP 5 SOUTH, RANGE 2 WEST, WILLAMETTE MERIDIAN, CITY OF WOODBURN, MARION COUNTY, OREGON
DATE: JANUARY 26, 2005

PAGE 1 OF 3

LEGEND

- SET 5/8" X 30" IRON ROD W/YPC STAMPED "AKS ENGR."
- ⊠ FOUND 5/8" IRON ROD W/YPC STAMPED "BASELINE PLS 2718", PER SN 36493 UNLESS OTHERWISE NOTED, HELD
- △ FOUND 5/8" IRON ROD W/YPC STAMPED "ALPHA ENGINEERING, INC.", PER SN 35318, HELD
- FOUND MONUMENT AS NOTED, HELD UNLESS OTHERWISE NOTED

- FND FOUND
- IR IRON ROD
- IP IRON PIPE
- NO. NUMBER
- PP PARTITION PLAT
- SN SURVEY NUMBER
- W/YPC WITH A YELLOW PLASTIC CAP
- () RECORD PER SURVEY SEE SURVEY REFERENCES

SURVEY REFERENCES

1. SN 36493
2. SN 35318
3. SN 21659
4. SN 18989
5. SN 18980A
6. SN 36707

PREPARED FOR

BOONES CROSSING, LLC
14845 SW MURRAY-SCHOLLS DRIVE,
SUITE 100
MAIL ROUTE 515PWB
BEAVERTON, OR 97007



2 1/2" BRASS DISK
IN MONUMENT BOX
SEE DETAIL

FND 3/4" IP,
HELD AS CENTERLINE,
ORIGIN UNKNOWN

FND 5/8" IR W/YPC, UNREADABLE,
FLUSH PER SN 35318, HELD

FND 5/8" IR WITH NO CAP
PER SN 36493, HELD

C1
L=118.74'
(L=118.75')
(L=118.74)2

S22°09'18"W 31.30'
(S22°09'18"W 31.30')1
(S22°09'18"W 31.34)2

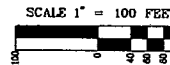
BOONES FERRY ROAD (MARKET ROAD NO. 88)

PARCEL 2
8.448 ACRES±

PARCEL 3
33.544 ACRES±

REEL 1243, PAGE 272

S89°28'24"E 2018.37'
(S89°28'24"E 2018.32)1
(S89°28'24"E 2018.36)2
(BASIS OF BEARINGS PER SN 36493)

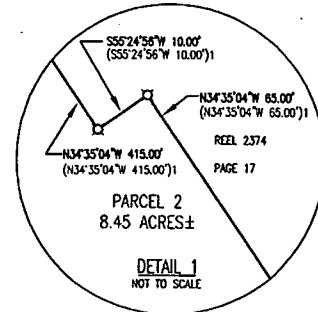


REEL 2374
PAGE 17

SEE DETAIL 1
THIS PAGE

SEE DETAIL 2
PAGE 2

SEE P A G E 2



2-16-05
REGISTERED
PROFESSIONAL
LAND SURVEYOR

Montgomery B. Hurley
OREGON
JULY 18, 2003
MONTGOMERY B. HURLEY
5334725
RENEWAL DATE: 6/30/05

JOB NAME: BOONES CROSSING	ENGINEERING • PLANNING • SURVEYING • FORESTRY LICENSED IN OR & WA
JOB NUMBER: 1222	 13910 SW GALBREATH DRIVE, SUITE 100 SHERWOOD, OR 97140 PHONE: (503) 925-8799 FAX: (503) 925-8969 E-MAIL: aks@aks-eng.com
DRAWN BY: MTA	
CHECKED BY: HAM	
DRAWING NO.: 1222PLAT	

2005-29

PARTITION PLAT 2005-29

LOCATED IN THE PETER RAYMOND DLC NO. 58 AND THE SOUTHWEST ONE-QUARTER OF SECTION 18, TOWNSHIP 5 SOUTH, RANGE 1 WEST AND THE SOUTHEAST ONE-QUARTER OF SECTION 13, TOWNSHIP 5 SOUTH, RANGE 2 WEST, WILLAMETTE MERIDIAN, CITY OF WOODBURN, MARION COUNTY, OREGON
DATE: JANUARY 26, 2005

PAGE 2 OF 3

LEGEND

- SET 5/8" X 30" IRON ROD W/YPC STAMPED "AKS ENGR."
- ⊠ FOUND 5/8" IRON ROD W/YPC STAMPED "BASELINE PLS 2718", PER SN 36493 UNLESS OTHERWISE NOTED, HELD
- △ FOUND 5/8" IRON ROD W/YPC STAMPED "ALPHA ENGINEERING, INC.", PER SN 35318, HELD
- FOUND MONUMENT AS NOTED, HELD UNLESS OTHERWISE NOTED

- FND FOUND
- IR IRON ROD
- IP IRON PIPE
- NO. NUMBER
- PP PARTITION PLAT
- SN SURVEY NUMBER
- W/YPC WITH A YELLOW PLASTIC CAP
- () RECORD PER SURVEY
- SEE SURVEY REFERENCES

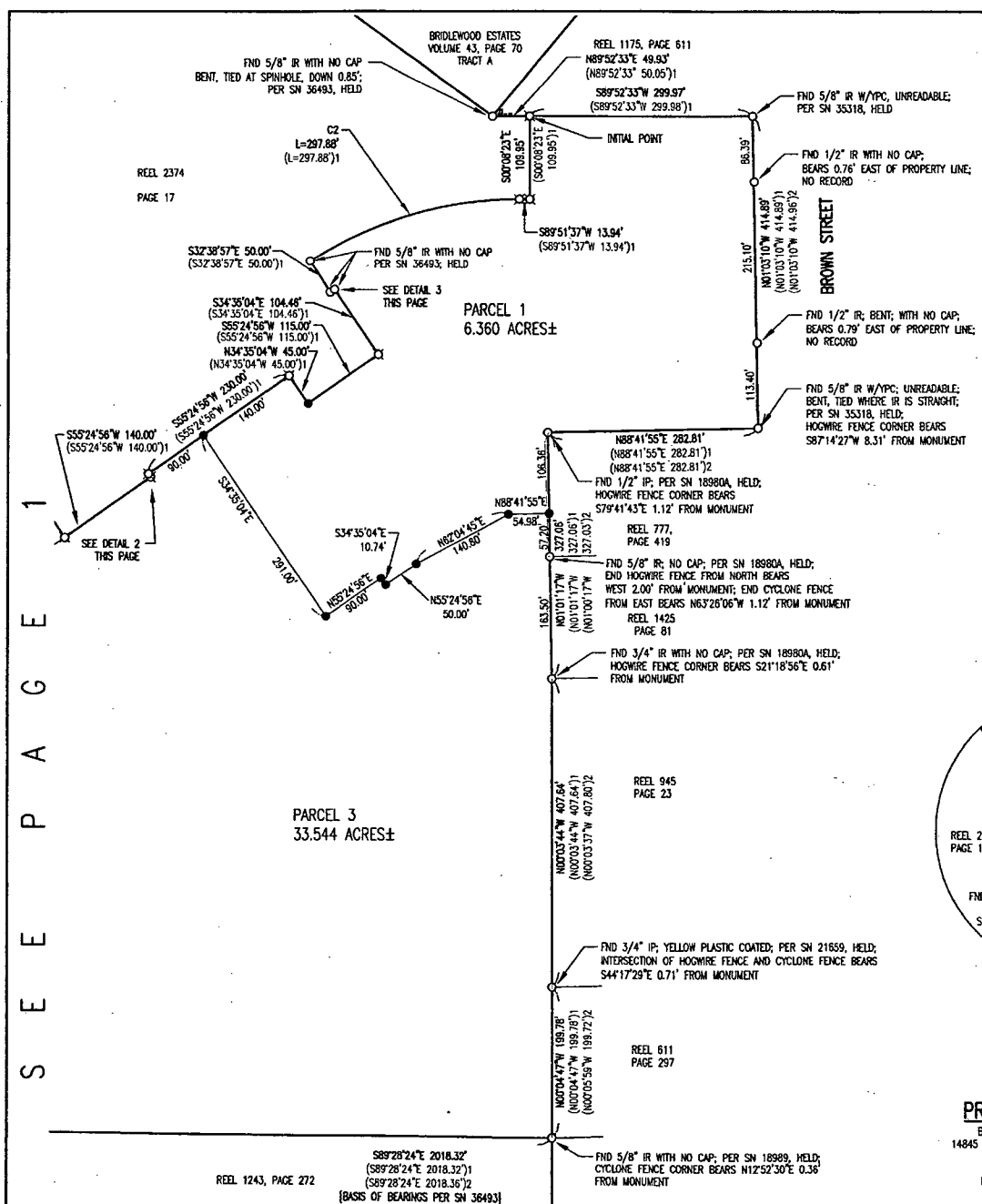
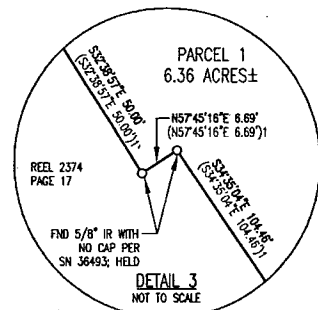
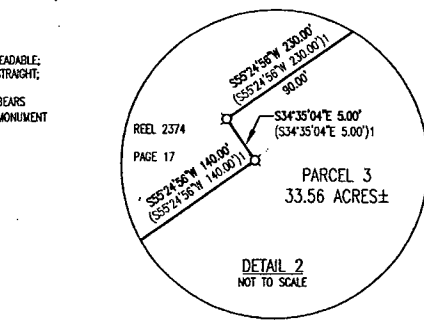
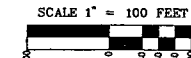
SURVEY REFERENCES

1. SN 36493
2. SN 35318
3. SN 21559
4. SN 18980A
5. SN 18980A

3-16-05
REGISTERED
PROFESSIONAL
LAND SURVEYOR

Montgomery B. Hurley

OREGON
MAY 16, 1983
MONTGOMERY B. HURLEY
55842LS
RENEWAL DATE: 6/30/05



PREPARED FOR
BOONES CROSSING, LLC
14845 SW MURRAY-SCHOLLS DRIVE,
SUITE 100
MAIL ROUTE 515PMB
BEAVERTON, OR 97007

JOB NAME:	BOONES CROSSING
JOB NUMBER:	1222
DRAWN BY:	MTA
CHECKED BY:	HAM
DRAWING NO.:	1222PLAT

ENGINEERING · PLANNING · SURVEYING · FORESTRY
LICENSED IN OR & WA

13910 SW GALBREATH
DRIVE, SUITE 100
SHERWOOD, OR 97140
PHONE: (503) 925-8799
FAX: (503) 925-8969
E-MAIL: aks@aks-eng.com

S E E P A G E 1

REEL 2374
PAGE 17

REEL 1243, PAGE 272

REEL 945
PAGE 23

REEL 611
PAGE 297

REEL 1175, PAGE 611

(BASIS OF BEARINGS PER SN 36493)

2005-29

DECLARATION

KNOW ALL PERSONS BY THESE PRESENTS: THAT FAYE E. ZIMMER AND NANCY K. BOCCI, ARE THE TITLE OWNERS OF THE LAND SHOWN ON THE ACCOMPANYING MAP AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE, AND HAVE CAUSED THE SAME TO BE SURVEYED, PARTITIONED, AND PLATTED INTO THE PARCELS AS SHOWN ON SAID MAP.

Faye E. Zimmer 3-17-05 DATE

Nancy K. Bocchi 3-16-05 DATE

PARTITION PLAT 2005-29

LOCATED IN THE PETER RAYMOND DLC NO. 58 AND THE SOUTHWEST ONE-QUARTER OF SECTION 18, TOWNSHIP 5 SOUTH, RANGE 1 WEST AND THE SOUTHEAST ONE-QUARTER OF SECTION 13, TOWNSHIP 5 SOUTH, RANGE 2 WEST, WILLAMETTE MERIDIAN, CITY OF WOODBURN, MARION COUNTY, OREGON DATE: JANUARY 26, 2005

PAGE 3 OF 3

ACKNOWLEDGMENT

STATE OF OREGON }
COUNTY OF WASHINGTON }

THIS IS TO CERTIFY THAT ON THIS 17th DAY OF March, 2005, BEFORE ME, A NOTARY PUBLIC IN THE STATE OF OREGON, APPEARED FAYE E. ZIMMER, WHO BEING DULY SWORN DID SAY THAT SHE IS THE IDENTICAL PERSON NAMED ON THE FOREGOING INSTRUMENT, AND THAT THE SAID INSTRUMENT WAS EXECUTED FREELY AND VOLUNTARILY ON BEHALF OF SAID PERSON.

Notary Public Commission No. 386059 Nov 2, 2008

ACKNOWLEDGMENT

STATE OF OREGON }
COUNTY OF WASHINGTON }

THIS IS TO CERTIFY THAT ON THIS 16th DAY OF March, 2005, BEFORE ME, A NOTARY PUBLIC IN THE STATE OF OREGON, APPEARED NANCY K. BOCCI, WHO BEING DULY SWORN DID SAY THAT SHE IS THE IDENTICAL PERSON NAMED ON THE FOREGOING INSTRUMENT, AND THAT THE SAID INSTRUMENT WAS EXECUTED FREELY AND VOLUNTARILY ON BEHALF OF SAID PERSON.

Notary Public Commission No. 386059 Apr 2, 2008

CITY RESTRICTIONS

THIS PLAT IS SUBJECT TO THE CONDITIONS OF THE CITY OF WOODBURN CASE FILE PAR 04-07.

APPROVALS

APPROVED THIS 17th DAY OF March, 2005. COMMUNITY DEVELOPMENT DIRECTOR CITY OF WOODBURN, CASE NO. PAR 04-07

By: James Muller

APPROVED THIS 17th DAY OF MARCH, 2005. CITY ENGINEER CITY OF WOODBURN

By: [Signature]

APPROVED THIS 21st DAY OF March, 2005. MARION COUNTY SURVEYOR Mark E. Riggins

By: [Signature]

APPROVED THIS 16th DAY OF March, 2005. MARION COUNTY ASSESSOR

By: [Signature]

TAXES AND ASSESSMENTS ON THE ABOVE DESCRIBED PROPERTY, AS PROVIDED BY ORS 82.095 HAVE BEEN PAID THROUGH THIS DAY OF 12-30-05 2005.

By: [Signature] MARION COUNTY TAX COLLECTOR

STATE OF OREGON }
COUNTY OF MARION }

I DO HEREBY CERTIFY THAT THIS PARTITION PLAT NO. 2005-29 WAS RECEIVED FOR RECORDING ON THIS 27th DAY OF March, 2005 AT 11:30 O'CLOCK A.M. AND RECORDED IN THE BOOK OF PARTITION PLATS, IT IS RECORDED IN MARION COUNTY DEED RECORDS IN REEL 2402 AT PAGE 151. BILL BURGESS, MARION COUNTY CLERK.

By: Linda St. Clair DEPUTY COUNTY CLERK

PREPARED FOR BOONES CROSSING, LLC. 18485 SW MURRAY-SCHOLLS DRIVE, SUITE 100, MAIL ROUTE 5159MB BEAVERTON, OR 97007

3-16-05 REGISTERED PROFESSIONAL LAND SURVEYOR MONTGOMERY B. HURLEY 58542LS

Table with columns: CURVE, LENGTH, RADIUS, CHORD, BEARING, DELTA. Contains curve data for C1, C2, C3, and C4.

NARRATIVE

THE PURPOSE OF THIS PLAT IS TO PARTITION THE PROPERTY DESCRIBED IN REEL 2317, PAGE 12, MARION COUNTY DEED RECORDS, EXCEPTING THEREFROM THAT PORTION OF PROPERTY CONVEYED IN REEL 2427, PAGE 237, MARION COUNTY DEED RECORDS, AS PART OF A PROPERTY LINE ADJUSTMENT PER SURVEY NO. 36707.

THE BOUNDARY OF THIS PROPERTY WAS ESTABLISHED PER FOUND MONUMENTS AS SHOWN AND HELD AS PER SURVEY NO. 36493.

THE PROPERTY HAS THEN PARTITIONED ACCORDING TO MY CLIENT'S INSTRUCTIONS.

THE BASIS OF BEARINGS OF THE PLAT IS PER SURVEY NO. 36493.

SURVEYOR'S CERTIFICATE

I MONTGOMERY B. HURLEY, PLS# 58542LS, DO HEREBY CERTIFY THAT I HAVE ACCURATELY SURVEYED AND MARKED WITH PROPER MONUMENTS, THE LAND SHOWN ON THE ACCOMPANYING MAP, LOCATED IN THE PETER RAYMOND DLC NUMBER 58, AND IN THE SOUTHWEST ONE-QUARTER OF SECTION 18, TOWNSHIP 5 SOUTH, RANGE 1 WEST, AND THE SOUTHEAST ONE-QUARTER OF SECTION 13, TOWNSHIP 5 SOUTH, RANGE 2 WEST, WILLAMETTE MERIDIAN, CITY OF WOODBURN, MARION COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INITIAL POINT, SAID POINT BEING A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718" SAID POINT BEING N89°52'33"E 49.93 FEET FROM A 5/8" IRON ROD WITH NO CAP BEING THE SOUTHEAST CORNER OF TRACT A OF BRIDLEWOOD ESTATES; THENCE S00°08'23"E 109.95 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE S89°51'37"W 13.94 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE ALONG A CURVE TO THE LEFT WITH A LENGTH OF 297.88 FEET, A RADIUS OF 525.00 FEET, A CENTRAL ANGLE OF 32°30'34", AND A CHORD THAT BEARS S73°36'20"W 293.90 FEET TO A 5/8" IRON ROD WITH NO CAP; THENCE S32°38'57"E 50.00 FEET TO A 5/8" IRON ROD WITH NO CAP; THENCE N57°45'16"E 6.89 FEET TO A 5/8" IRON ROD WITH NO CAP; THENCE S34°35'04"E 104.48 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE S55°24'56"W 115.00 FEET TO A SET 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE N34°35'04"W 45.00 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE S55°24'56"W 230.00 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE S54°35'04"E 5.00 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE S55°24'56"W 140.00 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE N34°35'04"W 65.00 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE S55°24'56"W 10.00 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE N34°35'04"W 415.00 FEET TO A 5/8" IRON ROD WITH AN UNREADABLE YELLOW PLASTIC CAP; THENCE N45°18'30"W 45.25 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE N58°53'40"W 51.56 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE N57°16'33"W 56.83 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE N64°01'11"W 65.02 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE S24°33'18"W 25.70 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE N65°26'42"W 160.00 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE N24°33'18"E 30.00 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF BOONES FERRY ROAD (MARKET ROAD NO. 681); THENCE ALONG SAID EAST RIGHT-OF-WAY LINE, S24°33'18"W 1395.15 FEET TO A 5/8" IRON ROD WITH NO CAP; THENCE CONTINUING ALONG SAID EAST RIGHT-OF-WAY LINE ALONG A CURVE TO THE LEFT WITH A LENGTH OF 118.75 FEET, A RADIUS OF 2834.79 FEET, A CENTRAL ANGLE OF 02°24'00", AND A CHORD THAT BEARS S27°21'18"W 118.75 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "ALPHA ENGINEERING, INC."; THENCE CONTINUING ALONG SAID EAST RIGHT-OF-WAY LINE S22°09'18"W 31.30 FEET TO A 5/8" IRON ROD WITH AN UNREADABLE YELLOW PLASTIC CAP; THENCE LEAVING SAID EAST RIGHT-OF-WAY LINE, S89°28'24"E 2018.32 FEET TO A 5/8" IRON ROD WITH NO CAP; THENCE N00°04'47"W 199.78 FEET TO A 3/4" IRON PIPE; THENCE N00°03'44"W 407.64 FEET TO A 3/4" IRON ROD WITH NO CAP; THENCE N01°01'17"W 327.06 FEET TO A 1/2" IRON PIPE; THENCE N68°41'55"E 282.81 FEET TO A 5/8" IRON ROD WITH AN UNREADABLE YELLOW PLASTIC CAP; THENCE N01°03'10"W 414.89 FEET TO A 5/8" IRON ROD WITH AN UNREADABLE YELLOW PLASTIC CAP; THENCE S89°52'33"W 299.97 FEET TO THE SAID INITIAL POINT.

THE ABOVE DESCRIBED LAND CONTAINS 48.352 ACRES, MORE OR LESS.

AKS ENGINEERING & SURVEYING logo and contact information including address, phone, fax, and email.

2006-55

PARTITION PLAT 2006-55

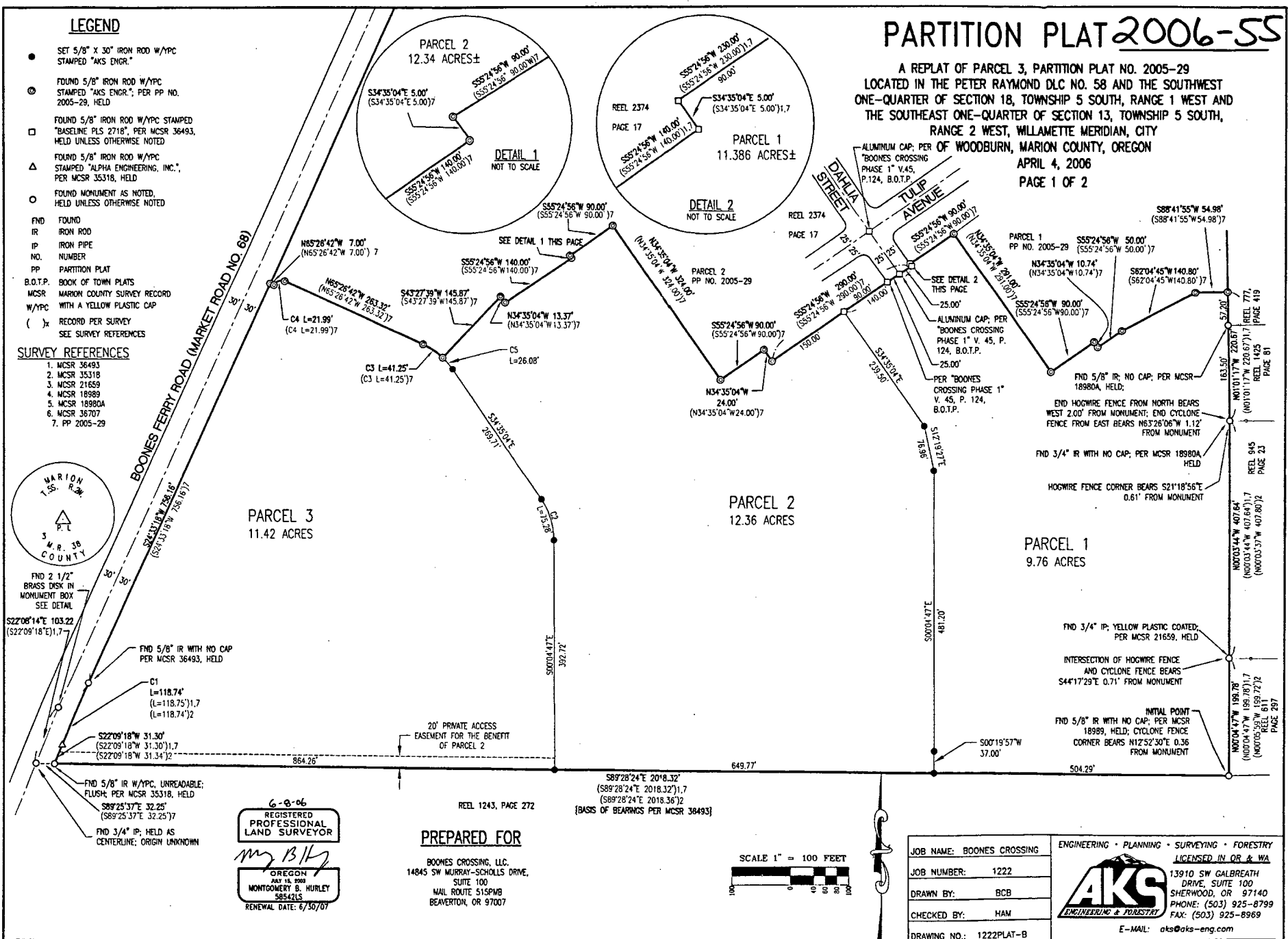
A REPLAT OF PARCEL 3, PARTITION PLAT NO. 2005-29
 LOCATED IN THE PETER RAYMOND DLC NO. 58 AND THE SOUTHWEST
 ONE-QUARTER OF SECTION 18, TOWNSHIP 5 SOUTH, RANGE 1 WEST AND
 THE SOUTHEAST ONE-QUARTER OF SECTION 13, TOWNSHIP 5 SOUTH,
 RANGE 2 WEST, WILLAMETTE MERIDIAN, CITY
 OF WOODBURN, MARION COUNTY, OREGON
 APRIL 4, 2006
 PAGE 1 OF 2

LEGEND

- SET 5/8" x 30" IRON ROD W/YPC STAMPED "AKS ENGR."
- ⊙ FOUND 5/8" IRON ROD W/YPC STAMPED "AKS ENGR."; PER PP NO. 2005-29, HELD
- FOUND 5/8" IRON ROD W/YPC STAMPED "BASELINE PLS 2718", PER MCSR 36493, HELD UNLESS OTHERWISE NOTED
- △ FOUND 5/8" IRON ROD W/YPC STAMPED "ALPHA ENGINEERING, INC.", PER MCSR 35318, HELD
- FOUND MONUMENT AS NOTED, HELD UNLESS OTHERWISE NOTED
- FND FOUND
- IR IRON ROD
- IP IRON PIPE
- NO. NUMBER
- PP PARTITION PLAT
- B.O.T.P. BOOK OF TOWN PLATS
- MCSR MARION COUNTY SURVEY RECORD
- W/YPC WITH A YELLOW PLASTIC CAP
- () RECORD PER SURVEY
- SEE SURVEY REFERENCES

SURVEY REFERENCES

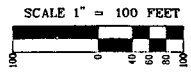
1. MCSR 36493
2. MCSR 35318
3. MCSR 21659
4. MCSR 18989
5. MCSR 18980A
6. MCSR 38707
7. PP 2005-29



6-8-06
 REGISTERED
 PROFESSIONAL
 LAND SURVEYOR
 MONTGOMERY B. HURLEY
 585421S
 RENEWAL DATE: 6/30/07

PREPARED FOR

BOONES CROSSING, LLC.
 14845 SW MURRAY-SCHOLLS DRIVE,
 SUITE 100
 HAIL ROUTE 515PMB
 BEAVERTON, OR 97007



JOB NAME:	BOONES CROSSING
JOB NUMBER:	1222
DRAWN BY:	BCB
CHECKED BY:	HAM
DRAWING NO.:	1222PLAT-B

ENGINEERING • PLANNING • SURVEYING • FORESTRY
 LICENSED IN OR & WA

13910 SW GALBREATH
 DRIVE, SUITE 100
 SHERWOOD, OR 97140
 PHONE: (503) 925-8799
 FAX: (503) 925-8969
 E-MAIL: aks@aks-eng.com

2006-55

PARTITION PLAT 2006-55

A REPLAT OF PARCEL 3, PARTITION PLAT NO. 2005-29
LOCATED IN THE PETER RAYMOND DLC NO. 58 AND THE SOUTHWEST
ONE-QUARTER OF SECTION 18, TOWNSHIP 5 SOUTH, RANGE 1 WEST
AND THE SOUTHEAST ONE-QUARTER OF SECTION 13, TOWNSHIP 5
SOUTH, RANGE 2 WEST, WILLAMETTE MERIDIAN, CITY OF WOODBURN,
MARION COUNTY, OREGON
APRIL 4, 2006
PAGE 2 OF 2

DECLARATION

KNOW ALL PERSONS BY THESE PRESENTS:
THAT FAYE E. ZIMMER AND NANCY K. BOCCI, ARE THE TITLE OWNERS OF THE LAND SHOWN ON THE ACCOMPANYING MAP AND
MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE, AND HAVE CAUSED THE SAME TO BE SURVEYED,
PARTITIONED, AND PLATTED INTO THE PARCELS AS SHOWN ON SAID MAP. WE HEREBY GRANT THE 20 FOOT PRIVATE ACCESS
EASEMENT FOR THE BENEFIT OF PARCEL 2, AS SHOWN.

Faye E. Zimmer 6-8-06
FAYE E. ZIMMER DATE
Nancy K. Bocchi 6-8-06
NANCY K. BOCCI DATE

ACKNOWLEDGMENT

STATE OF OREGON }
COUNTY OF Washington }

THIS IS TO CERTIFY THAT ON THIS _____ DAY OF _____
2006, BEFORE ME, A NOTARY PUBLIC IN THE STATE OF OREGON, APPEARED
FAYE E. ZIMMER, WHO BEING DULY SWORN DID SAY THAT SHE IS THE
IDENTICAL PERSON NAMED ON THE FOREGOING INSTRUMENT, AND THAT THE
SAID INSTRUMENT WAS EXECUTED FREELY AND VOLUNTARILY ON BEHALF OF
SAID PERSON.

Carl B. Alberton 386059
NOTARY PUBLIC COMMISSION NUMBER

MY COMMISSION EXPIRES: November 3, 2008

CITY RESTRICTIONS

THIS PLAT IS SUBJECT TO THE CONDITIONS OF THE CITY OF WOODBURN CASE FILE PAR 05-02.

APPROVALS

APPROVED THIS 8 DAY OF June, 2006.
COMMUNITY DEVELOPMENT DIRECTOR
CITY OF WOODBURN, CASE NO. PAR 05-02

BY: Heidi Hardley

APPROVED THIS 8th DAY OF JUNE, 2006.
CITY ENGINEER
CITY OF WOODBURN

BY: Mark Riggs

APPROVED THIS 8th DAY OF JUNE, 2006.
MARION COUNTY SURVEYOR

BY: Phil R. Jones

APPROVED THIS 8 DAY OF June, 2006.
MARION COUNTY ASSESSOR

BY: Jan Thompson by: Shirley E. Stein

TAXES AND ASSESSMENTS ON THE ABOVE DESCRIBED PROPERTY,
AS PROVIDED BY ORS 32.095 HAVE BEEN PAID THROUGH THIS 30
DAY OF June, 2006.

BY: John Lattimer by: John Lattimer
MARION COUNTY TAX COLLECTOR

STATE OF OREGON }
COUNTY OF MARION }

I DO HEREBY CERTIFY THAT THIS PARTITION PLAT NO. 2006-55 WAS RECEIVED
FOR RECORDING ON THIS 8th DAY OF June, 2006 AT 2:40 PM
O'CLOCK P.M. AND RECORDED IN THE BOOK OF PARTITION PLATS, IT IS RECORDED
IN MARION COUNTY DEED RECORDS IN REEL 2658 AT PAGE 332.
BILL BURGESS, MARION COUNTY CLERK.

BY: John Lattimer
DEPUTY COUNTY CLERK

ACKNOWLEDGMENT

STATE OF OREGON }
COUNTY OF _____ }

THIS IS TO CERTIFY THAT ON THIS _____ DAY OF _____
2006, BEFORE ME, A NOTARY PUBLIC IN THE STATE OF OREGON, APPEARED
NANCY K. BOCCI, WHO BEING DULY SWORN DID SAY THAT SHE IS THE
IDENTICAL PERSON NAMED ON THE FOREGOING INSTRUMENT, AND THAT THE
SAID INSTRUMENT WAS EXECUTED FREELY AND VOLUNTARILY ON BEHALF OF
SAID PERSON.

Carl B. Alberton 386059
NOTARY PUBLIC COMMISSION NUMBER

MY COMMISSION EXPIRES: November 3, 2008

PREPARED FOR

BOONES CROSSING, LLC
14845 SW MURRAY-SCHOLLS DRIVE,
SUITE 100
MAIL ROUTE 515PWB
BEAVERTON, OR 97007

6-8-06
REGISTERED
PROFESSIONAL
LAND SURVEYOR

my Bk
OREGON
JUL 19, 2007
MONTGOMERY B. HURLEY
5854215
RENEWAL DATE: 6/30/07

NOTES

1. THE PURPOSE OF THIS PLAT IS TO PARTITION THE PROPERTY DESCRIBED AS PARCEL 3 OF PARTITION PLAT NO. 2005-29 PER MARION COUNTY PARTITION PLAT RECORDS.
2. THE BOUNDARY OF THIS PROPERTY WAS ESTABLISHED PER FOUND MONUMENTS AS SHOWN AND HELD PER PARTITION PLAT 2005-29, MARION COUNTY PLAT RECORDS.
3. THE PROPERTY WAS THEN PARTITIONED ACCORDING TO MY CLIENT'S INSTRUCTIONS.
4. THERE EXISTS AN EASEMENT FOR ROADS AND UTILITIES OVER ALL THREE PARCELS AND SHALL AUTOMATICALLY TERMINATE AND BECOME NULL AND VOID WHEN FINAL PLAT IS RECORDED WITH MARION COUNTY. SEE REEL 2280, PAGE 399 MARION COUNTY DEED RECORDS.
5. THE BASIS OF BEARINGS OF THE PLAT IS PER PARTITION PLAT NO. 2005-29.

SURVEYOR'S CERTIFICATE

I MONTGOMERY B. HURLEY, PLS# 5854215, DO HEREBY CERTIFY THAT I HAVE ACCURATELY SURVEYED AND MARKED WITH PROPER MONUMENTS, THE
LAND SHOWN ON THE ACCOMPANYING MAP, LOCATED IN THE PETER RAYMOND DLC NUMBER 58, AND IN THE SOUTHWEST ONE-QUARTER OF SECTION 18,
TOWNSHIP 5 SOUTH, RANGE 1 WEST, AND THE SOUTHEAST ONE-QUARTER OF SECTION 13, TOWNSHIP 5 SOUTH, RANGE 2 WEST, WILLAMETTE MERIDIAN,
CITY OF WOODBURN, MARION COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INITIAL POINT, SAID POINT BEING A 5/8" IRON ROD WITH NO CAP; SAID POINT BEING THE SOUTHEAST CORNER OF PARCEL 3 OF
PARTITION PLAT NO. 2005-29, MARION COUNTY PLAT RECORDS; THENCE N00°04'47"W 199.78 FEET TO A 3/4" IRON PIPE; THENCE N00°03'44"W 407.64
FEET TO A 3/4" IRON ROD WITH NO CAP; THENCE N01°01'17"W 220.67 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE S88°41'55"W 54.98 FEET TO 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE S62°04'45"W 140.80 FEET TO A 5/8"
IRON ROD WITH YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE S55°24'56"W 50.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP
STAMPED "AKS ENGR."; THENCE N34°35'04"W 10.74 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE S55°24'56"W
90.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE N34°35'04"W 291.00 FEET TO A 5/8" IRON ROD WITH
YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE S55°24'56"W 90.00 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE
PLS 2718"; THENCE S34°35'04"E 5.00 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "BASELINE PLS 2718"; THENCE S55°24'56"W
290.00 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE N34°35'04"W 24.00 FEET TO A 5/8" IRON ROD;
THENCE S55°24'56"W 90.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE N34°35'04"W 324.00 FEET TO A
5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE S55°24'56"W 90.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP
STAMPED "AKS ENGR."; THENCE S34°35'04"E 5.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE S55°24'56"W
140.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE N34°35'04"W 13.37 FEET TO A 5/8" IRON ROD WITH
YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE S43°27'39"W 145.87 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "AKS
ENGR."; THENCE ALONG A CURVE TO THE LEFT WITH A LENGTH OF 41.25 FEET, A RADIUS OF 125.00 FEET, A CENTRAL ANGLE OF 18°54'29", AND A
CHORD THAT BEARS N55°59'32"W 41.06 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE N55°26'42"W 263.32
FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "AKS ENGR."; THENCE ALONG A CURVE TO THE LEFT WITH A LENGTH OF 21.99", WITH
A RADIUS OF 14.00 FEET, A CENTRAL ANGLE OF 90°00'00", AND A CHORD THAT BEARS S69°33'18"W 19.80 FEET TO A 5/8" IRON ROD WITH YELLOW
PLASTIC CAP STAMPED "AKS ENGR."; THENCE N65°26'42"W 7.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "AKS ENGR."; SAID
POINT BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF BOONES FERRY ROAD (MARKET ROAD NO. 68); THENCE ALONG SAID EAST RIGHT-OF-WAY LINE,
S24°33'18"W 756.15 FEET TO A 5/8" IRON ROD WITH NO CAP; THENCE CONTINUING ALONG SAID EAST RIGHT-OF-WAY LINE ALONG A CURVE TO THE
LEFT WITH A LENGTH OF 118.74 FEET, A RADIUS OF 2834.79 FEET, A CENTRAL ANGLE OF 02°24'00", AND A CHORD THAT BEARS S23°21'18"W 118.73
FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "ALPHA ENGINEERING, INC."; THENCE CONTINUING ALONG SAID EAST RIGHT-OF-WAY
LINE S22°09'18"W 31.30 FEET TO A 5/8" IRON ROD WITH AN UNREADABLE YELLOW PLASTIC CAP; THENCE LEAVING SAID EAST RIGHT-OF-WAY LINE,
S89°28'24"E 2018.32 FEET TO THE SAID INITIAL POINT.

THE ABOVE DESCRIBED LAND CONTAINS 33.54 ACRES, MORE OR LESS.

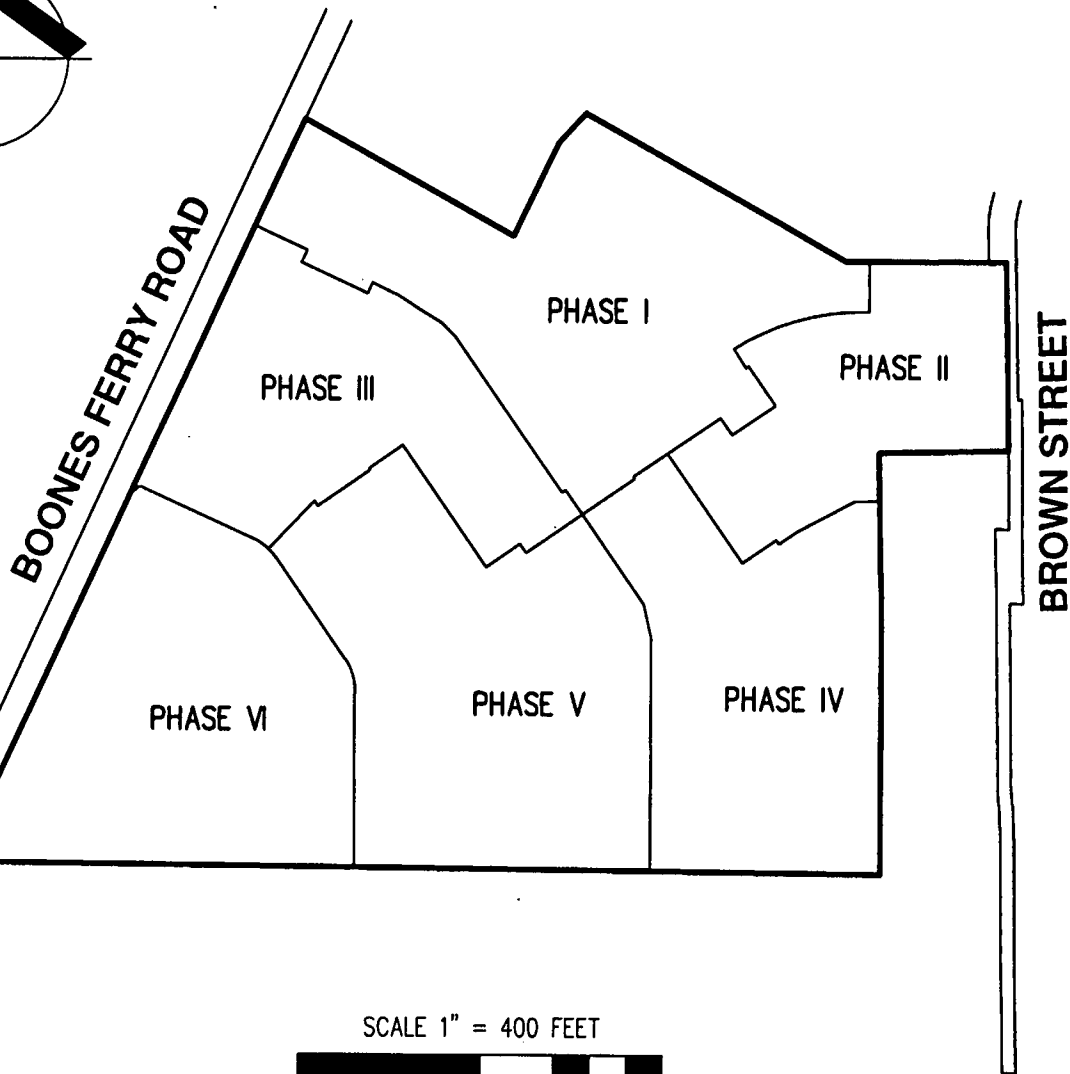
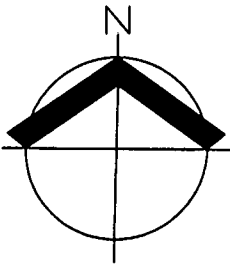
CURVE TABLE					
CURVE	LENGTH	RADIUS	CHORD	BEARING	DELTA
C1	118.74(118.75)17 (118.74)2	2834.79(2834.79)17 (2834.79)2	118.73(118.74)17 (118.74)2	S23°21'18"(S23°21'18")17 (S23°21'18")2	02°24'00"(02°24'00")17 (02°24'00")2
C2	75.28'	125.00'	74.15'	S17°19'58"E	34°30'17"
C3	41.25'(41.25)7	125.00'(125.00)7	41.06'(41.06)7	N55°59'32"W(N55°59'32")7	18°54'29"(18°54'29")7
C4	21.99(21.99)7	14.00(14.00)7	19.30(19.30)7	N69°33'18"E(N69°33'18")7	90°00'00"(90°00'00")7
C5	26.08'	125.00'	26.03'	N40°33'43"W	11°57'17"

JOB NAME: BOONES CROSSING
JOB NUMBER: 1222
DRAWN BY: BCB
CHECKED BY: HAM
DRAWING NO.: 1222PLAT-B

ENGINEERING • PLANNING • SURVEYING • FORESTRY
LICENSED IN OR & WA
AKS
13910 SW GALBREATH
DRIVE, SUITE 100
SHERWOOD, OR 97140
PHONE: (503) 925-8799
FAX: (503) 925-8969
E-MAIL: aks@aks-eng.com

BOONES CROSSING

LOCATED IN THE PETER RAYMOND DLC NO. 58 AND THE
SOUTHWEST ONE-QUARTER OF SECTION 18, TOWNSHIP 5
SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF
WOODBURN, MARION COUNTY, OREGON



SCALE 1" = 400 FEET



DATE: 12/20/2016

PREPARED FOR

PREMIER HOMES REAL ESTATE SERVICES, LLC.
1312 N HWY 99 W
MCMINNVILLE, OR 97128

PHASING MAP

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
P: 503.563.6151 F: 503.563.6152 aks-eng.com



EXHIBIT
B

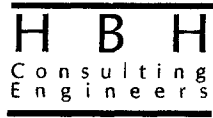
DRWN: JOH
CHKD: JOH
AKS JOB:
1434

EXHIBIT "C"
Boones Crossing Decision

5/14/04

★ REC'D ★

DEP



MAY 14 2004

11515 SW Durham Road, Suite E-9
 Tigard, Oregon 97224
 503/670-0499 ■ Fax 503/670-0540

WOODBURN COMMUNITY
 DEVELOPMENT DEPT.

PUD 00-02
Modified 05-27-05

TRANSMITTAL

TO City of Woodburn 270 Montgomery Street Woodburn, OR 97071	DATE May 13, 2004	JOB NO. 2003-025
	ATTN Naomi Zwerdling	
	RE Boones Crossing Phase 1 LUCS	

WE ARE SENDING YOU VIA: Messenger Overnight US Mail Other:

Plans CD Pay Request Samples Specifications Copy of Letter
 Change Order Proposal Study Submittals Report Other:

COPIES	DATE ON DOCS	NO.	DESCRIPTION
1			Boones Crossing Land Use Compatibility Statement

THESE ARE SUBMITTED AS CHECKED BELOW:

FOR APPROVAL APPROVED AS SUBMITTED RESUBMIT _____ COPIES FOR APPROVAL
 FOR YOUR USE APPROVED AS NOTED SUBMIT _____ COPIES FOR DISTRIBUTION
 AS REQUESTED RETURNED FOR CORRECTIONS RETURN _____ CORRECTED PRINTS
 FOR REVIEW AND COMMENT _____

Please sign and return to HBH Consulting Engineers, Inc. 11515 SW Durham Rd Suite E9 Tigard, OR 97224.

REMARKS

Post-it* Fax Note	7671	Date	5/23/05	# of pages	9
To	Tom	From	Naomi Zwerdling		
Co./Dept.		Co.	City of Woodburn		
Phone #	503-657-0188	Phone #	503-780-2402		
Fax #	503-657-5779	Fax #	503-782-5244		

COPY TO: _____ SIGNED: _____

EXHIBIT "C"
Boones Crossing Decision



05/14/14

Department of Environmental Quality
LAND USE COMPATIBILITY STATEMENT (LUCS)



DEQ
State of Oregon
Department of
Environmental
Quality

WHAT IS A LUCS? The Land Use Compatibility Statement is the process used by the DEQ to determine whether DEQ permits and other approvals affecting land use are consistent with local government comprehensive plans.

WHY IS A LUCS REQUIRED? Oregon law requires state agency activities that impact land use be consistent with local comprehensive plans. DEQ Division 18 administrative rules identify agency activities or programs that significantly affect land use. These programs must have a process for determining local plan consistency.

WHEN IS A LUCS REQUIRED? A LUCS is required for nearly all DEQ permits, some general permits, and certain approvals of plans or related activities that affect land use. These activities are listed in this form. A single LUCS can be used if more than one DEQ permit/approval is being applied for concurrently.

A permit modification requires a LUCS when any of the following applies:

1. physical expansion on the property or proposed use of additional land;
2. a significant increase in discharges to water;
3. a relocation of an outfall outside of the source property; or
4. any physical change or change of operation of an air pollutant source that results in a net significant emission rate increase as defined in OAR 340-200-0020.

A permit renewal requires a LUCS if one has not previously been submitted, or if any of the above four permit modification factors apply.

HOW TO COMPLETE A LUCS:

<u>Step</u>	<u>Who Does It</u>	<u>What Happens</u>
1	Applicant	Completes Section 1 of the LUCS and submits it to the appropriate city or county planning office.
2	City or County Planning Office	Determines if the business or facility meets all local planning requirements, and returns to the applicant the signed and dated LUCS form with findings of fact for any local reviews or necessary planning approvals.
3	Applicant	Includes the completed LUCS with findings of fact with the DEQ permit or approval submittal application to the DEQ.

WHERE TO GET HELP: Questions about the LUCS process can be directed to DEQ staff responsible for processing the permit/approval, or directed to DEQ's Intergovernmental Coordinator at 503-229-6408. Headquarters and regional offices may also be reached using DEQ's toll-free telephone number 1-800-452-4011.

SECTION 1 - TO BE FILLED OUT BY APPLICANT *(may be filled in electronically using Tab key to move to each field)*

1. **Applicant Name:** Boones Crossing, LLC **Contact Person:** Bob Hartford
Location Address: 14845 Murray Schools Dr., Suite 110 **Mailing Address:** 14845 Murray Schools Dr., Suite 110
City, State Zip: Beaverton, OR 97007 **City, State Zip:** Beaverton, OR 97007
Telephone: (503) 590-8600 **Tax Account No:** _____ **Tax Lot No:** 1400
Township: 5 South **Range:** 1 West **Section:** 18
Latitude: 45.1290 **Longitude:** -122.8665

Use the **DEQ Location Finder** (<http://deq12.deq.state.or.us/website/findloc>) to determine latitude/longitude.

2. **Describe the type of business or facility and services or products provided:**

61 lot subdivision. Phase one of six.

EXHIBIT "C"
Boones Crossing Decision

3. Check the type of DEQ permit(s) or approval(s) being applied for at this time.

- | | | |
|---|---|--|
| <input type="checkbox"/> Air Notice of Construction | <input type="checkbox"/> Pollution Control Bond Request | <input type="checkbox"/> Clean Water State Revolving Fund Loan Request |
| <input type="checkbox"/> Air Discharge Permit (<i>excludes portable facility permits</i>) | <input type="checkbox"/> Solid Waste Compost Registration - Permit | <input type="checkbox"/> Water Quality NPDES/WPCF Permit (<i>for onsite construction-installation permits use DEQ's Onsite LUCS form</i>) |
| <input type="checkbox"/> Title V Air Permit | <input type="checkbox"/> Solid Waste Letter Authorization Permit | <input type="checkbox"/> Wastewater/Sewer Construction Plan/Specifications (<i>includes review of plan changes that require use of new land</i>) |
| <input type="checkbox"/> Parking/Traffic Circulation Plan | <input type="checkbox"/> Solid Waste Material Recovery Facility Permit | <input checked="" type="checkbox"/> Water Quality Storm Water General Permit |
| <input type="checkbox"/> Air Indirect Source Permit | <input type="checkbox"/> Solid Waste Transfer Station Permit | <input type="checkbox"/> Other Water Quality General Permit (<i>Generals: 600 (if mobile), 700, 1200CA, 1500, 1700 (if mobile) are exempted</i>) |
| <input type="checkbox"/> Solid Waste Disposal Permit | <input type="checkbox"/> Solid Waste - Waste Tire Storage Permit | <input type="checkbox"/> Federal Permit - Water Quality 401 Certification |
| <input type="checkbox"/> Solid Waste Treatment Permit | <input type="checkbox"/> Hazardous Waste/PCB Storage/Treatment/Discharge Permit | |

4. This application is for: permit renewal new permit permit modification other _____

SECTION 2 - TO BE FILLED OUT BY CITY OR COUNTY PLANNING OFFICIAL

5. The facility proposal is located: inside city limits inside UGB outside UGB
6. Name of the city or county that has land use jurisdiction (*the legal entity responsible for land use decisions for the subject property or land use*): CITY OF WOODBURN
7. Does the business or facility comply with all applicable local land use requirements?
 YES; attach findings to support the affirmative compliance decision (*as required by Oregon Administrative Rules (OAR) 660, Division 31*).
 NO; attach findings for noncompliance, and identify requirements the applicant must comply with before LUCS compatibility can be determined.
8. Planning Official Signature: Naomi Zwerdling Title: SENIOR PLANNER
 Print Name: NAOMI ZWERDLING Telephone No.: 503-980-2402 Date: 5/14/04
- *Planning Official Signature: _____ Title: _____
 Print Name: _____ Telephone No.: _____ Date: _____
 (*If necessary, depending upon city/county agreement on jurisdiction outside city limits but within UGB.)

Please Note: A LUCS approval cannot be accepted by DEQ until all local requirements have been met. Written findings of fact for all local decisions addressed under Item No. 7 above **must be attached to the LUCS.**

CULTURAL RESOURCES PROTECTION LAWS: Applicants involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. *ORS 358.920 prohibits the excavation, injury, destruction, or alteration of an archeological site or object, or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking, to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, extension 232.*

EXHIBIT "C"
Boones Crossing Decision

COUNCIL BILL NO. 2004

ORDINANCE NO. 2246

AN ORDINANCE ANNEXING INTO THE CITY OF WOODBURN APPROXIMATELY 63 ACRES OF PROPERTY LOCATED ON THE EAST SIDE OF BOONES FERRY ROAD SOUTH OF THE RAILROAD CROSSING KNOWN AS "BOONES CROSSING"; AMENDING THE CITY OF WOODBURN ZONING MAP FROM MARION COUNTY "URBAN TRANSITION FARM" (UTF) TO CITY OF WOODBURN "SINGLE FAMILY RESIDENTIAL" (RS); GRANTING CONDITIONAL USE APPROVAL OF A PLANNED UNIT DEVELOPMENT (PUD); ALLOWING A VARIANCE TO OPEN SPACE/INDOOR RECREATION STANDARDS; IMPOSING CERTAIN CONDITIONS ON APPROVAL OF THE LAND USE APPLICATIONS; AND DECLARING AN EMERGENCY.

WHEREAS, the Woodburn Comprehensive Plan and Zoning Map have established certain land uses within the City of Woodburn's Urban Growth Boundary, and

WHEREAS, the Woodburn City Council has reviewed the record in Annexation Case No. 97-08; Zone Change No. 97-12; Conditional Use 97-03; Planned Unit Development 97-03; and Variance No. 97-12 and considered all of the evidence presented; and

WHEREAS, public hearings have been conducted before the Planning Commission and City Council all of the testimony presented has been considered, **NOW, THEREFORE**,

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. That the real property subject to these land use applications by Polygon Northwest Company (the "subject property") is owned by Faye Zimmer and Nancy Bocchi and is legally described in Attachment "A", which is affixed hereto and by this reference incorporated herein.

Section 2. That the subject property is depicted on the Exhibit Map for Annexation which is affixed hereto as Attachment "B" and is by this reference incorporated herein.

Section 3. That based upon the Findings in Support, which is affixed hereto as Attachment "C" and is by this reference incorporated herein, the subject property is hereby annexed to the City of Woodburn.

Section 4. That the Woodburn Zoning Map is hereby amended, as to the subject property, from Marion County "Urban Transition Farm" (UTF) to City of Woodburn "Single Family Residential" (RS) based upon the Findings in Support, which is affixed hereto as Attachment "C".


EXHIBIT "C"
Boones Crossing Decision

Section 5. That the application granting conditional use approval of a Planned Unit Development (PUD) is approved based upon the Findings in Support, which is affixed hereto as Attachment "C".

Section 6. That the application allowing a Variance to open space/indoor recreation standards is approved based upon the Findings in Support, which is affixed hereto as Attachment "C"

Section 7. That the land use applications approved by Sections 1 through 6 herein are subject to the conditions contained in Attachment "D", which is affixed hereto and incorporated herein, which the Council finds reasonable.

Approved as to form:  11-5-99
City Attorney Date

Approved: 
Richard Jennings, Mayor

Passed by the Council	<u>November 8, 1999</u>
Submitted to the Mayor	<u>November 10, 1999</u>
Approved by the Mayor	<u>November 10, 1999</u>
Filed in the Office of the Recorder	<u>November 10, 1999</u>

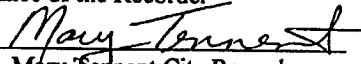
ATTEST: 
Mary Tennant City Recorder
City of Woodburn, Oregon

EXHIBIT "C"
Boones Crossing Decision



ALPHA ENGINEERING, INC.

ATTACHMENT 4
Page 1 of 2

AUGUST 10, 1999

BOUNDARY DESCRIPTION
FOR ANNEXATION PURPOSES ONLY
BOONES CROSSING, WOODBURN

JOB NO. 395-011

A PARCEL OF LAND LOCATED IN THE PETER RAYMOND DONATION LAND CLAIM NO. 58, IN SECTIONS 18 AND 19 TOWNSHIP 5 SOUTH, RANGE 1 WEST, AND SECTION 13, TOWNSHIP 5 SOUTH, RANGE 2 WEST, OF THE WILLAMETTE MERIDIAN, MARION COUNTY, OREGON, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE PETER RAYMOND DONATION LAND CLAIM NO. 58 LOCATED IN SECTION 18, TOWNSHIP 5 SOUTH, RANGE 1 WEST, OF THE WILLAMETTE MERIDIAN, MARION COUNTY, OREGON; THENCE NORTH $89^{\circ}35'00''$ WEST, 949.61 FEET; THENCE SOUTH $40^{\circ}54'50''$ WEST, 88.04 FEET; THENCE NORTH $61^{\circ}46'06''$ WEST, 102.57 FEET; THENCE SOUTH $41^{\circ}17'57''$ WEST, 507.13 FEET TO THE TRUE POINT OF BEGINNING AT THE SOUTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED IN REEL 224, PAGE 88, MARION COUNTY DEED RECORDS, BEING ON THE NORTH LINE OF THAT PARCEL OF LAND CONVEYED TO FAYE E. ZIMMER AND NANCY K. BOCCHI BY DEED RECORDED IN REEL 1229, PAGE 681, MARION COUNTY DEED RECORDS, ALSO BEING ON THE EXISTING CITY LIMITS OF THE CITY OF WOODBURN; THENCE ALONG SAID CITY LIMITS ON SAID NORTH PARCEL LINE, NORTH $60^{\circ}43'29''$ WEST, 494.57 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF A TRACT OF LAND CONVEYED TO JAMES A. ROARKE AND LOIS E. ROARKE BY DEED RECORDED IN REEL 300, PAGE 590, MARION COUNTY DEED RECORDS; THENCE LEAVING SAID CITY LIMITS, ALONG THE EASTERLY LINE OF SAID ROARKE TRACT, SOUTH $41^{\circ}15'00''$ WEST, 86.13 FEET, MORE OR LESS, TO AN ANGLE POINT THEREON; THENCE ALONG SAID EASTERLY LINE AND THE EASTERLY LINE OF THAT TRACT OF LAND CONVEYED TO EMIL KISTNER AND TILLIE KISTNER BY DEED RECORDED IN REEL 134, PAGE 105, MARION COUNTY DEED RECORDS, SOUTH $25^{\circ}30'00''$ WEST, 228.23 FEET TO THE SOUTHEAST CORNER OF SAID KISTNER TRACT; THENCE ALONG THE SOUTH LINE OF SAID KISTNER TRACT AND ITS WESTERLY EXTENSION, NORTH $61^{\circ}00'00''$ WEST, 589.77 FEET TO THE WESTERLY RIGHT OF WAY LINE OF BOONES FERRY ROAD (MARKET ROAD NO. 38, BEING 60 FEET

EXHIBIT "C"
Boones Crossing Decision



ALPHA ENGINEERING, INC.

ATTACHMENT 1
Page 2 of 2

BOONES CROSSING
ANNEXATION DESCRIPTION (CONTD.)

WIDE); THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE, SOUTH 24°30'00" WEST, 1802.95 FEET TO THE WESTERLY EXTENSION OF THE NORTH LINE OF THAT PARCEL OF LAND CONVEYED TO NANCY R. VEZEY BY DEED RECORDED AS REEL 1243, PAGE 272, MARION COUNTY DEED RECORDS; THENCE ALONG SAID WESTERLY EXTENSION AND SAID NORTH PARCEL LINE, SOUTH 89°15'00" EAST, 549.11 FEET; THENCE SOUTH 00°45'00" WEST, 37.00 FEET; THENCE SOUTH 89°15'00" EAST, 1510.00 FEET, MORE OR LESS, TO THE EAST LINE OF SAID VEZEY TRACT; THENCE ALONG SAID EAST LINE, NORTH 00°45'00" EAST, 37.00 FEET TO THE NORTHEAST CORNER OF SAID VEZEY TRACT, ALSO BEING THE SOUTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO FRANK R. HAWLEY AND ALMEDA HAWLEY BY DEED RECORDED IN REEL 323, PAGE 406, MARION COUNTY DEED RECORDS; THENCE ALONG THE WEST LINE OF SAID HAWLEY TRACT, AND THE WEST LINE OF THAT PARCEL DESCRIBED IN REEL 290, PAGE 157, MARION COUNTY DEED RECORDS, NORTH 00°33'40" WEST, 903.42 FEET, MORE OR LESS, TO THE SOUTH LINE OF A TRACT OF LAND CONVEYED TO FAYE E. ZIMMER AND NANCY K. BOCCHI BY DEED RECORDED IN REEL 1229, PAGE 683, MARION COUNTY DEED RECORDS; THENCE ALONG SAID SOUTH LINE, AND ITS EASTERLY EXTENSION, NORTH 89°51'13" EAST, 336.92 FEET, MORE OR LESS, TO THE EAST RIGHT OF WAY LINE OF BROWN STREET; THENCE ALONG SAID EAST RIGHT OF WAY LINE, NORTH 01°32'20" WEST, 120.00 FEET, MORE OR LESS, TO AN ANGLE POINT ON SAID RIGHT OF WAY LINE; THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 88°27'40" EAST, 10.00 FEET; THENCE CONTINUING ALONG SAID EAST RIGHT OF WAY LINE, NORTH 01°32'20" WEST, 305.54 FEET, MORE OR LESS, TO THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID ZIMMER AND BOCCHI TRACT; THENCE ALONG SAID EXTENSION AND SAID NORTH LINE, SOUTH 89°51'13" WEST, 394.04 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF PARCEL 2, AS DESCRIBED IN REEL 1393, PAGE 758, MARION COUNTY DEED RECORDS, SAID SOUTHEAST CORNER ALSO BEING ON THE EXISTING CITY LIMITS OF THE CITY OF WOODBURN; THENCE ALONG THE SOUTH LINE OF SAID PARCEL 2, AND SAID EXISTING CITY LIMITS, NORTH 60°01'22" WEST, 163.44 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING, CONTAINING APPROXIMATELY 63.51 ACRES.

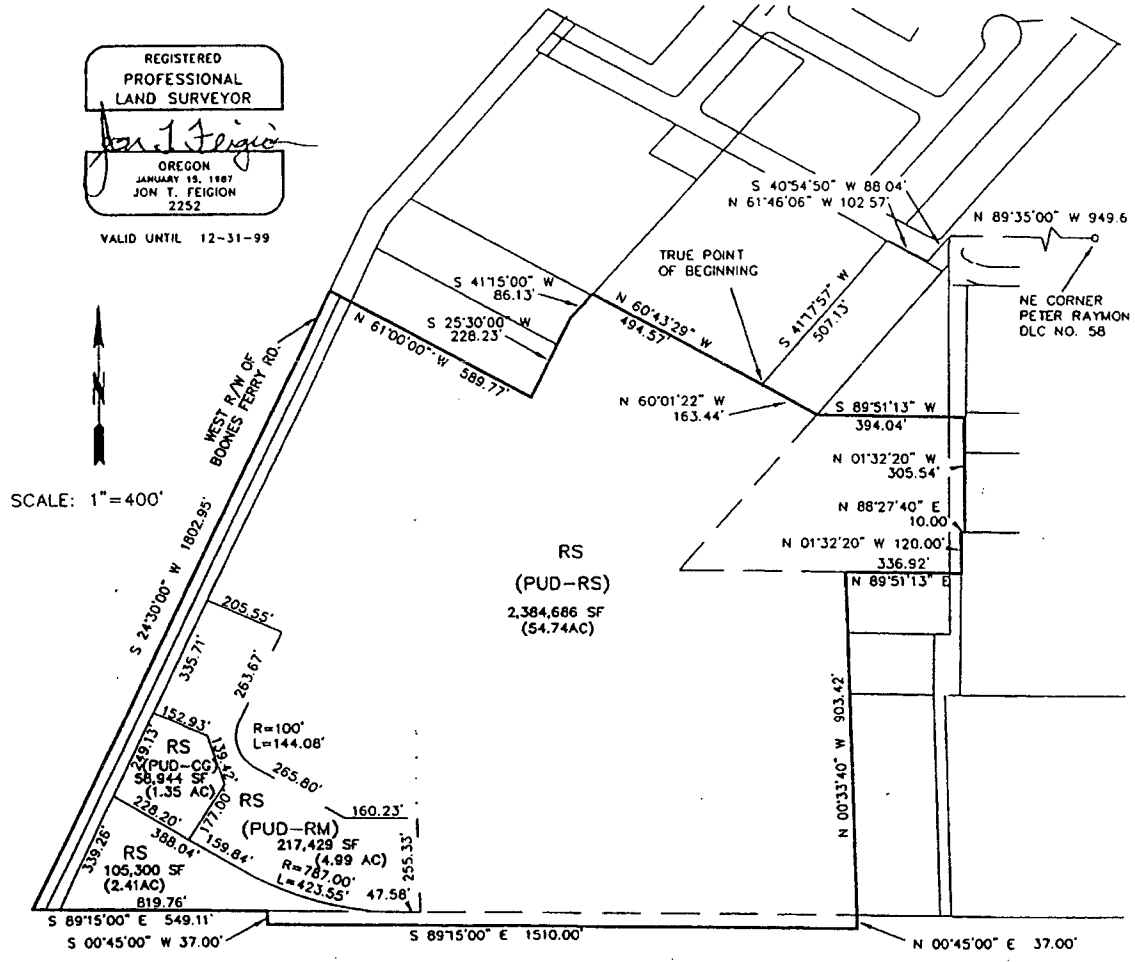
Plaza West • Suite 230 • 9600 SW Oak • Portland, Oregon 97223
Office 503-452-8003 • Fax 503-452-8043

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EXHIBIT MAP FOR ANNEXATION

LOCATED IN THE PETER RAYMOND D.L.C. NO. 58
AND IN SECTIONS 18 AND 19, TOWNSHIP 5 SOUTH, RANGE 1 WEST,
AND SECTION 13, TOWNSHIP 5 SOUTH, RANGE 2 WEST, WILLAMETTE MERIDIAN
MARION COUNTY OREGON

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PROJECT NO. 395-011
SCALE: 1" = 400'
DRAWN BY JTF
8-10-99



ALPHA ENGINEERING INC.
PLANNING • DEVELOPMENT SERVICES • SURVEYING
OFFICE 503-452-8003 • FAX 503-452-8043
PLAZA WEST • SUITE 230 • 9600 SW OAK • PORTLAND, OR 97223

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III

FINDINGS IN SUPPORT

Boones Crossing Stage Two Review

File Nos. Annexation 97-08, Zone Change 97-12, Conditional Use 97-03,
Variance 97-12, and Planned Unit Development 97-03

I. BACKGROUND INFORMATION

The applicant, Polygon Northwest, requests City of Woodburn approval for annexation, zone change, conditional use, variance, and planned unit development preliminary plat of Boones Crossing (File Numbers Annexation 97-08, Zone Change 97-12, Conditional Use 97-03, Variance 97-12, and Planned Unit Development 97-03). Boones Crossing, contains approximately 61.9 acres and will be subdivided into 242 detached single family residential lots, two future multifamily residential lots, a future 1-acre commercial parcel, and a future parcel with use yet to be determined. Additionally, there will be three mini-park tracts and a 3-acre City park tract. The primary property owner is Faye Zimmer and Nancy Bocchi. Alpha Engineering is the project planner and engineer. The property may be described as Tax Lots 1100 and 1400 of T5S, 1W, Section 18C and a portion of Tax Lot 600 of T5S, 1W, Section 19B.

II. PROCEDURAL STATUS

In accordance with the procedures set forth in the City of Woodburn Zoning Ordinance, an application package for the aforementioned requests for the Boones Crossing project was submitted by the applicant on October 31, 1997 for consideration by the City of Woodburn Planning Commission and City Council. In accordance with the City of Woodburn Zoning Ordinance, public hearings were held by the Planning Commission and City Council to consider the subject applications.

III. APPLICABLE APPROVAL CRITERIA

Annexation

1. The subject property is located within the City's Urban Growth Boundary and is therefore urbanizable pursuant to Statewide Goal 14.
2. The subject property is contiguous with the existing city limits.
3. The owners of Tax Lots 1100, 1400, and a portion 600 have petitioned the City for annexation.
4. The City has the ability to provide public services to the site.

Additionally, ORS 197.175(1) requires that cities exercise their planning and zoning responsibilities in accordance with Statewide Planning Goals when annexing

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unincorporated territory within a city's Urban Growth Boundary. The following section will list the applicable Statewide Planning Goals.

Goal 2 – Land Use Planning – To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions.

FINDING:

The City has adopted a Comprehensive Plan and implementing Zoning Ordinance in compliance with this goal. The Boones Crossing application was reviewed in compliance with processes established by the acknowledged ordinances.

Goal 7 – Areas Subject to Natural Disasters and Hazards – To protect life and property from natural disasters and hazards.

FINDING:

The subject site has been surveyed to determine if any hazards, such as wetlands or floodplain impact the site. There are no hazards that would impact the proposed Boones Crossing PUD.

Goal 10 – Housing – To provide for the housing needs of the citizens of the State.

FINDING:

The subject development would provide housing opportunities for first time homebuyers or first time move up buyers. Additionally, the mix of single family detached and multifamily attached residential choices gives residents of Woodburn options for housing.

Goal 11 – Public Facilities and Services – To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

FINDING:

The applicant's utility plans and capital improvement plans demonstrate that public facilities and services are available to the site. Additionally, public improvements constructed by the Boones Crossing development will provide the framework for extension of public services to the subject area of the City's Urban Growth Boundary.

Goal 12 – Transportation – To provide and encourage a safe, convenient and economic transportation system.

FINDING:

The Boones Crossing development will provide necessary improvements to adjoining streets as well as necessary street improvements internal to the development. The Boones Crossing development will provide transportation improvements serving vehicular, bicycle and pedestrian circulation.

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Goal 14 – Urbanization – To provide for an orderly and efficient transition from rural to urban land use.

FINDING:

The subject site is within the City's Urban Growth Boundary. The site is adjacent to the existing city limits and has public utilities available to the site.

Zone Change

The applicable approval criteria for the proposed zone change is as follows:

- (1) *Complies with the Comprehensive Plan;*

FINDING:

The proposed zone change from Marion County Urban Transition Farm (UTF) to RS with a PUD overlay complies with the Comprehensive Plan Map designation for the site as residential use.

- (2) *There is a public need for the change;*

FINDING:

The applicant has provided a market analysis demonstrating a need for single family lots with homes in the \$110,000 to \$160,000 range. The proposed PUD has been designed using "smart development" techniques with a mix of uses. The proposed RS zone allows PUDs through the Conditional Use process.

- (3) *The need is met by this proposal;*

FINDING:

The RS zone on this 61.9 acre parcel provides a single property with the scale necessary to develop a PUD with "smart development" techniques including home sites, street system, open space and park areas, pedestrian linkages and neighborhood commercial opportunities.

- (4) *Availability of other appropriately zoned land in the vicinity;*

FINDING:

There are no other single parcels of similar size necessary to a develop a PUD of this size in the vicinity.

- (5) *Unable to make reasonable use of the land as it is currently zoned.*

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FINDING:

The site is currently zoned County UTF. It is not developable in a manner that will meet the needs of the area without annexation or zone change to RS.

Conditional Use

The applicable approval criteria for the proposed Conditional Use is as follows:

- (1) *That the Planning Commission has the power to grant the Conditional Use;*

FINDING:

Section 14.030 of the Zoning Ordinance authorizes the Planning Commission to hear and decide Conditional Use requests. The subject conditional use was heard by the Planning Commission prior to being forwarded to the City Council for consideration.

- (2) *That such Conditional Use, as described by the applicant, will be in harmony with the purpose and intent of the district;*

FINDING:

The majority of surrounding land uses are residential. The City Council has determined that the proposed PUD will be compatible with the adjoining residential uses.

- (3) *That any condition imposed is necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhoods.*

FINDING:

The City Council has imposed the Conditions of Approval, attached hereto, to insure that the intent of this criterion is met.

Variance

The applicable approval criteria for the proposed Variance is as follows:

- (1) *That there are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the literal requirements of the ordinance;*

FINDING:

The City Council has determined that requiring 40% (24.8 acres) as common open space, combined with the necessary right-of-way dedications on the 61.0 acre site would limit

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the ability to develop the site with "smart development" principles. The proposed development will be providing other significant public improvements during development. This, combined with the projected parks SDC fees will offset the reduction in common open space.

- (2) *That there are exceptional or extraordinary circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings or uses in the same district; however, nonconforming land, uses, or structures in the vicinity shall not in themselves constitute such circumstances or conditions;*

FINDING:

This proposal will implement "smart development" principles contained within the City's TGM grant study prepared by McKeever/Morris in June 1997. Surrounding properties have developed prior to these design principles being in place, therefore setting this property apart.

- (3) *That granting the application will not be materially detrimental to the public welfare or be injurious to property or improvements in the neighborhood of the premises;*

FINDING:

The proposed PUD will be providing three mini-park areas as well as a fully improved 3-acre public park in an area of the City currently lacking adequate park uses. The reduction in common open will be mitigated by these park improvements and SDC fees collected from the development.

- (4) *That such variance is necessary for the preservation and enjoyment of the substantial property rights of the petitioner;*

FINDING:

Requiring a 40% common open space dedication, combined with an approximate 20% right-of-way dedication would only allow 40% of the site to be developed. Neighboring conventional subdivisions are not required to dedicate 60% of its gross acreage for non-residential uses. Therefore, this criterion is met.

- (5) *That the granting of the application will not, under the circumstances of the particular case, adversely affect the health or safety of persons working or residing in the neighborhood of the property of the applicant; and*

FINDING:

The proposed development, with its neo-traditional characteristics will promote more neighbor-to-neighbor interaction. The fully serviced development will have no adverse

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affect on the health or safety of persons working or residing in the development or in the vicinity.

- (6) *That granting of the application will be in general harmony with the intent and purpose of this ordinance and will not adversely affect any officially adopted Comprehensive Plan.*

FINDING:

The development will provide adequate public open space and park areas. These areas, combined with the SDC parks fees will mitigate the reduction of common open space and meets the intent and purpose of this ordinance.

Planned Unit Development

The applicable approval criteria for the proposed Planned Unit Development are contained within the City of Woodburn Comprehensive Plan sections: A – Residential Land Development Plan Policies; B – Commercial Land Development Policies; G – Housing Goals and Plan Policies; H – Public Service Goals and Plan Policies; and I – Transportation System Plan Goals and Policies.

IV. COMPLIANCE WITH COMPREHENSIVE PLAN GOALS AND POLICIES

A. Residential Land Development Plan Policies.

A-1. Residential areas should be designed around a neighborhood concept. Neighborhoods should be an identifiable unit bounded by arterials, non-residential uses, or natural features of the terrain. The neighborhood should provide a focus and identity within the community and should have a community facility such as a school, park or privately owned community facility to allow for interaction within the neighborhood.

FINDING:

The Boones Crossing site is bounded by Boones Ferry Road along the project's western portion and by a proposed south street along the project's south boundary. The development will provide the neighborhood with three tree lined "boulevards" featuring landscaped medians or tracts. Three mini-parks will be constructed to provide neighborhood residents recreational opportunities. The central park will serve as the neighborhood's focal open space area and as the nexus of the single family residential, multifamily residential, and commercial segments of the PUD. Amenities in Boones Crossing are scaled to the neighborhood in which they have been located.

A-3. Development should promote, through the use of moderate density standards and creative design, a feeling of openness and spaciousness with sufficient landscaped area and open space to create a pleasant living environment.

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FINDING:

The proposed density for the Boones Crossing PUD is approximately 5.4 units per acre. This is consistent with the City's density range of 12 units per acre (maximum) for the Low Density Residential Plan designation.

A-4. Streets in residential areas should be used by residents for access to collectors and arterials. Residential streets should be designed to minimize their use for through traffic, however, whenever possible dead-end streets and cul-de-sacs should be avoided.

FINDING:

The internal street system for Boones Crossing is designed to move vehicles through the neighborhood with a minimum amount of out of direction travel and onto either Boones Ferry Road or the proposed southern street. Boones Crossing is designed with a neo-traditional, pedestrian oriented lotting pattern. The street layout has been designed to limit vehicular travel while encouraging pedestrian and bicycle use through the provision of tree lined streets and pathways. The number of streets accessing Boones Ferry Road and the south arterial were kept to a minimum per City access standards, but will allow for a neo-traditional grid-like lotting pattern. The use of narrow local residential streets will also to serve to reduce traffic speeds further enhancing the pedestrian friendly goal of the development.

A-5. Residential developments should strive for creative design which will maximize the inherent values of the land being developed and encourage slow moving traffic. Each residential development should provide for landscaping and tree planting to enhance the livability and aesthetics of the neighborhood.

FINDING:

The internal street system, styled largely after the traditional grid pattern, will generally have 28-foot improvement widths on the majority of the streets (City's Local Residential "Skinny" Street standard). This narrow improvement will serve as a traffic-calming device.

All streets will have planting strips, landscaped with street trees as illustrated on Sheet 8 – Open Space, Parks, and Street Details. Three streets will also have landscaped center medians or tracts providing an enhanced sense of identity to the community.

A-9. Industrial and commercial uses which locate adjacent to residential areas should buffer their use by screening and design control, and should be controlled with sufficient setback so their location will not adversely affect the residential uses.

FINDING:

The site for the commercial aspect of this development is at the intersection of Boones Ferry Road and the proposed southern street. A primary function of the commercial area will be

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to serve the residents within the Boones Crossing PUD, therefore buffering of the commercial uses will be accomplished through design control rather than screening. The central park will provide a buffer between the single family uses and the commercial area. Additionally, the multifamily area will also serve to buffer the single family uses from the commercial area in a continuum of intensity.

A-10. High density residential areas should be located so as to minimize the possible deleterious effects on adjacent low density residential developments. When high density and low density areas abut, density should decrease in those areas immediately adjacent to low density residential land. Whenever possible, buffering should be practiced by such means as landscaping, sight-obscuring fences and hedges, and increased setbacks.

FINDING:

Streets and/or the central park will separate the multifamily residential uses from the single family area. Land uses have been tiered to become less dense as they move away from the intersection of Boones Ferry Road and the southern street in an effort to blend with the surrounding community. This tiered effect places the neighborhood commercial at the intersection of the two bordering streets. The commercial area is then ringed by the multifamily uses and central park. The single family area then forms the outer ring of development.

A-11. Traffic from high density residential areas should have access to collector or arterial streets without going through other residential areas.

FINDING:

The Boones Crossing community is adjacent to an arterial street and proposed southerly street. This location will limit the amount of traffic accessing the multifamily sites from proceeding through existing neighborhoods.

B. Commercial Land Development Policies.

B-3. Strip zoning should be discouraged as a most unproductive form of commercial land development. Strip zoning is characterized by the use of small parcels of less than one acre, with lot depths of less than 150 feet and parcels containing multiple driveway access points. Whenever possible, the City should encourage or require commercial developments which are designed to allow pedestrians to shop without relying on the private automobile to go from shop to shop. Therefore, acreage site lots should be encouraged to develop "mall type" developments that allow a one stop and shop opportunity. Commercial developments or commercial development patterns which require the use of the private automobile shall be discouraged.

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FINDING:

The size of the commercial portion of Boones Crossing is sized to be of a smaller neighborhood scale allowing pedestrians to access all shops within the commercial area without needing to rely on their car to get from store to store. Additionally, many residents of Boones Crossing will be able to walk or bike to the commercial area, consistent with smart development, thus reducing the number of car trips necessary for shopping purposes. The nature of the development is pedestrian oriented, including the commercial area which is limited in intensity to serve the neighborhood through pedestrian connections.

B-4. Architectural design of commercial areas should be attractive with a spacious feeling and enough landscaping to reduce the visual impact of large expanses of asphalt parking areas.

FINDING:

Due to the commercial area's proximity to the residential area of Boones Crossing, it is essential to ensure that the commercial area is attractive. The City will have the opportunity to conduct a detailed review through Site Plan Review process when the commercial area develops.

B-6. Commercial office and other low traffic generating commercial retail uses can be located on collectors or in close proximity to residential areas if care in architecture and site planning is exercised. The City should insure by proper regulations that any commercial uses located close to residential areas have the proper architectural and landscaping buffer zones.

FINDING:

The commercial portion of the PUD has been sited at the intersection of Boones Ferry Road, classified as a Minor Arterial on the Transportation Plan and a proposed southern street. As noted previously, the Boones Crossing PUD has been designed with a tiered land use progression: commercial uses at the intersection, followed by a ring of multifamily (and central park), followed by the single family lots. Streets, parks, and landscaping will all serve to buffer the commercial area from the single family portion of Boones Crossing. Also, as noted in the response to Plan Policy A-9, the buffering of the commercial area from the residential area will be accomplished through architectural design controls.

G. Housing Goals and Plan Policies.

G-1. The housing goal of the city is to insure that adequate housing for all sectors of the community is provided.

FINDING:

The Boones Crossing PUD will provide housing opportunities for several segments of the

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residential market. The development will provide housing for first time home buyers and first time move-up buyers as well as one or two types of attached housing (townhomes and/or apartments) for those relying on the availability of rental units, thus addressing the needs of three to four different sectors of the community.

G-1-2. It is the policy of the City to encourage a variety of housing types to accommodate the demands of the local housing market.

FINDING:

As noted in response to G-1, the Boones Crossing PUD will be providing housing for three to four market areas: the first time home buyer; first time move-up home buyers; attached housing for rent; and apartments or townhomes (to be developed in a later development proposal). This mix of housing will provide housing opportunities for a broad spectrum of Woodburn's citizens.

H. Public Service Goals and Plan Policies.

H-1. It is the goal of the City to provide adequate public services to all areas of the City to include:

- * *Sewer lines of adequate capacity;*
- * *Water lines of adequate capacity for both domestic supply and fire fighting capabilities, and*
- * *Storm drainage to prevent flooding of valuable property where feasible;*

FINDING:

The Boones Crossing PUD will not only provide services adequate for the development of the Boones Crossing site, but will also provide needed services to neighboring properties in this area of the City. The extension of services to the Boones Crossing site will enhance the City's capability of providing these services to the City's residents beyond the Boones Crossing site. Sewer, water and storm drain lines are provided to the property in satisfaction of City standards. (Please refer to Sheet 7 - Utility Plan and Sheet 9 - Capital Improvements Plan for additional details.)

H-2. To provide a central system to accommodate the service lines it include:

- * *Sewage treatment facilities sufficient in capacity to accommodate the City's growth until the year 2008;*
- * *Lift stations as necessary to service the sewer lines;*
- * *Well storage and treatment of water as is necessary to accommodate the needs of the City, and;*
- * *Detention systems for flood water and storm drain runoff so as not to overburden the drainage systems of the City.*

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FINDING:

The Boones Crossing site will be able to utilize gravity served sanitary sewer lines. The sanitary sewer lines constructed as a part of the Boones Crossing PUD but will also serve a wide area in this part of the City's planning area. Regarding water, Boones Crossing will not only be installing internal water lines, but will also be installing water lines in Boones Ferry Road and the southern street providing water service to neighboring properties. Boones Crossing will construct two water quality facilities to handle storm water retention during peak flows. (Please refer to Sheet 7 -Utility Plan and Sheet 9 - Capital Improvements Plan)

H-5. Development Zones - The City should encourage development in areas of existing facilities first. Secondly, the City should encourage development in areas where extensions of existing city services can be accommodated. The city should encourage development of new areas to which services can be most cheaply extended. The City should develop any other areas only as a last resort. The City will adhere to the policies in the Storm Water and Water and Sewer elements of the Comprehensive Plan.

FINDING:

The 60-acre Boones Crossing location provides the applicant with a site of sufficient scale to develop a viable smart development project. Development at this location will provide the City with service extensions to an area currently lacking. The Boones Crossing PUD will also be providing the City with street improvements proposed on the City's Transportation System Plan. This request for PUD approval is therefore consistent with this policy.

H-6. To insure that the growth does not increase the cost to the present City residents, the City's policy should insure that new developments pay for any additional services they demand. The City shall institute the necessary taxes and fees to insure that this is accomplished as far as is practical.

FINDING:

Polygon Northwest will pay for the public improvements as outlined in the conditions of approval. Where appropriate, Polygon Northwest will pay for approved connection fees and SDC's related to the expansion of services in compliance with this plan policy.

I. Transportation System Plan Goals and Plan Policies.

In June of 1996, the City adopted a new Transportation System Plan, Woodburn Transportation System Plan, in compliance with the state statute and administrative rule (OAR 660 Division 12). This plan repeals and supersedes the City's earlier transportation plan. Appendix "E" of that plan identifies potential changes to the City Comprehensive Plan, Subdivision Ordinance and Zoning Code. However, the City has not adopted these recommendations.

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Goal 1

Develop a multi-modal transportation system that avoids or reduces reliance upon one form of transportation, and minimizes energy consumption and air quality impacts.

Policies:

1. *Develop an expanded intra-city bus transit system which will provide added service and route coverage to improve the mobility and accessibility of the transportation disadvantaged, and to attract traditional auto users to use the system.*

FINDING:

This plan takes into account the potential for an expanded intra-city bus transit system. The commercial area will accommodate space for a future public transit stop serving the south end of the city. The pedestrian friendly design of Boones Crossing allows residents the ability to walk or bike to a future transit stop at this location.

2. *Develop a plan for providing travel options between Woodburn and Portland and Portland and/or Salem, including inter-city bus service and potential bus/carpool park-n-ride facilities.*

FINDING:

Woodburn currently does not have an inter-city city transit system. If the service is initiated as envisioned in the Transportation System Plan, the park and ride system, located at the I-5 and Oregon 214 interchange, will not have a direct physical impact on this proposed development.

4. *Develop a bikeway system which will provide routes and facilities to allow bicyclists to travel from residential areas to schools, parks, and places of employment and commercial areas. Off-street facilities in City greenway/park areas will be identified. Insure all new collector and arterial streets are constructed with bike lanes.*

FINDING:

The Woodburn Bicycle Facility Plan identifies Boones Ferry Road, Brown Road, and the southern street to be constructed with an on-street bike route. Improvements to these rights-of-way will provide the required on-street striped bike lane. Additionally, bike parking will be included in public areas such as the commercial portion of the development as well as the park areas.

5. *Identify sidewalk and off-street pathway improvements to improve pedestrian mobility within neighborhoods and between residential areas and schools, parks, places of employment and commercial areas. Insure all new collector and arterial streets are constructed with sidewalks.*

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FINDING:

The new Transportation System Plan recommends construction of sidewalks along with the construction of new streets. In conjunction with the development of Boones Crossing, full sidewalk improvements (as shown on Sheet 4 - Preliminary Subdivision Plat) will be provided throughout the development. In addition to the provided sidewalks along the street rights-of-way, Boones Crossing will also provide a greenbelt pathway bisecting the two blocks immediately east of the central park (see Sheet 5 - Landscape Master Plan). This greenbelt pathway will provide an attractive, convenient pedestrian linkage to the development's main park parcel from the single family residential area of the PUD.

Goal 2

Develop a street system which will handle projected year 2015 traffic demands in the Woodburn area, and interconnects residential areas with employment centers, schools, parks, churches and regional transportation facilities.

Policies:

1. *Develop an updated roadway functional classification plan for the Woodburn area, that reflects the desired function of different roadways, and is consistent with current federal guidelines for the designation of major streets in an urban area.*

FINDING:

Boones Ferry Road and the southern street are both shown as Minor Arterials on the City's Street Functional Classification Plan. Brown Road is classified as an Access Street on the Plan. The Boones Crossing PUD will appropriately connect to all three roads. The dedication and construction of the southern street provides the City with a needed transportation link identified in the City's Transportation System Plan.

4. *Identify new east-west and north-south collector/minor arterial streets within the City to relieve traffic demands on Highways 219/214, 211 and 99E.*

FINDING:

The City has identified a new south arterial connecting Highway 214 and Highway 99E in the western and southern portion of the City. The alignment for the new south arterial was determined in part by the analysis of Kittleson and Associates, a transportation planning and traffic engineering consulting firm and through the cooperation of the property owners in the area who are supportive of the proposed alignment. The applicant has incorporated this arterial into the Boones Crossing plan and will build that portion of the roadway adjacent to the project.

5. *Develop updated street design standards for arterial, collectors, and local streets.*

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FINDING:

Polygon Northwest will comply with street design standards as specified in the June 1996 Transportation System Plan. Boones Ferry Road and the southern street will be constructed to the standards for a minor arterial. Interior streets, with the exception of the landscaped boulevards, will be designed to the local residential "skinny" street with parking on both sides. The landscaped boulevard streets have a modified design that provides two 14-foot travel lanes with a 10-foot landscaped median and no on-street parking. Please refer to Street Sections on Sheet 8 – Open Space, Parks, and Street Details.

Goal 3

Develop transportation improvements that will improve overall traffic safety in the Woodburn area.

Policies:

2. *Develop a plan for improving pedestrian and bicycle safety for travel to/from local schools.*

FINDING:

Boones Crossing has full street improvements throughout the development providing sidewalks on all streets and bike lanes on those streets identified on the City's Bicycle Facility Plan. Internal to the Boones Crossing development, the streets have narrow street sections or traffic medians to reduce speeds. Externally, Boones Crossing will be providing needed improvements to two arterials and one access street.

Goal 4

Develop a set of reliable funding sources that can be applied to fund future transportation improvements in the Woodburn area.

Policies:

3. *Identify a traffic impact fee structure associated with new developments in the Woodburn area to fund transportation improvements.*

FINDING:

Polygon Northwest will comply with the adopted SDC fee and TIF schedule.

Goal 5

Develop amendments to City land use standards and ordinances to reduce travel demand and promote use of modes of transportation other than the automobile.

Policies:

1. *Identify changes in the Woodburn Zoning Ordinance to encourage implementation of Transportation Demand Management (TDM) strategies by local businesses. TDM*

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strategies should include bicycle and car pool parking provisions, and allowable overall parking reductions for employer institution of TDM strategies, including transit fare subsidies, car pool matching programs, and flexible work hours.

2. *Identify changes in the Woodburn Zoning ordinance to encourage transit and pedestrian-oriented development. This includes proper building orientation to improve access for transit users and patrons, direct pedestrian connections, and bus stop provisions where appropriate development.*

3. *Identify changes in the Woodburn Subdivision Standards to encourage neo-traditional development pattern and adequate local street standards to accommodate all modes of transportation.*

4. *Adopt traffic impact analysis guidelines to be used by the City and developers to identify the impact of new development on street system improvement needs.*

FINDING:

The City has identified potential changes to the Zoning Ordinance, and Subdivision Standards and Comprehensive Plan to implement these policy recommendations. To date these changes have not been adopted by the City Council and are therefore, not directly applicable.

V. PUBLIC TESTIMONY RECEIVED

Testimony in support of the applications was presented by the applicant and their representatives.

There was no opposing testimony.

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CONDITIONS OF APPROVAL

ATTACHMENT D
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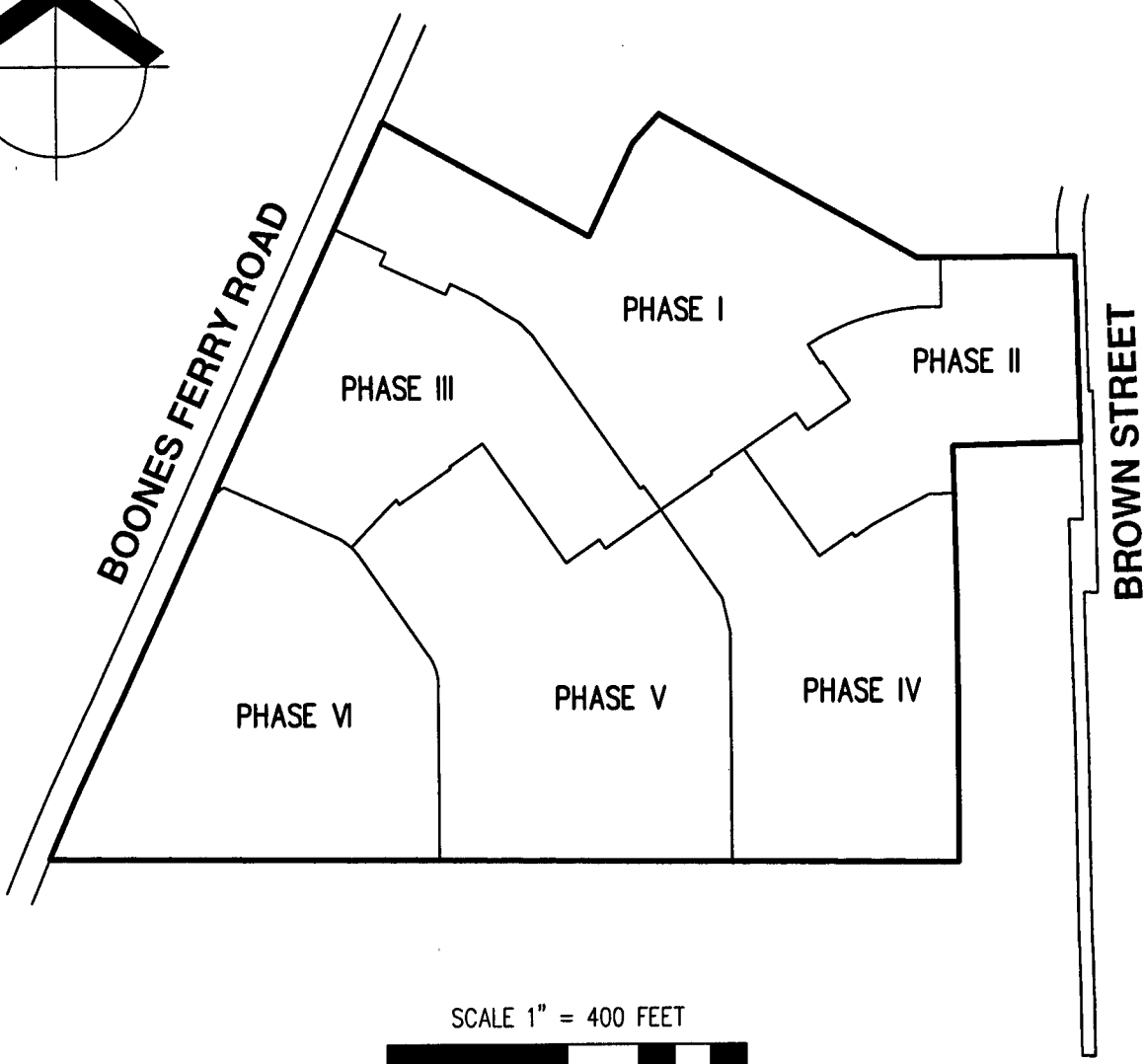
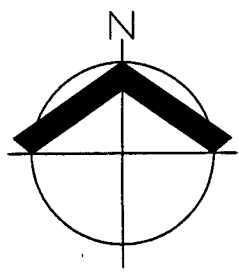
The applications are granted subject to the following conditions:

A. PLANNING:

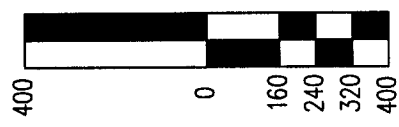
1. The conditional use and variance requests are subject to the approval of the annexation and zone change requests.
2. Any subdivision of the parcels shall comply with the applicable zoning ordinances and regulations and any ordinance or regulation adopted under ORS 92.044 that are in effect at the time of approval.
3. The Planned Unit Development (hereinafter "the PUD") shall be in substantial conformity with the preliminary plan.
4. The Applicant shall provide for the installation of all franchised utilities and any required easements on the final plat. Street lighting shall also be provided, as per PGE plan schedule "B."
5. The Applicant shall provide City staff with a final light plan for the proposed development for review by the Planning and Police Departments.
6. The Applicant shall show compliance with the vision clearance standard specified in Chapter 8 of the Woodburn Zoning Ordinance.
7. The Applicant shall setback the garage 20 feet from the front property line or 20 feet from the side property line if the side yard is adjacent to a street.
8. The Applicant shall comply with the single family dwelling driveway standards specified in Chapter 10 of the Woodburn Zoning Ordinance.
9. The Applicant shall apply for site plan review for placement of the multi-family units and neighborhood commercial buildings in Phases 3 and 4. In addition, the Applicant shall include the development of the neighborhood park in Phase 2 rather than Phase 3. The neighborhood park shall be available for use by the single family lots within Phases 1 and 2 of the Boones Crossing PUD at the time that these phases are completed.
10. The phases of the development shall be Phases 1, 2, 3, and 4 as depicted on the following preliminary plat/subdivision map:

BOONES CROSSING

LOCATED IN THE PETER RAYMOND DLC NO. 58 AND THE
SOUTHWEST ONE-QUARTER OF SECTION 18, TOWNSHIP 5
SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF
WOODBURN, MARION COUNTY, OREGON



SCALE 1" = 400 FEET



DATE: 12/20/2016

PREPARED FOR

PREMIER HOMES REAL ESTATE SERVICES, LLC.
1312 N HWY 99 W
MCMINNVILLE, OR 97128

PHASING MAP

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
P: 503.563.6151 F: 503.563.6152 aks-eng.com



EXHIBIT B
DRWN: JOH
CHKD: JOH
AKS JOB: 1434

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**11. SCOPE OF USES ALLOWED WITHIN THE NEIGHBORHOOD
COMMERCIAL AREA AND CONDITIONS ON ALLOWED USES.**

The areas identified in the Applicant's site plan, designated for commercial use, shall be restricted to neighborhood commercial uses as set forth below.

The neighborhood commercial area shall be primarily oriented to serve the residents of the PUD. Neighborhood commercial uses are intended to be low-impact, pedestrian-oriented businesses. The proximity of these commercial uses to residential uses in the PUD should reduce automobile trips and promote energy conservation. Furthermore, this neighborhood commercial area should not significantly compete with similar uses in other areas of the city. Such uses shall be limited to certain types of personal services, retail businesses and professional offices. The standards set forth below will allow the city to control the impacts of such development, while at the same time, provide reasonable flexibility in attracting viable and compatible commercial businesses to support this mixed-use development.

The allowed uses within the neighborhood commercial areas identified in this PUD shall be as follows, subject to site plan review:

a. Permitted Uses

i. Family Services

- (1) Pre-schools
- (2) Day care facilities
- (3) Nurseries
- (4) Kindergartens
- (5) Other family service uses determined by the Planning Director to be similar in nature and impact to the uses set forth above

ii. Personal Services with a gross floor area per business of 5,000 square feet or less, including:

- (1) Barber shops
- (2) Beauty shops
- (3) Bank or other financial institutions
- (4) Laundry and tailor services
- (5) Pharmacies
- (6) Real estate offices
- (7) Other personal services determined by the Planning Director to be similar in nature and impact to the uses set forth above

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iii. Retail Businesses with a gross floor area per business of 5,000 square feet or less, including:

- (1) Antique shops
- (2) Art and photo supply shops
- (3) Cafes, coffee houses and bakeries
- (4) Ice cream/candy stores
- (5) Florists
- (6) Gift Shops
- (7) Other retail businesses determined by the Planning Director to be similar in nature and impact to the uses set forth above.

iv. Single Family Dwellings above, beside or behind a neighborhood commercial use.

b. Conditional Uses:

- i. Grocery Stores/Health Food Stores
- ii. Video Rental Stores
- iii. Professional offices for accountants, attorneys, medical, dental or other allied professional offices and clinics, primarily oriented to serve residents of the PUD.

c. Conditions on Allowed Uses:

- i. Businesses may be open to the public only between the hours of 9 a.m. to 7 p.m.
- ii. Personal services or retail businesses with more than 5,000 square feet of gross floor area per business shall not be allowed.
- iii. No drive through businesses shall be allowed.
- iv. All Site Plan Reviews shall be reviewed by the Home Owner's Association prior to submittal to the Planning Commission.
- v. That portion of the PUD south of the east/west minor arterial shall be designated a base zone of PUD Single Family Residential subject to the right of the Applicant to apply to the Planning Commission and the City Council at a later date to obtain authorization to use the area for commercial uses.

12. The Applicant shall provide City staff with a copy of the final CC & R's (Homeowner's Association) before City staff will sign off on the plat. The Applicant shall also provide City staff with a copy of the recorded CC & R's.

13. The Applicant shall incorporate the multi-family complexes and neighborhood commercial areas into the Home Owner's Association CC & R's.

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Boones Crossing Decision

ATTACHMENT 4
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14. The Applicant shall construct and dedicate to the City a three-acre neighborhood park to be located within the PUD.

The park will be open to the public and will serve the PUD and surrounding neighborhood.

15. Construction of the neighborhood park by the Applicant shall conform to all City standards. The Applicant's minimum design and construction budget (which shall be expended by the Applicant to create the neighborhood park) shall be \$350,000.

16. In addition to the neighborhood park described above, the Applicant shall pay to the City a Recreation and Parks Systems Development Charge of \$161,805. This is collected as a regulatory charge, based upon the City's Systems Development Charge methodology, and does not constitute a development exaction.

17. Final plans shall conform to the construction plan review procedures and standards. The final construction plan shall include street landscaping and lighting. Street landscaping shall be complete prior to acceptance by the City.

18. Construction shall conform to the City of Woodburn standard specifications and all state building codes.

19. The Applicant shall provide the City with an acceptable bond or contract for improvements as required in the Woodburn Subdivision Standards, Chapter III Section 6 (4) prior to acceptance of the final plat and issuance of a building permit.

20. Prior to any construction, a reproducible mylar of the final plat shall be filed with the Public Works Department after all required signatures have been obtained and the plat has been recorded with Marion County.

21. On-site construction shall not commence until the improvement plans have been reviewed and approved by the Public Works Department and all right-of-way permits, system development charges and park fees in effect at the time of building permit issuance have been paid.

22. Upon acceptable completion of all improvements to be maintained by the City, the developer shall provide the City a maintenance bond good for one year, in the amount of 10% of the improvement cost.

23. Prior to building permit issuance the Applicant shall submit one set of reproducible as-builts.

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24. Site Plan Review shall be required for the proposed multi-family units within the PUD. At the time of Site Plan Review, the Applicant shall comply with the Woodburn Zoning Ordinance.

25. The Applicant shall conform to the "Boones Crossing Landscape Master Plan" (which was submitted by the Applicant and marked Attachment P) which is incorporated herein by the reference. The Applicant shall also conform to the "Boones Crossing Open Space, Parks, and Street Details" (which was submitted by the Applicant and marked Attachment Q) which is also incorporated herein by this reference.

The Applicant shall place street trees along each of the roadways and shall cooperate with the Woodburn Parks Department in the design of the 3 acre neighborhood park on the southwest side of the subject site which the Applicant is required to dedicate and construct.

26. The Homeowner's Association shall be responsible for watering, maintaining all landscaped areas, and for replacing dead or dying plant materials. The Applicant shall assume Homeowner's Association responsibilities with respect to landscape maintenance during the first year of each phase of construction. The Applicant shall install a permanent irrigation system under the common landscaped areas. Any other landscaped areas, such as the pedestrian pathway and landscaped medians, shall be planted with materials that are not dependent upon irrigation."

27. Prior to construction, the Applicant shall provide a concept illustration and preliminary scale drawing of the proposed entry monument signs to City staff for review and approval."

28. The Applicant shall be responsible for platting and recording the lot in accordance with the subdivision standards.

B. PUBLIC WORKS: GENERAL CONDITIONS

1. The final plan shall conform to the construction plan review procedures and standards.
2. On-site existing water wells and subsurface sewage disposal systems shall be abandoned by the Applicant in accordance with state regulations.
3. All City-maintained facilities located on private property shall require a minimum 16-foot wide utility easement to be conveyed to the City.
4. The Applicant, not the City is responsible for obtaining permits from any state and/or federal agencies which may require approval or permit.

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5. The Applicant, by this development, shall not cause storm water runoff to be impounded on adjacent properties.
6. The subdivision shall be platted in accordance with standard surveying practice, approved and recorded with Marion County.
7. The Applicant shall provide for the installation of all franchised utilities and shall provide any required easements on the final plat. Street lighting shall also be installed by the applicant as per PGE plan schedule "B".
8. The Owner/Applicant shall be required to enter into an improvement agreement as outlined in the Woodburn Zoning Ordinance, Chapter III, Section 6 prior to acceptance of the final plat. Also prior to construction of the subdivision commencing the City will require approved construction plans, a performance bond in the amount of 100% of the constructions costs and that the construction permit fees be paid.
9. All work shall conform to the City of Woodburn Standards and all State Building Codes and regulations.
10. The Applicant shall provide engineering plans for all the improvements outlined in the Conditions of Approval. No construction activities shall be initiated until the City-approved engineering plans are received by the Applicant. After completion of the development, the Applicant shall provide "as built" to the City.
11. No SDC credits shall be allowed for the improvements which are required by the City as Conditions of Approval.

C. PUBLIC WORKS: STREET CONDITIONS

1. Boones Ferry Road shall be improved from the south boundary of this development to the existing railroad crossing approximately 150 feet north of this development. This shall be a full street improvement, not half street as indicated in the application. The improvement shall be in conformance with the Transportation System Plan (hereinafter "TSP"), wherein Boones Ferry Road is designated as a minor arterial. The railroad crossing on Boones Ferry/Settlemer Avenue is currently being designed by the City and is to be scheduled for improvement. The improvement portion shall end approximately 100 feet south of the existing crossing. The pavement thickness constructed by the applicant shall meet the structural strength of an arterial street.
2. Boones Ferry Road is an existing 60-foot wide right-of-way. In accordance with

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the TSP, an additional 7 feet of right-of-way and a 10-foot wide utility easement shall be dedicated by the Applicant to the City adjacent to this development.

3. The Applicant shall provide 50 feet wide right-of-ways and 28 feet wide improved streets with parking on both sides along the interior residential streets and 60 feet wide right-of-ways and 38 foot wide improved street with a 10-foot wide landscape boulevard in the center, with no on street parking for these interior residential collectors. In addition, the Applicant shall provide 10 foot wide utility easements adjacent to the right-of-way line on all interior streets.
4. The Applicant shall provide connector paths of grass crete material for emergency access at the end of several dead end streets, and not provide a cul-de-sac for turn around provisions. The Homeowner's Association shall be responsible for the maintenance of the area, including the grass crete provided for emergency access. The final design shall make provisions to restrict access for other vehicles except emergency vehicles.

D. PUBLIC WORKS: BROWN STREET IMPROVEMENTS

1. Brown Street adjacent to this development; shall be improved in conformance with the Transportation System Plan (TSP). This shall be full street improvement, not a half street improvement as indicated in the application. A standard 60 foot right-of-way shall be required. The Applicant shall dedicate to the City that amount of right-of-way necessary to meet the 60 foot standard.
2. Right-of-Way Acquisition and Improvement.
 - a. The Applicant has agreed to pay and shall pay to the City the full amount of the City's costs necessary for the City to condemn the disputed right-of-way of Brown Street from the northeast portion of the proposed PUD to Comstock Way to the north provided that such payment from the Applicant to the City not exceed \$20,000. The City shall invoice the Applicant for all necessary costs related to the condemnation of this property and the Applicant shall pay the amount due to the City 30 days after the invoice is received.
 - b. If the City takes legal possession of the condemned property within 2 years of the passage of the Ordinance granting development approval or by the completion of Phase I, whichever time is later, the Applicant shall be required to improve Brown Street from the northeast portion of the proposed PUD to Comstock Way to the north within 1 year of the time that the City acquired

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possession or prior to the completion of Phase 1, whichever time is sooner.
(Note: This is in addition to the full width improvement of Brown Street required along the development itself)

- The connecting paved portion of road shall be at least 24' wide with curb and gutter on both sides, a sidewalk on one side, and storm drains as required by engineering design standards
- If additional widening of the connecting road is required, cost distribution shall be allocated as outlined below:
- The City and the Applicant shall equally share the cost of widening the street from 24' to 29'
- The City or the adjoining property owners shall pay any additional cost needed to widen the street beyond 29' width

C. Brown Street Sidewalk;

1. To provide safety to pedestrians, the Applicant shall install a sidewalk along that side of Brown Street to be decided by the City from the end of the new Steklov housing development near Bradley Street to Cleveland Street. The actual costs of this sidewalk improvement shall be borne equally by the Applicant and the City. This cost is estimated to be \$40,000 to be paid by the City and \$40,000 to be paid by the Applicant. All other sidewalks must be constructed according to prior conditions and city standards.
2. All of the Brown Street sidewalk construction shall be completed by the Applicant as a part of Phase 1 infrastructure improvements

E. Brown Street Patching and Resurfacing

1. Because of the deep sewer line construction, a standard asphalt patch shall be applied to the entire length of the Brown Street trench from Cleveland Street to Comstock Way by the Applicant.
2. The Applicant shall resurface Brown Street from the Comstock Way intersection to the Bradley Street intersection after providing the required asphalt grinding.
3. As a part of its city-wide resurfacing program, the City shall pay for street resurfacing from Bradley Street to Cleveland Street.
 - a. The south arterial shall be improved by the Applicant in accordance with the TSP as a minor arterial. A 36 foot wide street improvement on 74 feet right-of-way shall be required along the south portion of the property from Boones

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Ferry Road to the east property line. Sidewalks shall be required on the north side of the arterial and shall not be required on the south side. Curbs shall be required on both sides. The Applicant shall increase the 36 foot wide pavement improvement to 48 feet wide when the commercial development occurs within the PUD.

b. In summary, the Applicant shall provide the following street improvements:

<u>Improvements</u>	<u>Applicant Responsibility</u>
a. Street inside the subdivision - as per adopted transportation system plan (TSP)	Sidewalks on both sides w/ standard full width pavement* up to 34' wide as shown on TSP
b. Street outside the subdivision -	one-side sidewalk w/ standard full width pavement* up to 34' wide
iii Adjoining residential portion of subdivision development, conform to TSP for width	
ii Adjoining multi-family and commercial portion of subdivision, conform to TSP for width	one-side sidewalk w/ standard full width pavement* as indicated on adopted TSP
iii Not adjoining subdivision - i.e., extended to another connection point as a secondary access, conform to council approved conditions	one-side sidewalk w/ two traffic lanes, i.e., up to 24' wide pavement* (such as existing gravel portion of Brown Rd connection or as required by council approved conditions) width between 24' & 29' shall be shared by the city. Applicant shall not be responsible beyond the 29' width
iv Not adjoining subdivision - i.e., extended to another connection point as a primary access, conform to council approved conditions	one-side sidewalk w/ up to 34' wide pavement*

*The added cost of pavement thickness due to structural strength need shall be paid by the Applicant for the widths outlined.

E. PUBLIC WORKS: DRAINAGE

1. The storm sewer system and on-site detention shall comply with the City's Storm Water Management Plan and Public Works Storm Water Practices. A hydraulic analysis shall be provided to the City by the Applicant for review and approval.

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2. On-site detention facilities shall be maintained by the Homeowners Association. Phase I proposes to discharge through the existing facilities constructed with the Steklov Addition, which is acceptable.

Phase 2 proposes to locate a facility in the southern portion of the development, discharging to Mill Creek through open drainage way. This shall require proper easements for locating the system on private property and future access for maintenance needs be provided. After review of the hydraulic analysis, the use and features of surrounding area it may be that an open drainage way would not be allowed, but rather a underground pipe system would be required. All necessary easements with third parties shall be provided by the Applicant to the City prior to Phase 2 plat approval.

3. The development shall be subject to wetland regulations. The Division of State Lands shall be contacted and proper permits obtained, if required.

D. SANITARY SEWER;

1. The Applicant shall, at its cost, serve the entire development, all phases, by installing a deep sanitary sewer main from the Mill Creek interceptor located at the intersection of Brown and Cleveland to the south and east ends of the development. The entire width of Brown Street, that has been recently paved, shall be resurfaced by the Applicant after patching the sewer trench. Phased sewer line construction shall be allowed, however, the termini of sewer line locations and depths shall be such that it is suited for future extensions to adjoining areas including the south end of the development.

The preferred location for the sanitary sewer extension shall be within the southerly extension of Brown Street. However, if the right-of-way or easements can not be obtained, the system may be constructed through the rear lots of the Steklov Addition as proposed by the Applicant. This shall be acceptable only if the Applicant provides the necessary easements the city, including access to each manhole for future maintenance.

If the deep sanitary sewer is not installed in the preferred Brown Street location then the sanitary sewer shall be extended to Brown Street through either Vine Street or Park View Blvd. It shall then be extended to the North and South line of the development at a sufficient depth to provide for the future extensions.

E. WATER:

1. The 12" dia. water main shall be extended along Boones Ferry Road and the South Arterial to the east boundary of this development as proposed by the Applicant

The interior water mains shall be internally looped and shall be sized in accordance with flow and fire protection requirements.

The minimum looping requirements outside of the interior mains shall be as per the following.

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- a. The interior system shall connect to the proposed 12" dia. main at each proposed street intersection, including the streets providing only emergency access.
- b. The interior system shall be looped to provide proper fire flow and water quality. Prior to the development of Phase 2, this system shall be connected to either the existing city main located in Parr Road (Steklov Subdivision) or the existing main located on Brown Street, near Comstock Way.

The water line shall also be installed within Brown Street adjacent to this development, and shall be extended to the north and south property line. The main shall be sized according to flow requirements, however the minimum size shall be 8" in dia.

- c. The interior system shall be connected to proposed system at the end of Bridlewood Subdivision at the end of Azalea Street. The minimum size shall be 8" in dia.
 - d. The proposed water main serving the cul-de-sac on Pana Street shall be looped to the proposed main in Azalea Street.
2. Fire protection requirements, access, fire hydrant requirements and fire protection issues shall according the Woodburn Fire Districts conditions of approval.
 3. Actual fire hydrant locations and in line valving locations shall not be determined until the construction plan review phase.
 4. See wastewater/water comments in regard to cross connection requirements.

F. FIRE

1. The Applicant shall provide and maintain driveable access to within 150 feet on all sides of the exterior of all structures.
2. A minimum fire flow/water supply of 1000 gpm shall be provided and maintained for single family residential, with a minimum of 1500 gpm for commercial and multifamily structures. Note: commercial structures could require a higher flow depending on type of construction, size, use and whether they are sprinkled.
3. Hydrants shall be spaced at an average maximum distance of 500 feet apart. No structure shall be more than 250 feet from a hydrant. Specific locations shall be approved by the City water department and the Fire District.
4. All sprinkler installation and requirements shall be subject to approval of the City Building Department and Woodburn Fire District.

EXHIBIT "C"
Boones Crossing Decision

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4. All sprinkler installation and requirements shall be subject to approval of the City Building Department and Woodburn Fire District.

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5. As to premise identification, all markings and locations shall meet City standards. The following street names are in conflict and shall not be used: Elm, Pine, Maple, Ash, Oak, Park View, Azalea. Pana as proposed does not connect. The Applicant shall submit a new street name for one of the two unconnected streets.

6. An onsite water supply system shall be available, operational and acceptable to the City prior to the construction of any combustible buildings. Access during construction shall support the weight of fire apparatus and allow access to structures.

G. RECORDATION: Per City Council direction, the Woodburn Planning Department shall record the Conditions of Approval in the deed records of Marion County.

THE APPLICANT REPRESENTS THAT IT HAS READ AND AGREES TO ABIDE BY THE FOREGOING CONDITIONS OF APPROVAL

Polygon Northwest Company

EXHIBIT "C"
Boones Crossing Decision

11/27/00

CASE NO(S): PLANNED UNIT DEVELOPMENT)
BOONES CROSSING) AFFIDAVIT PURSUANT TO
ORS 197.763)
)
)

STATE OF OREGON)
COUNTY OF MARION) SS

I, JIM MULDER, being first duly sworn upon oath do depose and say as follows:
Name of Employee

That I am an employee of the City of Woodburn.

That on November 30th, 2000 I mailed copies of the notice attached to this affidavit as Exhibit "A" to the applicant. The notices were sealed and addressed and were deposited in the United States mail at Woodburn, Oregon, with postage thereon prepaid.

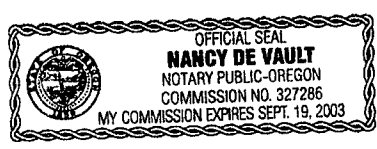
Dated this 30th day of November, 2000.

Jim Mulder

Subscribed and sworn to before me this 30th day of November, 2000.

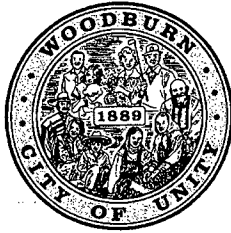
Nancy DeVault

Notary Public for Oregon
My commission expires: Sept. 19, 2003



PNOTICE\AFFMAIL.PN

EXHIBIT "C"
Boones Crossing Decision



CITY OF WOODBURN

270 Montgomery Street • Woodburn, Oregon 97071 • (503) 982-5222
TDD (503) 982-7433 • FAX (503) 982-5244

NOTICE OF DECISION

WOODBURN CITY COUNCIL

ACTION TAKEN: Adoption of Ordinance No. 2275 approving Planned Unit Development 00-02.

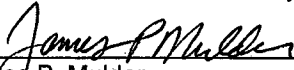
DATE OF DECISION: November 29, 2000

NATURE OF ACTION: On November 29, 2000, the Mayor approved an ordinance in this matter which was passed by the City Council on November 27, 2000. The ordinance modifies Planned Unit Development (PUD) 97-03, known as "Boones Crossing", by modifying Condition of Approval "D-1" to allow the alternative of a sanitary sewer lift station to serve the proposed development in lieu of requiring only a deep gravity sanitary sewer.

A copy of this ordinance is available for inspection at no cost and a copy will be provided at a reasonable cost at Woodburn City Hall, Community Development Dept., 270 Montgomery Street, Woodburn, OR 97071. If you have any questions, please contact this office at (503) 982-5246.

APPEAL RIGHTS: The final decision of the City Council is appealable to the State Land Use Board of Appeals (LUBA) by filing a "Notice of Intent to Appeal" with LUBA not later than 21 days after the date this notice was mailed. The appeal process is contained in ORS 197.805 to 197.860.

Dated and mailed this 30th day of November, 2000.



James P. Mulder
Director of Community Development

Exhibit "A"

EXHIBIT "C"
Boones Crossing Decision

COUNCIL BILL NO. 2275

ORDINANCE NO. 2275

AN ORDINANCE APPROVING THE MODIFICATION OF A CONDITION IMPOSED PREVIOUSLY BY THE CITY COUNCIL IN PLANNED UNIT DEVELOPMENT NO. 97-03 (KNOWN AS BOONES CROSSING); AND DECLARING AN EMERGENCY.

WHEREAS, the applicant, Polygon Northwest, submitted Planned Unit Development Application No. 00-02; and

WHEREAS, this application requested a modification of Planned Unit Development (PUD) 97-03, known as "Boones Crossing," to modify Condition of Approval "D-1" to allow the alternative of a sanitary sewer lift station to serve the proposed development in lieu of requiring only a deep gravity sanitary sewer, and;

WHEREAS, the Woodburn Planning Commission reviewed the matter at a public hearing on September 28, 2000 and adopted a final order on October 12, 2000 recommending that the City Council approve the application , and;

WHEREAS, the Woodburn City Council has reviewed the record pertaining to said application and heard all public testimony presented on said application; **NOW, THEREFORE**,

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. That PUD Application No. 00-02 is approved and condition "D-1" of PUD 97-03 is amended to read as follows:

D. SANITARY SEWER:

1. The Applicant shall, at its cost, either serve the entire development, all phases, by installing a deep sanitary sewer main from the Mill Creek interceptor located at the intersection of Brown and Cleveland to the south and east ends of the development or install a lift station in the southeast corner of the site, of the size and depth (35+/- feet) to serve future needs and be acceptable to the City's Public Works Department with a 4-inch force main for initial use and a permanent 8-inch force main (for future use) to the Mill Creek interceptor. The entire width of Brown Street, that has been recently paved, shall be resurfaced by the Applicant after patching the sewer trench. Phased sewer line construction shall be

EXHIBIT "C"
Boones Crossing Decision

allowed, however, the termini of sewer line locations and depths shall be such that it is suited for future extensions to adjoining areas including the south end of the development.

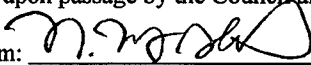
The preferred location for the sanitary sewer extension shall be within the southerly extension of Brown Street. However, if the right-of-way or easements can not be obtained, the system may be constructed through the rear lots of the Steklov Addition as proposed by the Applicant. This shall be acceptable only if the Applicant provides the necessary easements to the city, including access to each manhole for future maintenance.


If the deep sanitary sewer is not installed in the preferred Brown Street location then the sanitary sewer shall be extended to Brown Street through either Vine Street or Park View Blvd. It shall then be extended to the North and South line of the development at a sufficient depth to provide for the future extensions.

2. Applicant and property owner shall submit to the Community Development Department a signed "Acceptance of Conditions" agreeing to all conditions of approval. The signed document must be received by the Community Development Department before the application approval shall become effective.

Section 2. That the application is approved based upon the Findings in Support, which is affixed hereto as Attachment "A".

Section 3. That this ordinance being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist and this ordinance shall take effect immediately upon passage by the Council and approval by the Mayor.

Approved as to form:  11-21-2000
City Attorney Date

Approved: 
Richard Jennings, Mayor

Passed by the Council	<u>November 27, 2000</u>
Submitted to the Mayor	<u>November 29, 2000</u>
Approved by the Mayor	<u>November 29, 2000</u>
Filed in the Office of the Recorder	<u>November 29, 2000</u>

EXHIBIT "C"
Boones Crossing Decision

ATTEST: Mary Tennant
Mary Tennant City Recorder
City of Woodburn, Oregon

EXHIBIT "C"
Boones Crossing Decision

ATTACHMENT "A"

FINDINGS IN SUPPORT

PLANNED UNIT DEVELOPMENT 00-02

I. APPLICATION INFORMATION:

Applicant: Polygon Northwest
2700 NE Andresen, Suite D22
Vancouver, WA 98661

Property Owner: Nancy Bocchi
19164 SW Chesapeake Dr.
Tualatin, OR 97067

Faye Zimmer
16175 NW Blueridge Dr.
Beaverton, OR 97006

II. NATURE OF APPLICATION:

The applicant requests a modification of Planned Unit Development (PUD) 97-03, known as "Boones Crossing", to modify Condition of Approval "D-1" to allow the alternative of a sanitary sewer lift station to serve the proposed development in lieu of requiring only a deep gravity sanitary sewer.

III. RELEVANT FACTS:

Boones Crossing PUD was approved by the City Council on November 8, 1999. The Council's decision also included approval of applications for annexation (Annexation 97-08), zone change (Zone Change 97-12), conditional use (Conditional Use 97-03), and variance (Variance 97-12). Boones Crossing PUD consists of a 62 acre mixed used development including a 241 lot single family residential subdivision, a 94 unit multiple family complex, and two acres of commercial property.

The City Council in approving the project adopted Ordinance No. 2246 which specified certain conditions of approval. One of these conditions, condition "D-1", requires the developer to install a deep gravity sanitary sewer to connect the project site to the existing city system. The applicant is currently in the process of developing improvement plans for phase 1 of the single family residential subdivision. During this process, the applicant determined that installation of the required deep gravity sanitary sewer would be extraordinarily expensive for various

EXHIBIT "C"
Boones Crossing Decision

reasons. As a result, the applicant met with City staff to discuss alternatives and decided to submit a request to modify condition "D-1" to allow the Public Works Director the discretion to allow flexibility as to whether to allow a deep gravity system or a lift station.

The proposed development is generally located on the east side of Boones Ferry Road and south of Parr Road and can be identified on Marion County Assessor's maps as T5S, R1W, Section 18C, Tax Lots 1100 and 1400, and Section 19B, portion of Tax Lot 600.

IV. RELEVANT APPROVAL CRITERIA:

- A. Woodburn Comprehensive Plan
- B. Woodburn Zoning Ordinance:
Chapter 21 Planned Unit Development

V. FINDINGS:

A. Woodburn Comprehensive Plan

FINDING: Applicable goals and policies of the Comprehensive Plan have been satisfied through the implementing ordinances of the adopted subdivision standards, zoning ordinance and other ordinances in affect at the time of approval.

B. Woodburn Zoning Ordinance:

Chapter 21 Planned Unit Development

Section 21.020 Design/Development Criteria:

- a. **The adequacy and continuity of public facilities is sufficient to accommodate the proposed development.**

FINDING: Boones Crossing PUD was approved with a condition of approval requiring a deep gravity sanitary sewer to connect the sewer system in the project to the existing city sewer system. The applicant, in their application, argues that a deep gravity sanitary sewer connection would be infeasible for the following reasons:

- "1. Gravity sewer will require trenching as deep as twenty-three (23) feet. The sewer would extend from the site along Brown Road to Cleveland where the system will connect with the existing Mill Creek interceptor. This*

EXHIBIT "C"
Boones Crossing Decision

depth and length is extra-ordinarily expensive and tests have revealed extremely saturated soils and ground water intrusion, which would make it even more expensive.

2. *Cave-ins could occur at this depth of trench with the presence of ground water that has been identified. This could impact the existing utilities in Brown Road.*
3. *Safety could be an issue, the gravity sewer at this depth will be constructed through areas where the soil has already been disturbed by the existing gravity sanitary sewer in addition to all the other utilities within Brown Road. The construction methods to safely build a deep gravity system may require a wide construction swath that could interrupt water and existing sewer services and could result in the reconstruction of a major portion of Brown Road causing inconvenience to area residents.*
4. *If the lift station alternative is selected, force mains from the station to the existing City lines would be installed at a depth of approximately four (4) feet which results in few interruptions, a higher level of safety and is less damaging to the street.*
5. *Construction of a lift station will allow development of property east of Mill Creek to be served. A gravity system could be connected to the lift station. A deep sewer in Brown Road as proposed previously, would not be able to provide sewer service. These properties would require installation of a lift station or trunk line up Mill Creek for service."*

To address these issues, the applicant proposes that condition of approval "D-1" be modified to allow the Public Works Director the discretion to provide for alternatives in the sewer system design. Specifically, the applicant requests that this condition of approval be modified as follows (changes are in **Bold** and underlined):

D. SANITARY SEWER

1. *The Applicant shall, at its cost, **either** serve the entire development, all phases, by installing a deep sanitary sewer main from the Mill Creek interceptor located at*

EXHIBIT "C"
Boones Crossing Decision

the intersection of Brown and Cleveland to the south and east ends of the development or install a lift station in the southeast corner of the site, of the size and depth (35+/- feet) to serve future needs and be acceptable to the City's Public Works Department with a 4-inch force main for initial use and a permanent 8-inch force main (for future use) to the Mill Creek interceptor. The entire width of Brown Street, that has been recently paved, shall be resurfaced by the Applicant after patching the sewer trench. Phased sewer line construction shall be allowed, however, the termini of sewer line locations and depths shall be such that it is suited for future extensions to adjoining areas including the south end of the development.

The preferred location for the sanitary sewer extension shall be within the southerly extension of Brown Street. However, if the right-of-way or easements can not be obtained, the system may be constructed through the rear lots of the Steklov Addition as proposed by the Applicant. This shall be acceptable only if the Applicant provides the necessary easements to the city, including access to each manhole for future maintenance.

If the deep sanitary sewer is not installed in the preferred Brown Street location then the sanitary sewer shall be extended to Brown Street through either Vine Street or Park View Blvd. It shall then be extended to the North and South line of the development at a sufficient depth to provide for the future extensions.

The Public Works Director has submitted comments (see Attachment "A") concurring with the applicant's request and with the applicant's proposed modification to the above condition. The above criterion is satisfied.

- b. **The features of the site (such a topography, hazards, vegetation, solar access, etc.) have been adequately considered and utilized.**

FINDING: This criterion was satisfied in conjunction with PUD 97-03 and does not apply to the proposed modification.

- c. **The size of the development, site and building design and operating characteristics of the proposed development are reasonably**

EXHIBIT "C"
Boones Crossing Decision

compatible with surrounding development and land uses and any negative impacts have been sufficiently minimized.

FINDING: This criterion was satisfied in conjunction with PUD 97-03 and does not apply to the proposed modification.

- d. Parking areas and entrance-exit points are designed so as to facilitate traffic pedestrian safety and avoid congestion.**

FINDING: This criterion was satisfied in conjunction with PUD 97-03 and does not apply to the proposed modification.

- e. The development design promotes energy conservation through the use of materials, landscaping and building orientation.**

FINDING: This criterion was satisfied in conjunction with PUD 97-03 and does not apply to the proposed modification.

- f. The buildings are located so as to provide light and air according to yard requirements and afford adequate solar access where desired.**

FINDING: This criterion was satisfied in conjunction with PUD 97-03 and does not apply to the proposed modification.

- g. The design promotes crime prevention and safety features through lighting, visibility of building entrances, secure storage areas, etc.**

FINDING: This criterion was satisfied in conjunction with PUD 97-03 and does not apply to the proposed modification.

- h. More useable and suitable located recreation facilities and other common and public facilities are provided than would be under conventional land development procedures.**

FINDING: This criterion was satisfied in conjunction with PUD 97-03 and does not apply to the proposed modification.

VI. CONCLUSION:

Planned Unit Development 00-02 satisfies all criteria relating to approval of the proposed modification to Planned Unit Development approval.

EXHIBIT "C"
Boones Crossing Decision

EXHIBIT "A"

FINDINGS AND CONCLUSIONS

I. APPLICATION INFORMATION:

Applicant: Polygon Northwest
2700 NE Andresen, Suite D22
Vancouver, WA 98661

Property Owner: Nancy Bocchi
19164 SW Chesapeake Dr.
Tualatin, OR 97067

Faye Zimmer
16175 NW Blueridge Dr.
Beaverton, OR 97006

II. NATURE OF APPLICATION:

The applicant requests a modification of Planned Unit Development (PUD) 97-03, known as "Boones Crossing", to modify Condition of Approval "D-1" to allow the alternative of a sanitary sewer lift station to serve the proposed development in lieu of requiring only a deep gravity sanitary sewer.

III. RELEVANT FACTS:

Boones Crossing PUD was approved by the City Council on November 8, 1999. The Council's decision also included approval of applications for annexation (Annexation 97-08), zone change (Zone Change 97-12), conditional use (Conditional Use 97-03), and variance (Variance 97-12). Boones Crossing PUD consists of a 62 acre mixed used development including a 241 lot single family residential subdivision, a 94 unit multiple family complex, and two acres of commercial property.

The City Council in approving the project adopted Ordinance No. 2246 which specified certain conditions of approval. One of these conditions, condition "D-1", requires the developer to install a deep gravity sanitary sewer to connect the project site to the existing city system. The applicant is currently in the process of developing improvement plans for phase 1 of the single family residential subdivision. During this process, the applicant determined that installation of the required deep gravity sanitary sewer would be extraordinarily expensive for various reasons. As a result, the applicant met with City staff to discuss alternatives and decided to submit a request to modify condition "D-1" to allow the Public Works

EXHIBIT "C"
Boones Crossing Decision

Director the discretion to allow flexibility as to whether to allow a deep gravity system or a lift station.

The proposed development is generally located on the east side of Boones Ferry Road and south of Parr Road and can be identified on Marion County Assessor's maps as T5S, R1W, Section 18C, Tax Lots 1100 and 1400, and Section 19B, portion of Tax Lot 600.

IV. RELEVANT APPROVAL CRITERIA:

1. Woodburn Comprehensive Plan
2. Woodburn Zoning Ordinance:
Chapter 21 Planned Unit Development

V. FINDINGS:

A. Woodburn Comprehensive Plan

FINDING: Applicable goals and policies of the Comprehensive Plan have been satisfied through the implementing ordinances of the adopted subdivision standards, zoning ordinance and other ordinances in affect at the time of approval.

B. Woodburn Zoning Ordinance:

Chapter 21 Planned Unit Development

Section 21.020 Design/Development Criteria:

- a. **The adequacy and continuity of public facilities is sufficient to accommodate the proposed development.**

FINDING: Boones Crossing PUD was approved with a condition of approval requiring a deep gravity sanitary sewer to connect the sewer system in the project to the existing city sewer system. The applicant, in their application, argues that a deep gravity sanitary sewer connection would be infeasible for the following reasons:

- "1. Gravity sewer will require trenching as deep as twenty-three (23) feet. The sewer would extend from the site along Brown Road to Cleveland where the system will connect with the existing Mill Creek interceptor. This depth and length is extra-ordinarily expensive and tests

EXHIBIT "C"
Boones Crossing Decision

have revealed extremely saturated soils and ground water intrusion, which would make it even more expensive.

2. *Cave-ins could occur at this depth of trench with the presence of ground water that has been identified. This could impact the existing utilities in Brown Road.*
3. *Safety could be an issue, the gravity sewer at this depth will be constructed through areas where the soil has already been disturbed by the existing gravity sanitary sewer in addition to all the other utilities within Brown Road. The construction methods to safely build a deep gravity system may require a wide construction swath that could interrupt water and existing sewer services and could result in the reconstruction of a major portion of Brown Road causing inconvenience to area residents.*
4. *If the lift station alternative is selected, force mains from the station to the existing City lines would be installed at a depth of approximately four (4) feet which results in few interruptions, a higher level of safety and is less damaging to the street.*
5. *Construction of a lift station will allow development of property east of Mill Creek to be served. A gravity system could be connected to the lift station. A deep sewer in Brown Road as proposed previously, would not be able to provide sewer service. These properties would require installation of a lift station or trunk line up Mill Creek for service."*

To address these issues, the applicant proposes that condition of approval "D-1" be modified to allow the Public Works Director the discretion to provide for alternatives in the sewer system design. Specifically, the applicant requests that this condition of approval be modified as follows (changes are in **Bold and underlined**):

D. SANITARY SEWER

1. *The Applicant shall, at its cost, **either** serve the entire development, all phases, by installing a deep sanitary sewer main from the Mill Creek interceptor located at the intersection of Brown and Cleveland to the south*

EXHIBIT "C"
Boones Crossing Decision

and east ends of the development or install a lift station in the southeast corner of the site, of the size and depth (35+/- feet) to serve future needs and be acceptable to the City's Public Works Department with a 4-inch force main for initial use and a permanent 8-inch force main (for future use) to the Mill Creek interceptor. The entire width of Brown Street, that has been recently paved, shall be resurfaced by the Applicant after patching the sewer trench. Phased sewer line construction shall be allowed, however, the termini of sewer line locations and depths shall be such that it is suited for future extensions to adjoining areas including the south end of the development.

The preferred location for the sanitary sewer extension shall be within the southerly extension of Brown Street. However, if the right-of-way or easements can not be obtained, the system may be constructed through the rear lots of the Steklov Addition as proposed by the Applicant. This shall be acceptable only if the Applicant provides the necessary easements to the city, including access to each manhole for future maintenance.

If the deep sanitary sewer is not installed in the preferred Brown Street location then the sanitary sewer shall be extended to Brown Street through either Vine Street or Park View Blvd. It shall then be extended to the North and South line of the development at a sufficient depth to provide for the future extensions.

The Public Works Director has submitted comments (see Attachment A) concurring with the applicant's request and with the applicant's proposed modification to the above condition. The above criterion is satisfied.

- b. **The features of the site (such a topography, hazards, vegetation, solar access, etc.) have been adequately considered and utilized.**

FINDING: This criterion was satisfied in conjunction with PUD 97-03 and does not apply to the proposed modification.

- c. **The size of the development, site and building design and operating characteristics of the proposed development are reasonably**

EXHIBIT "C"
Boones Crossing Decision

compatible with surrounding development and land uses and any negative impacts have been sufficiently minimized.

FINDING: This criterion was satisfied in conjunction with PUD 97-03 and does not apply to the proposed modification.

- d. **Parking areas and entrance-exit points are designed so as to facilitate traffic pedestrian safety and avoid congestion.**

FINDING: This criterion was satisfied in conjunction with PUD 97-03 and does not apply to the proposed modification.

- e. **The development design promotes energy conservation through the use of materials, landscaping and building orientation.**

FINDING: This criterion was satisfied in conjunction with PUD 97-03 and does not apply to the proposed modification.

- f. **The buildings are located so as to provide light and air according to yard requirements and afford adequate solar access where desired.**

FINDING: This criterion was satisfied in conjunction with PUD 97-03 and does not apply to the proposed modification.

- g. **The design promotes crime prevention and safety features through lighting, visibility of building entrances, secure storage areas, etc.**

FINDING: This criterion was satisfied in conjunction with PUD 97-03 and does not apply to the proposed modification.

- h. **More useable and suitable located recreation facilities and other common and public facilities are provided than would be under conventional land development procedures.**

FINDING: This criterion was satisfied in conjunction with PUD 97-03 and does not apply to the proposed modification.

VI. CONCLUSION:

Planned Unit Development 00-02 satisfies all criteria relating to approval of the proposed modification to Planned Unit Development approval.

EXHIBIT "C"
Boones Crossing Decision

EXHIBIT "B"

CONDITIONS OF APPROVAL

1. All conditions of approval of PUD 97-03 shall apply except as modified herein.
2. Condition of approval "D-1" of PUD 97-03 (Council Ordinance No. 2246) is amended to read as follows:

D. SANITARY SEWER:

1. The Applicant shall, at its cost, either serve the entire development, all phases, by installing a deep sanitary sewer main from the Mill Creek interceptor located at the intersection of Brown and Cleveland to the south and east ends of the development or install a lift station in the southeast corner of the site, of the size and depth (35+/- feet) to serve future needs and be acceptable to the City's Public Works Department with a 4-inch force main for initial use and a permanent 8-inch force main (for future use) to the Mill Creek interceptor. The entire width of Brown Street, that has been recently paved, shall be resurfaced by the Applicant after patching the sewer trench. Phased sewer line construction shall be allowed, however, the termini of sewer line locations and depths shall be such that it is suited for future extensions to adjoining areas including the south end of the development.

The preferred location for the sanitary sewer extension shall be within the southerly extension of Brown Street. However, if the right-of-way or easements can not be obtained, the system may be constructed through the rear lots of the Steklov Addition as proposed by the Applicant. This shall be acceptable only if the Applicant provides the necessary easements to the city, including access to each manhole for future maintenance.

If the deep sanitary sewer is not installed in the preferred Brown Street location then the sanitary sewer shall be extended to Brown Street through either Vine Street or Park View Blvd. It shall then be extended to the North and South line of the development at a sufficient depth to provide for the future extensions.

3. Applicant and property owner shall submit to the Community Development Department a signed "Acceptance of Conditions" agreeing to all conditions of approval. The signed document must be received by the Community Development Department before the application approval shall become effective.

EXHIBIT "D"
Calculation of SDC Credit Example

Boone Crossing Pump Station Reimbursement/SDC Credit Methodology Example

Assumption, Wastewater Pump Station being funded and constructed by owner of Phase 4 & 5, "Building Phase Owner"

Boones Crossing Phases 4,5 & 6	Number of Lots	Notes
Phase 4 & 5, "Building Phase Owner"	111	
Phase 6, "Benefiting Phase Owner"	31 to 89	Owners have Agreed to a \$100,000 Payment from Phase 6 towards pump station

Boones Crossing Pump Station Cost		
Pump Station/Forces Main/Engineering/Permits/Const. Services	\$741,923.00	Based on estimates prepared by HBH Engineering dated 11/07/2014
Land Cost	\$0.00	
Other Cost	\$0.00	
Total Cost	\$741,923.00	
Pump Station Cost to Serve Phases 4,5 & 6	\$370,645.00	Based on estimates prepared by HBH Engineering dated 11/07/2014
Pump Station Total Cost	\$741,923.00	
Minus the Pump station Cost to Serve Phases 4,5 & 6	\$370,645.00	
Pump Station Additional Capacity Cost	\$371,278.00	
Pump Station Cost Distributed to Phase 4 & 5	\$270,645.00	
Pump Station Cost distributed to Phase 6	\$100,000.00	Owners Agreed Reimbursement Amount

Phase 6 Reimbursement to "Building Phase Owner"		
Phase 6 Pump Station Reimbursement Cost Per lot (@89 Lots)	(\$100,000/89 lots)	
Phase 6 per lot Reimbursement Cost	\$1,123.60	Regardless of number of lots, \$100,000 Reimbursement Required

Addition Capacity Cost/ SDC Credit Distribution		
Additional Capacity Cost	\$371,278.00	
Capacity Cost Funded by Phase 4 & 5	\$371,278.00	
Phase 6	\$0.00	
Current Wastewater SDC Charge \$2977/Lot (Max Credit Per Lot)	(\$2,977* 111 Lots)	Maximum SDC Wastewater Per Lot Credit of \$2,977/lot
SDC Credit per Lot Total Phase 4 & 5	\$330,447.00	
Remaining Capacity cost Charge to City (\$80,000 max)		
Capacity Cost Funded by Phase 4 & 5	\$371,278.00	
SDC Credit per Lot Total Phase 4 & 5	\$330,447.00	
Remaining Capacity cost Charge to City (\$80,000 max)	\$40,831.00	
Capacity Cost to the City (\$80,000 Max)	\$40,831.00	Lump Sum to be paid to Owner of Phase 4 & 5

REEL: 3893

PAGE: 245

December 20, 2016, 02:41 pm.

CONTROL #: 439061

State of Oregon
County of Marion

I hereby certify that the attached instrument was received and duly recorded by me in Marion County records:

FEE: \$ 451.00

**BILL BURGESS
COUNTY CLERK**

THIS IS NOT AN INVOICE.