



# Final Decision

## Type II Staff Report: Street Adjustment

**File number(s):** SA 2023-06  
**Related files:** Building Permit: 971-23-000790-DWL  
**Project name:** Flores Residence / 1600 Tomlin Avenue  
**Date of decision:** January 12, 2024  
**Date of mailing:** January 12, 2024  
**Applicant:** Jorge Flores  
**Landowner:** Jorge Flores  
**Site location:** 1600 Tomlin Ave  
**Tax Lot(s):** 051W17BD06100

### Summary:

The Marion County Assessor lists the subject property at 0.17 acres, approximately 7,200 square feet (sq ft), at the southwest corner of Tomlin and Christiansen Avenues.

The Street Adjustment SA 2023-06 request was to eliminate the Christiansen Avenue\* right-of-way (ROW) minimum dedication and minimum street improvements along this frontage of the corner lot that is the subject property. Instead, the applicant proposed to grant a 10-foot wide streetside public utility easement (PUE) instead of the typical 5 feet that WDO 3.02.01B requires.

The application submittal date is October 3, 2023, the completeness date was November 30, 2023, and the 120th-day deadline for final action per Oregon Revised Statutes (ORS) 227.178 would have been March 29, 2024.

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

Because it is a Type II administrative approval requiring no public hearing, this staff report serves as both an approval with conditions and public notice of final decision to owners of property within 250 ft of the subject property.

Through the analyses and findings in Attachment 102, staff finds that the application meets applicable WDO provisions or can meet them with conditions and approves it with conditions.

\*The street has three different names. Staff uses the County/USPS name:

<i>Source</i>	<i>Name</i>
Posted street sign	Christensen St
Google Maps	Christiansen St
Marion County assessor map	Christiansen Ave
U.S. Postal Service (USPS)	Christiansen Ave

## Conditions of Approval

### *General*

G1. Prior to or as part of [building permit application](#), the applicant shall submit revised site plans meeting the conditions of approval and obtain Planning Division approval through sign-off on permit issuance. The applicant shall submit a cover letter indicating what specific plans sheets or document page numbers demonstrate how the submittal meets each condition.

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

G3. Due dates / public improvements:

- a. When public street improvements, and any fees in lieu of public improvements, are due shall be per Woodburn Development Ordinance (WDO) 3.01.02E and 4.02.12, unless a condition of approval allows for later improvement, as this condition provides below:
  - (1) Tomlin Ave. driveway, street trees: Regarding (a) construction of a Tomlin Ave. driveway approach, apron, or curb cut, and (b) planting of street trees and remaining landscape strip landscaping along Tomlin Ave., by this condition the developer may defer apron construction and street tree plantings until building permit final inspection; however, bonding through 3.01.02E would remain required and an additional fee would be due through the Planning Division per Attachment 201.
- b. ROW/easements: Recordation of required right-of-way (ROW) dedication and public easements grants is due by building permit issuance. See Note A below.

G4. Recordation due dates: The applicant or applicant's surveyor shall apply to the County for recordations of items that the City requires no later than 6 months prior to expiration of the land use approval as WDO 4.02.04B establishes and shall complete recordations no later than three years past the land use "final decision" date. The due date to complete recordations shall not supersede when recordations are due relative to the building permit stage. See Note A below.

G5. Administration:

- a. Conformance: That a land use approval does not reiterate any and each particular detail, provision, requirement, rule, spec, or standard from any of the WDO, other ordinances, resolutions, public works construction code, or department policies does not exempt development from conformance with them.
- b. Review: Prior to beginning recordations of public easements or other legal instruments granting public bicycle/pedestrian access, cross access, ingress/egress, public access, or shared access, as well as those that identify, memorialize, and reserve future street corridors prior to recordation, the applicant or applicant's surveyor shall submit drafts to the City for review in a way that not only meets the needs of the Public Works Department (PW) Engineering Division but also alerts the Community Development Department Planning Division of timely need to review for conformance with the WDO and conditions of approval and identify needed revisions prior to recordations. See Note A below.
- c. Electronic copies: To conform with WDO 2.01.05, the developer shall provide electronic copies (Adobe PDFs) of the recorded easement documents and drawings to the Planning Division when and as any of staff direct.
- d. Fees: The developer shall pay fees per Attachment 201.

G8. Inspection: The applicant or applicant's contractor shall construct, install, or plant all improvements, including landscaping, prior to City staff verification. At least 3 City business days prior to a desired date of planning and zoning inspection of site improvements, either contact Planning Division staff directly first or proceed to make a planning inspection request (noting desired time on the requested date) through Oregon [ePermitting](#) for the applicable building permit record number.

Note A: Absent platting or re-platting, dedication of ROW and granting of public easements necessitates a process through the Public Works Department (PW) [Engineering Division](#) and City Council acceptance separate from land use approval, which could take several weeks. Upon land use approval, the applicant or applicant's surveyor is to contact PW to begin and finish dedication and granting sooner. The City Council usually meets on the second and fourth Mondays of each month, and agenda packet materials are due to the City Recorder by the prior Tuesday at noon.

*Cont. next page*

*Street Adjustment 2023-06*

SA1. ROW: The applicant shall provide for right-of-way (ROW) as follows:

- a. Tomlin: To conform with WDO 3.01.01A, 3.01.01D, 3.01.04B.1, & Figure 3.01G, dedication of minimum 5 feet.
- b. Christiansen: No ROW required (instead of 5 feet).

SA2. PUE: The applicant shall provide for streetside public utility easement (PUE) as follows:

- a. Tomlin: To conform with WDO 3.02.01B & F.2, dedication of minimum 5 feet and maximum 8 feet.
- b. Christiansen: Dedication of 10 feet (instead of 5 feet).

SA3. Street Improvements: The applicant or applicant's contractor shall provide for street improvements as follows:

- a. Tomlin: Construct a half-street conforming with WDO 3.01.03C.2, Figure 3.01G, & 3.06.03A, with allowance to pay fee or fees in-lieu as 3.02.03C.2 and 4.02.12 allow and per Attachment 201.

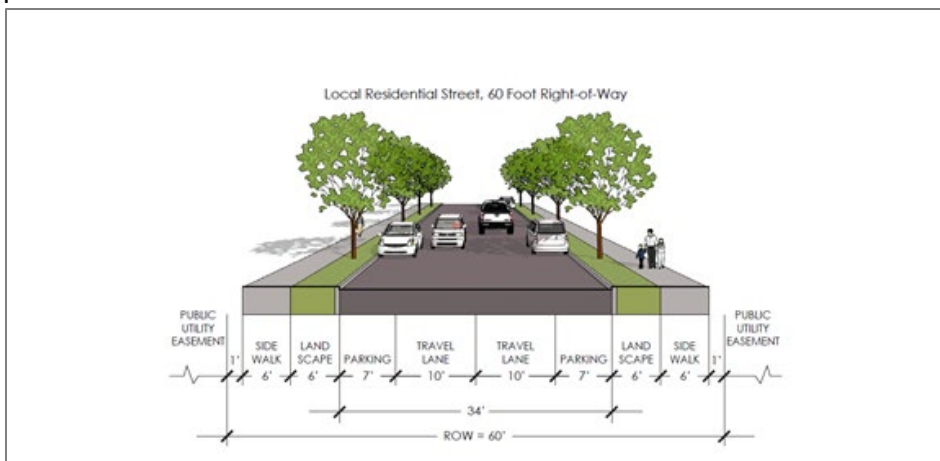


Exhibit SA3: WDO Figure 3.01G

(1): About street tree root barriers, the contractor is to see and conform with [Public Works Standard Drawing No. 1 "Street Tree Planting New Construction"](#) or as amended.

(2): About the upgraded driveway approach, apron, curb cut, or ramp, the contractor is to see within the [Public Works Standard Drawing 4150 series](#) Nos. 4150-1 "Driveway Approach" & 4150-4 "Property Line Sidewalk at Driveway" or as amended.

b. Christiansen:

(1) Sidewalk: Instead of per WDO 3.01.03C.2c, applicant's choice of either sidewalk minimum width 6 ft, sited and constructed as per civil plans approved by Public Works, or payment of sidewalk fee in-lieu per Attachment 201.

(2) Street trees: Per WDO 3.01.03C.2d, including minimum 6 trees. If opting for fee in-lieu, the amount is per Attachment 201.

## Notes to the Applicant

The following are not conditions of approval, but are important notes for the applicant to be aware of and follow for the site development as part of the permitting stage:

1. Records: Staff recommends that the applicant retain a copy of the subject approval.
2. Expiration: This approval with conditions runs with the land. It applies indefinitely and would not expire simply because of any land ownership change. See towards the end of this document under “Expiration” for how the approval would expire if the applicant were to fail to act within three (3) years.
3. Technical standards:
  - a. Context: A reader shall not construe a land use condition of approval that reiterates a City technical standard, such as a PW standard, to exclude remaining standards or to assert that conditions of approval should have reiterated every standard the City has for those standards to be met.
  - b. Utilities: A condition involving altered or additional sidewalk or other frontage/street improvement that would in the field result in displacement or relocation of any of utility boxes, cabinets, vaults, or vault covers does not exempt the developer from having to move or pay to move any of these as directed by the City Engineer and with guidance from franchise utilities.
4. SDCs: The developer pays [system development charges](#) prior to building permit issuance. Staff of the Public Works Department Engineering Division can determine the water, sewer, storm, and parks SDCs if and after the developer submits a complete Public Works Commercial/Industrial Development information sheet or other form(s) as applicable. A developer may call (503) 982-5240.

### *Conclusion*

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

Heidi Hinshaw, Associate Planner

**Attachments:**

101. Marked Tax Map

102. Analyses & Findings

102A. Public Works Comments (December 20, 2023)

103. Site plan

103A. Narrative

103B. Contractor bid estimate (October 26, 2023)

104. Marked Transportation System Plan (TSP) Fig. 6 “Local Street Connectivity Plan” (2019)

201. SA 23-06 Flores Residence / 1600 Tomlin Avenue: Conditioned Fees

**Expiration:** Per WDO 4.02.04B., a final decision expires within three years of the date of the final decision unless:

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

Regarding subsection B.1 above, if by 10 years past the final decision date there is no substantial construction as Section 1.02 defines following issuance of a building permit, the final decision shall expire and fail to vest.

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

Any person who is adversely affected or aggrieved or who is entitled to written notice of the decision may appeal the decision. The decision will not become final until the period for filing an appeal to the City Council has expired, and it cannot be appealed directly to the Oregon Land Use Board of Appeals (LUBA). This document is a copy of the decision. A copy of the decision is also available for inspection at no cost, and the City would provide a copy at reasonable cost at the Community Development Department, City Hall, 270 Montgomery Street, Woodburn, OR 97071 during normal business hours. For questions or additional information, contact Cassandra Martinez, Administrative Specialist, at (503) 982-5246 or [cassandra.martinez@ci.woodburn.or.us](mailto:cassandra.martinez@ci.woodburn.or.us).

05 1W 17BD

05 1W 17BD  
WOODBURN



MARION COUNTY, OREGON  
SE1/4 NW1/4 SEC17 T5S R1W W.M.  
SCALE 1" = 100'

LEGEND

LINE TYPES

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

CORNER TYPES

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

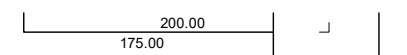
NUMBERS

Tax Code Number  
**00 00 0**

Acreege 0.25 AC All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs

NOTES

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



CANCELLED NUMBERS

100			
1700			
2500			

DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



Assessors Office  
Cartography Dept

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

PLOT DATE: 10/16/2020

WOODBURN  
05 1W 17BD



05 1W 17BD

05 1W 17BD



# Analyses & Findings

This attachment to the staff report analyzes the application materials and finds through statements how the application materials relate to and meet applicable provisions such as criteria, requirements, and standards. They confirm that a given standard is met or if not met, they call attention to it, suggest a remedy, and have a corresponding recommended condition of approval. Symbols aid locating and understanding categories of findings:

<i>Symbol</i>	<i>Category</i>	<i>Indication</i>
✓	Requirement (or guideline) met	No action needed
✗	Requirement (or guideline) not met	Correction needed
⊖	Requirement (or guideline) not applicable	No action needed
▲	<ul style="list-style-type: none"> <li>Requirement (or guideline) met with a condition of approval</li> <li>Other special circumstance benefitting from attention</li> </ul>	Modification or condition of approval required
■	Deviation from code: Street Adjustment or Variance	Request to modify, adjust, or vary from a requirement

## Location

<i>Address</i>	1600 Tomlin Avenue
<i>Tax Lot</i>	051W17BD06100
<i>Nearest intersection</i>	Tomlin Avenue / Christiansen Avenue

## Land Use & Zoning

<i>Comprehensive Plan Land Use Designation</i>	Low Density Residential
<i>Zoning District</i>	Residential Single Family (RS)
<i>Overlay Districts</i>	None
<i>Existing Use</i>	Single-family dwelling

The subject property is Parcel 6100 of the L. J. Plank Addition, recorded on October 18, 1950, and therefore it is a legal lot of record.

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

## Statutory Dates

The application was submitted on October 3, 2023, and deemed complete as of November 30, 2023, making the 120-day decision deadline March 29, 2024.

## Applicable Provisions

### 3.01.01 Applicability

- A. Right-of-way standards apply to all public streets.**
- B. Improvement standards apply to all public and private streets, sidewalks, and bikeways.**
- C. Functional standards are identified in the Woodburn Transportation System Plan (TSP.)**
- D. This applies to all development as Section 1.02 defines, and is not limited to partitions, subdivisions, multi-family, commercial or industrial construction, or establishment of a manufactured dwelling or recreational vehicle park; however, a lesser set of standards applies to infill residential development of 4 or fewer dwellings and where no land division or Planned Unit Development is applicable, including construction of a single-family dwelling or placement of a manufactured dwelling on an infill lot. See Section 3.01.03C.2.**

### *Staff Finding:*

Christiansen Ave is an unimproved graveled local class street with no curbing, planter strip, street trees, or sidewalk. It is one block long and connects Tomlin Ave and George St.

The subject property is a corner lot with the north frontage along Tomlin Ave and east frontage along Christiansen. The Street Adjustment (SA) application appeared to request no deviation from what is required along Tomlin Avenue and to request to leave the Christiansen frontage as is.

Planning Division staff met with Public Works staff on December 11, 2023, to discuss how to handle the proposed SA. Public Works staff indicated no desire to deny the application or otherwise condition full public improvement of Christiansen, and the Public Works comments (Attachment 102A) are receptive of the applicant's proposal.

As examined below under the Street Adjustment Provisions section, SA conditions of approval allow for no ROW dedication along Christiansen and for lesser improvement.

### 3.01.02 General Provisions

- A. No development shall be approved, or access permit issued, unless the internal streets, boundary streets and connecting streets are constructed to at least the minimum standards set forth in this Section, or are required to be so constructed as a condition of approval.**
- C. Materials and construction shall comply with specifications of the City of Woodburn.**

**D. The standards of this Section may be modified, subject to approval of a Street Adjustment, Planned Unit Development, Zoning Adjustment, or Variance. Other sections restrict where and how these application types apply.**

**E. When all public improvements are due: The construction of all public improvements, their passing City inspections, and acceptance by the City are due no later than by either 5.01.06B in the context of land division final plat application to the City or by building permit issuance, except if (1) the developer applies to the City through the Public Works Department for deferral and (2) the City Administrator or designee issues a document approving and describing a bond or performance guarantee pursuant to Section 4.02.08. Administration of bonding and performance guarantees for improvements that are public defaults to the Public Works Department, and the department shall notify the Community Development Director of deferral applications and any approvals and conditions of approval.**

**F. Fees in-lieu: Per Section 4.02.12.**

*Staff Finding:*

As 3.01.02D allows, the applicant applied for Street Adjustment. See the Street Adjustment Provisions section below.

**3.01.03 Improvements Required for Development**

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

**C. Boundary Streets**

**2. Infill residential development of 4 or fewer dwellings and where no land division or Planned Unit Development is applicable, per Section 3.01.01D: A developer shall:**

- a. Dedicate ROW per the required cross section;**
- b. Dedicate one or more streetside PUEs per Section 3.02.01B;**
- c. Either construct sidewalk per the required cross section or pay fee in-lieu per Section 4.02.12;**
- d. Plant a street tree or trees per Section 3.06.03A and specifically sited to conform with where a landscape strip would be per the required cross section, or pay fee in-lieu per Section 4.02.12; and**
- e. Provide minimum access per Section 3.04, and where a driveway approach, apron, curb cut, or ramp within ROW is relevant, have it meet the public works construction code.**

*Staff Finding:*

The excerpt above contains the street improvement provisions that are a main subject of the Street Adjustment.

a./b. Staff accepts and conditions the applicant's proposal to dedicate a 10' streetside PUE rather than dedicating a 5' ROW for reasons examined below for 3.02.01. This serves as the adjustment of 3.01.03C.2a. Christiansen Ave. has an existing ROW of 50' which is

nonconforming with the standard cross section for local class streets that is Figure 3.01G: “Local Residential Street with Parking Both Sides, 60 Foot Right-of-Way.” (WDO 3.01.04).

c./d. Because the rest of Christiansen Avenue is unimproved, and for reasons described above in relation to cited 3.01.01, staff accepts the applicant’s proposal to either construct sidewalk and plant street trees or pay a fee-in-lieu (of either or both) as outlined above – that is, to meet 3.01.03C.2b-d as they are.

e. There is no access via Christiansen Ave. and the applicant agrees to conform with Public Works Department Engineering Division standards for an upgraded driveway along Tomlin Ave, which would meet 3.01.03C.2e. Because no driveway is required or proposed along Christiansen, part C.2e is not applicable to Christiansen.

### 3.01.04 Street Cross-Sections

**A. These standards are based on the functional classification of each street as shown in the Woodburn TSP. The street right-of-way and improvement standards minimize the amount of pavement and right-of-way required for each street classification, consistent with the operational needs of each facility, including requirements for pedestrians, bicycles, and public facilities.**

**B. All public streets under the jurisdiction of the City of Woodburn shall comply with the cross-sections depicted in this Section, unless the developer obtains approval of Street Adjustment, modification through Planned Unit Development, Zoning Adjustment, or Variance as the WDO allows them to be applicable.**

Landscape or planter strips shall have area remaining after street tree plantings landscaped with lawn grass or, if the Public Works Director in writing allows, a species of groundcover. Cobblestones, gravel, pebbles, and rocks are prohibited. Bark dust, mulch, or wood chips are permissible only within the immediate vicinity of a street tree trunk. The developer shall install landscape strip irrigation, and shall provide temporary irrigation during construction, per the public works construction code.

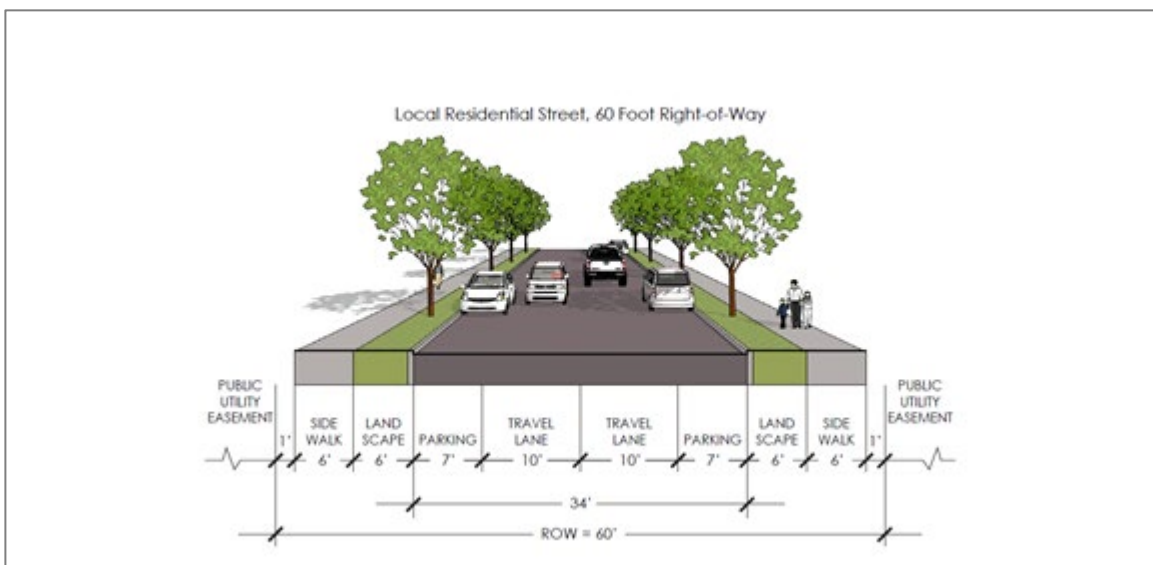


Figure 3.01G – Local Residential Street with Parking Both Sides, 60 Foot Right-of-Way

*Staff Finding:*

The applicant submitted a Street Adjustment request to not dedicate 5 ft of ROW or install a landscape strip as shown in Figure 3.01G – the standard cross-section for residential local streets per 3.01.04B.1. Staff determines that, with the recommended condition of approval to dedicate a wider streetside PUE, that the proposal can meet criteria as staff examines below under the Street Adjustment Provisions section.

### **3.02 Utilities and Easements**

#### **3.02.01 Public Utility Easements & Public Access Easements**

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

**B. Streetside: A streetside public utility easement (PUE) shall be dedicated along each lot line abutting a public street at minimum width of 5 feet. Partial exemption for townhouse corner lot: Where such lot is 18 to less than 20 feet wide, along the longer frontage, streetside PUE minimum width shall be 3 feet; or, where the lot is narrower than 18 feet, the longer side frontage is exempt from streetside PUE.**

**C. Off-street: The presumptive minimum width of an off-street PUE shall be 16 feet, and the Public Works Director in writing may establish a different width as a standard.**

**E. As a condition of approval for development, including property line adjustments, partitions, subdivisions, design reviews, Planned Unit Developments (PUDs), Street Adjustments, Zoning Adjustments, or Variances, the Director may require dedication of additional public easements, including off-street public utility easements and other easement types such as those that grant access termed any of bicycle/pedestrian access, cross access, ingress/egress, public access, or shared access, as well as those that identify, memorialize, and reserve future street corridors in place of ROW dedication.**

**F. Streetside PUE maximum width:**

**1. Purpose: To prevent developers and franchise utilities from proposing wider than minimum streetside PUEs along tracts or small lots after land use final decision; to prevent particularly for a tract or lot abutting both a street and an alley; to encourage developers to communicate with franchise utilities and define streetside PUE widths during land use review and how to what is defined; to avoid overly constraining yards, and to avoid such PUEs precluding front roofed patios, porches, or stoops.**

**2. Standards: Exempting any lot or tract subject to Figure 3.01B “Major Arterial”, the following standards are applicable to a lot or tract with:**

**a. No alley or shared rear lane: 8 feet streetside.**

*Staff Finding:*

The applicant would continue to dedicate a streetside public utility easement (PUE). Because and through Street Adjustment, it can and does exceed the 8-ft maximum width for the reasons below.

Were the City or other developer to improve the street in the indefinite future, a streetside PUE that extends the full 35-foot distance from street centerline as if there was minimum ROW would make it easier for the City to construct and install public facilities or to negotiate acquisition of additional ROW.

Avoiding additional ROW at this time allows the applicant to site his desired house plan while also meeting the minimum setback abutting a street per WDO [Tables 2.02B, 2.02G], which is 13 ft. (The lot is not rectangular and narrows from north to south along Christiansen).

Staff are aware that an existing south outbuilding would encroach within a newly dedicated 10-ft streetside PUE, and the Public Works comments (Attachment 102A) do not express concern or objection about this result.

Lastly, a 10-ft PUE would not interfere with the PUE maximum width purpose that 3.02.01F.1 states. Limits on streetside PUE widths are premised on streets being at minimum widths of ROW.

The proposal meets the requirement (for both frontages).

### **3.06.03 Landscaping Standards**

#### **A. Street Trees**

**The purpose of the street tree provisions is to get and preserve street trees, to shade those walking and provide them psychological protection from passing vehicles, to calm those driving, to help spatially define streets through canopy, to absorb stormwater and pollutants, to reduce the urban heat island effect, and to raise value of adjacent property.**

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

**1. A number of trees equal to one tree per every 30 feet of street frontage within a block face, shall be planted within the right-of-way.**

**2. Street trees shall be planted according to the Boundary Street classification per the Transportation System Plan:**

**a. Large trees shall be planted along Major and Minor Arterial streets. Regardless of street classification, a developer shall plant large trees also along all streets that either are in the Neighborhood Conservation Overlay District (NCOD) or are boulevards, and for boulevards also in the medians;**

**Refer to Table 3.06B below for the definition of size categories at maturity.**

**3. Root barriers: The developer shall install root barriers per the public works construction code.**

**4. Fee in-lieu: Per Section 4.02.12.**

**B. Site landscaping shall comply with Table 3.06A.**

**C. Parking area landscape island standards: Landscape islands or peninsulas shall cap each aisle end to protect parked vehicles from moving vehicles, emphasize vehicular circulation patterns, and shade vehicles and pedestrians. Structured parking is exempted.**

1. Each south, southwest, and west island or peninsula cap of a parking aisle shall be minimum 84 square feet within back of curbing, narrowest dimension 6 feet within back of curbing, and contain a tree.
2. Remaining islands and peninsulas shall be minimum 28 square feet within back of curbing and narrowest 2 feet within back of curbing, except where subsection 3 below supersedes.
3. There shall be no more than 10 consecutive parking spaces in a parking aisle without a mid-aisle landscape island or peninsula. For consecutive parking spaces that include one or more accessible/ADA spaces and their aisles, the maximum shall be 9 consecutive parking spaces. Mid-aisle landscape islands or peninsulas shall be to the same standards as subsection 1 above.
4. At drive aisle crossings of walkways and wide walkways that respectively Sections 3.04.06D and 3.05.02N describe, each south, southwest, and west side shall have a landscape island or peninsula to the same standards as subsection 1 above.

*Staff Finding:*

As conditioned, the City requires 3.01.03C.2c & d (sidewalk and street trees or fees in-lieu) to remain as an unadjusted standard for Christiansen frontage. (The applicant proposed no adjustment along Tomlin.)

The City Council has not yet adopted a schedule of fees in-lieu. By condition, staff establishes willingness administratively per 4.02.12 to accept a fee-in-lieu of sidewalk and/or the required number of street trees and establishes specific amounts, which are necessary to administer 3.06.03A.4 & 4.02.12, based on past practice regarding sidewalk and street trees.

Per 3.06.03A.1, because per Marion County assessor Tax Map 051W17BD the Christiansen frontage is 123.1 ft, the minimum number of street trees is  $123.1 / 30 = 4$  trees. (For Tomlin, it is  $52.8 / 30 = 2$  trees.)

The fee-in-lieu for trees along the Christiansen Ave ROW shall be \$250 per tree not planted. The fee-in-lieu for trees along the Tomlin Ave ROW shall be \$950 per tree not planted.

If the applicant decides to pay a fee-in-lieu rather than build out the street improvements on Tomlin Ave, staff determines that the cost would be as follows: Assuming a ratio the same as that of the frontages:  $52.8 \text{ ft Tomlin} / 123.1 \text{ ft Christiansen} = 0.43$  ratio.  $0.43 \times \$13,050$  Christiansen sidewalk fee-in-lieu = \$5,597 for Tomlin Ave street improvements.

**5.03.03 Adjustment to Street Improvement Requirements (“Street Adjustment”)  
Same as Section 5.02.04 except that land use review is Type III.**

**5.02.04 Adjustment to Street Improvement Requirements (“Street Adjustment”)**

**A. Purpose: The purpose of a Type II Street Adjustment is to allow deviation from the street standards required by Section 3.01 for the functional classification of streets identified in the Woodburn Transportation System Plan. The Street Adjustment review process provides a**

mechanism by which the regulations in the WDO may be adjusted if the proposed development continues to meet the intended purposes of Section 3.01. Street Adjustment reviews provide discretionary flexibility for unusual situations. They also allow for alternative ways to meet the purposes of Section 3.01. They do not serve to except or exempt from or to lessen or lower minimum standards for ROW improvements, with exceptions of subsections B & H. A Street Adjustment is for providing customized public improvements that substitutes for what standards require, while a Variance is for excepting or exempting from, lessening, or lowering standards, with exceptions of subsections B & H. A Street Adjustment for a development reviewed as a Type I or II application shall be considered as a Type II application, while development reviewed as a Type III application shall be considered a Type III application.

**B. Applicability:** Per the Purpose subsection above about improvements, and regarding ROW Street Adjustment may be used to narrow minimum width. Regarding alleys or off-street bicycle/pedestrian corridor or facility standards, see instead Zoning Adjustment.

**C. Criteria:**

1. The estimated extent, on a quantitative basis, to which the rights-of-way and improvements will be used by persons served by the building or development, and whether the use is for safety or convenience;
2. The estimated level, on a quantitative basis, of rights-of-way and improvements needed to meet the estimated extent of use by persons served by the building or development;
3. The estimated impact, on a quantitative basis, of the building or development on the public infrastructure system of which the rights-of-way and improvements will be a part;
4. The estimated level, on a quantitative basis, of rights-of-way and improvements needed to mitigate the estimated impact on the public infrastructure system.
5. The application is not based primarily on convenience for a developer or reducing civil engineering or public improvements construction costs to a developer.
6. The application is not based primarily on the existence of adjacent or nearby nonconforming Boundary Street frontages.
7. Narrowing of ROW minimum width, if proposed, is not to a degree more than necessary to meet other criteria. In no case shall ROW total fewer than 35 feet, whether or not the total is allocated across the centerline or to its side, except that this base requirement would not apply if subsection H below applies.
8. A Street Adjustment would provide a customized cross-section alternative to the standard or standards that meets the relevant purposes of Section 3.01, or the City reasonably can condition approval to achieve such.

**D. Minimum Standards:** To ensure a safe and functional street with capacity to meet current demands and to ensure safety for vehicles, bicyclists, and pedestrians, as well as other forms of non-vehicular traffic, the minimum standards for rights-of-way and improvements for Boundary and Connecting Streets per Sections 3.01.03C & D continue to apply. Exempting from or lessening or lowering those standards shall require a Variance. Deviation from applicable public works construction code specifications would be separate from the WDO through process that the Public Works Department might establish.

**E. Factors:** Street Adjustment applications, where and if approved, shall have conditions that customize improvements and secure accommodations for persons walking and cycling, not only driving, that meet the purposes of Section 3.01. The City may through approval with conditions



require wider additional ROW dedication along the part or the whole of an extent of the subject frontage to accommodate either adjusted improvements or improvements that vary from standards.

**F. Bicycle/pedestrian facility:** If and where a Street Adjustment application requests to substitute or omit one or more required bicycle facilities, such as bicycle lanes, and the City approves the application, then the following should apply: For each substitute or omitted facility, the developer would construct a minimum width 8 feet bicycle/pedestrian facility on the same side of street centerline as the substituted or omitted facility. The City may condition wider.

**G. Landscape strip:** If and where a Street Adjustment application requests to adjust one or more required landscape strips from between curb and sidewalk, and the City approves the application, then the list below should apply. This subsection is not applicable to bridge / culvert crossing.

1. **Sidewalk:** Construction of sidewalk minimum width 8 feet on the same side of street centerline as the adjusted landscape strip. The City may condition wider.

2. **Planting corridor:** For each landscape strip that is relocated, delineation and establishment of a street tree planting corridor along the back of sidewalk in such a way as to allow newly planted trees to not conflict with any required streetside PUE to the extent that the Public Works Department Engineering Division in writing defines what constitutes a conflict. To give enough room for root growth, the corridor minimum width would be either 6 feet where along open yard or 7 ft where it would be flush with a building foundation. This would include installation of root barriers between the trees and street centerline to public works construction code specification.

3. **ROW:** Where necessary to meet the above standards, dedication of additional ROW even if the additional is more than the minimum additional dedication that Section 3.01 requires.

4. **Planting in ROW required:** Street trees would not be planted in the yard outside ROW.

**H.** If the applicable Boundary Street minimums are the lesser minimums for residential development of 4 or fewer dwellings and where no land division is applicable, as Section 3.01.03C.2 allows, then allowed adjustment is:

1. **ROW:** Relating to Section 3.01.03C.2a, to lower ROW minimum dedication either (a) from a number greater than 5 feet to no fewer than 5 feet or (b) from a number equal to or fewer than 5 feet to no dedication. Greater deviation requires Variance.

2. **PUE, streetside:** Relating to Section 3.01.03C.2b, to lower streetside PUE minimum dedication to no fewer than 3 feet. Greater deviation requires Variance.

This subsection is not relevant to deviation from improvements.

**I. Plan review:** An applicant shall submit among other administratively required application materials scaled drawings, including plan and cross section views, of proposed street improvement widths, extents, and details as well as existing conditions and proposed development site plans that include property and easement lines and physical features some distance beyond the boundaries of the subject property for fuller context.

Applicant's response (pages 1-3 of the narrative):

"If we analyze the shape of our lot it isn't going to help any further development in the near or long future because of how it was developed and planned in the past. This is a very unique lot shape that I don't know how this 5 extra feet will be helpful in the future. I am very happy to comply with the 5 foot right of way by Tomlin Ave, and the street improvement, but support me by not dedicating the 5

foot right of way along Christensen St, and let me move forward with the site plan that we currently have.”

Staff adds that Marion County assessor Tax Map 051W17BD shows that the lot narrows north to south from 52.8 ft to 20.2 ft.

“According to the street adjustment provision 5.002.04H.1 this allows us to continue with the house plan by allowing us to continue without having to dedicate the five feet right-of-way. We are totally fine and understand that we need to comply with the rest of the street improvement ordinance and we are totally fine planting the trees every 30 feet around the property line and paying a fee-in-lieu of sidewalk.” In other words, as staff examined earlier above for 3.02.01, avoiding additional Christiansen ROW at this time allows the applicant to site his desired house plan while also meeting the minimum setback abutting a street per WDO [Tables 2.02B, 2.02G], which is 13 ft.

The applicant submitted a Street Adjustment application with a request to modify the applicable street cross-section for the unimproved one-block stretch of Christiansen St. The default cross-section for local streets is Figure 3.01G.

Considering the function of Christiansen Street within the context of the neighborhood, it serves to provide limited connectivity for five properties on its boundaries. There is no plan to provide further connectivity beyond these streets based on the Transportation System Plan (TSP) Figure 6 “Local Street Connectivity Plan” that is Attachment 301. It indicates new and extended streets in the vicinity, but no extension north or south of Christiansen itself.

The most obvious benefit to the applicant is that the Christiansen right-of-way boundary would remain as is and not consume any of his property, thus as developer, he would not be responsible for any dedication or construction of any improvements.

The applicant has two options:

1. Pour a 6-foot wide, grade-level sidewalk to Public Works specifications or,
2. Pay a fee-in-lieu amounting to 150% of the private bid submitted by the applicant (Attachment 103B). This percentage increase is due to the fact that if the City does the work, the cost must account for prevailing wages and other fees that private contractors do not have to pay. At the time of this staff report, this equates to \$13,050 ( $\$8,700 \times 150\% = \$13,050$ .) This cost would increase yearly with inflation.

The applicant should communicate which option they choose to the Planning Division so that fees can be assessed if needed. Improvements or payments would be due before Building Permit issuance.

Though staff expects that the applicant will opt for fees in-lieu for Christiansen sidewalk and street trees, were the applicant to build any, a condition of approval allows for the applicant to site a six feet wide sidewalk (per Fig 3.01G) and as Public Works directs to account for existing ROW and the existing situation in the field.

The reasons above support approval with conditions of the Street Adjustment request, therefore staff approves with conditions.

The Street Adjustment provisions are met with conditions, which are found in the main body of the staff report that is the Type II land use final decision, which is a decision by staff instead of the Planning Commission or City Council.



**Flores Home (SFR)  
1600 Tomlin Ave.  
SA 23-06  
TAX LOT 051W17BD06100  
Public Works Comments  
Land Use Application  
December 20, 2023**

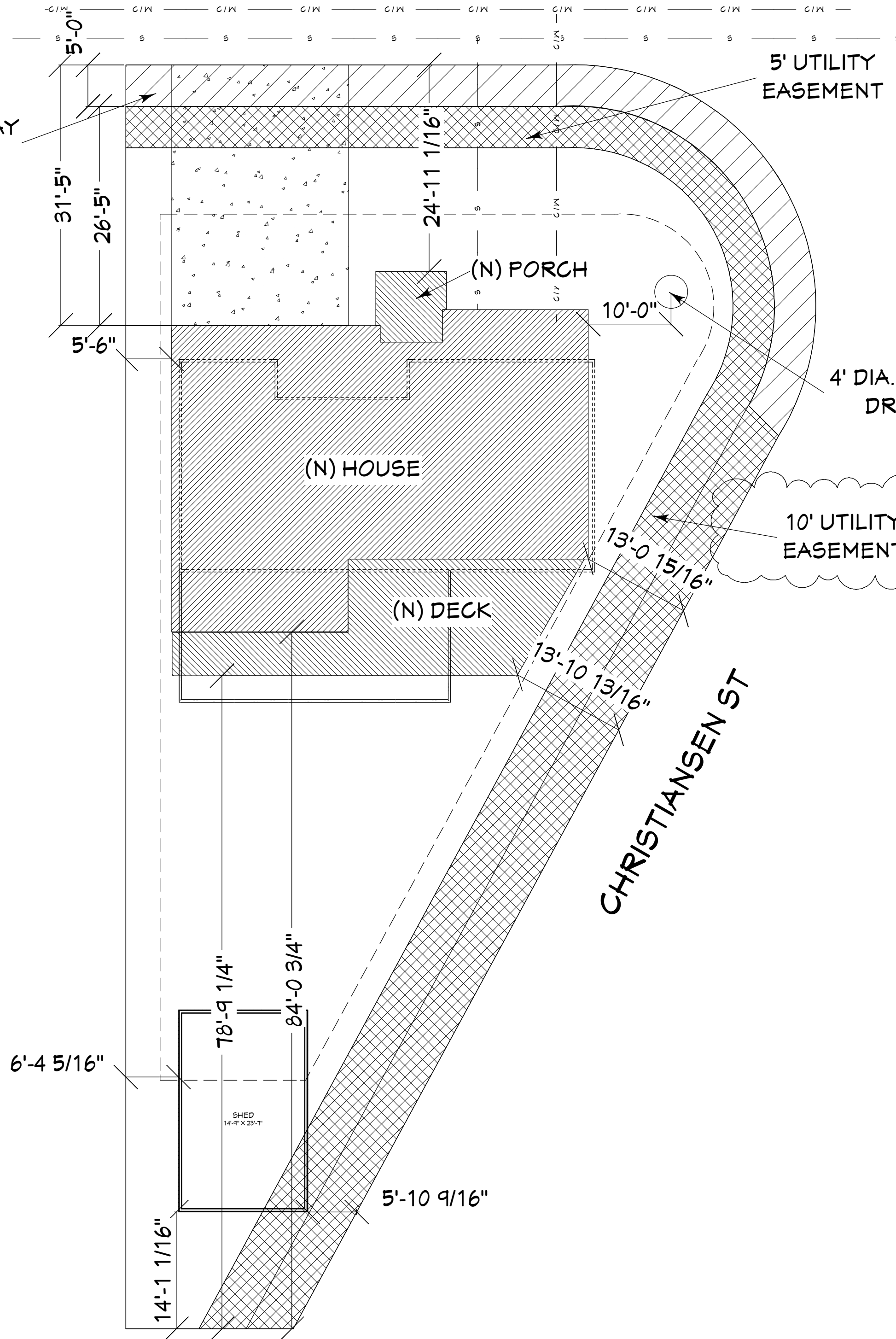
**CONDITIONS OF LAND USE APPROVAL:**

1. The Applicant, not the City, is responsible for obtaining permits from state, county and/or federal agencies that may require such permit or approval.
2. Marion County plumbing permits must be issued for all storm sewer, sanitary sewer, and waterline work installed beyond the Public Right-of-Way, on private property.
3. The Applicant, by this Development, shall not cause storm water runoff to be impounded on adjacent properties.
4. All public improvements or restoration improvements shall be deemed complete prior to final building permit issuance.
5. Provide and record the required right-of-way and public utility easements dedications prior to building permit inspection.
6. Fire protection access, fire hydrant locations and fire protection issues shall comply with current fire codes and Woodburn Fire District standards.
7. A final review of the Civil Plans will be done during the building permit application. Public infrastructure will be constructed in accordance with plans approved by the City of Woodburn public works.
8. System Development fees shall be paid at the time of building permit issuance.



TOMLIN AVE

5' RIGHT OF WAY DEDICATION



A-02

DATE:

11/28/2023

SCALE:

1" = 20'-0"

SHEET TITLE:

SITE PLAN

PROJECT DESCRIPTION:

1600 TOMLIN AVE  
WOODBURN OR 97071

DRAWINGS PROVIDED BY:

SAB DESIGN AND DRAFTING LLC  
SASHA.A.BECKWITH@GMAIL.COM  
541-231-6318

Narrative Letter  
Jorge & Erika Flores  
525 Prairie St  
Woodburn, OR 97071

RECEIVED

NOV 07 2023

COMMUNITY DEVELOPMENT  
DEPARTMENT

November 3, 2023

To whom it may concern,

On July 18, 2023 we lost our entire house at 1:00 am in the morning at 1600 Tomlin Ave in Woodburn. My family and I got really lucky that we were able to beat the flames before it consumed everything inside the house. From that moment we have been living under stress, renting in different places, and trying to help our two kids cope and have peace of mind. On top of living with all the stress, we have been dealing with the insurance on the house, another stressful process. Unfortunately the amount of money they are willing to pay is not enough. The circumstances make us come to an agreement with them and move forward with the house project for the wellbeing of our children.

After coming to an agreement with the insurance company we started the process of hiring an architect to build our new home. We paid her to create a site plan, using the footprint of the now destroyed house, but unfortunately the first plan didn't work because of the ordinance of needing to have a garage. Therefore, we paid her again to create a new site plan to include a garage to follow the guidance of the city hall development department with all the necessary requirements. Our original idea was to use the same amount of property to build the house and add a second floor. Unfortunately that did not work because of the ordinance of the development of city hall. We have been spending thousands of dollars with all these site plan changes in order to meet compliance with the ordinance and we are spending all this money that we don't have and we need to rebuild. It is not less important to mention that we are coming from a fire disaster and we don't have the money to be spending just to spend.

Thanks to Heidi Hinshaw's guidance we created a site plan of the house in order to be reviewed and approved, but now we get a surprise due to the ordinance of street improvement we also need to dedicate a 5 foot right of way dedication along Tomlin Ave and Christensen St in order to approve the permit to build. We do not have any problems giving 5 feet on Tomlin Ave, but unfortunately if we do the same for Christensen St it drastically changes our footprint and it is going to be very costly to re-do another footprint making it number 3. Again, we are not doing this out of pleasure, we are doing this because it is a necessity. We are just trying to use the same footprint as we did before.

Furthermore, I am requesting support to not dedicate the 5 foot right of way dedication along Christensen St because it would be financially disastrous with our inspiration to build our home. Furthermore, I understand that the city is thinking about the future developments of the community. But if we analyze the shape of our lot it isn't going to help any further development in the near or long future because of how it was developed and planned in the past. This is a

very unique lot shape that I don't know how this 5 extra feet will be helpful in the future. I am very happy to comply with the 5 foot right of way by Tomlin Ave, and the street improvement, but support me by not dedicating the 5 foot right of way along Christensen St, and let me move forward with the site plan that we currently have. Please let me move forward with the nightmare of losing my home with everything inside and let me help put my family back to their place name "their/our home".

At the beginning of October we submitted a street adjustment application package in order to consider not dedicating the five feet right-of-way by Christensen St. The reason is because it will make a huge change to our house plans and property. It would be extremely costly for us to comply with this ordinance. According to the street adjustment provision 5.002.04H.1 this allows us to continue with the house plan by allowing us to continue without having to dedicate the five feet right-of-way. We are totally fine and understand that we need to comply with the rest of the street improvement ordinance and we are totally fine planting the trees every 30 feet around the property line and paying a fee in lieu of sidewalk. We will get a quote from a licensed contractor and provide the city with the quote. The quote will only cover the sidewalk and we will plant the trees among the property line. Also, we are fine indicating granting of a 10-foot streetside PUE along Christensen.

We do not have any problems dedicating five foot right-of-way by Tomlin Ave because it does not affect our plans and property. We are fine with complying with the street improvement ordinance by completing the sidewalk on Tomlin Ave and planting the trees with a 30 feet distance among them. We will complete the completion of the sidewalk on our own as well as planting the trees.

Finally, the property currently has a driveway/ramp and we plan to keep it the same as it is now, but if necessary we will coordinate with public works during the building permit process. We will also provide a site plan with the updates that will include the sidewalk, adding of trees and the PUE requirements.

Sincerely,

The Flores family

**Dominguez Construction LLC**

1206 NE Cowsls st  
McMinnville, OR 97128 US  
484.636.8529  
dominguezcarpentry@gmail.com

RECEIVED

NOV 07 2023

COMMUNITY DEVELOPMENT  
DEPARTMENT



Estimate

ADDRESS  
Jorge Flores  
Jorge/ Erika Flores  
1600 Tomilin Ave  
Woodburn, OR 97071

SHIP TO  
Jorge Flores  
Jorge/ Erika Flores  
1600 Tomilin Ave  
Woodburn, OR 97071

ESTIMATE 1246  
DATE 10/26/2023  
EXPIRATION 11/09/2023  
DATE

CCB# 232068  
**232068**

DATE	ACTIVITY	DESCRIPTION	AMOUNT
10/26/2023	Concrete	- Dig out area were new sidewalk will be placed. - Sidewalk to be 6' wide. -Does not include curb since side street is not paved. - Does not include sidewalk at Tomilin Ave. - Sidewalk to meet city of Woodburn building code requirements. - Sidewalk to be bush finish. - No other concrete work is included.	8,700.00

Thank you for considering Dominguez Construction LLC for your project. I have put together the attached estimate. Please sign & date below and return to dominguezcarpentry@gmail.com to accept this estimate

Please feel free to contact me regarding any questions you may have.

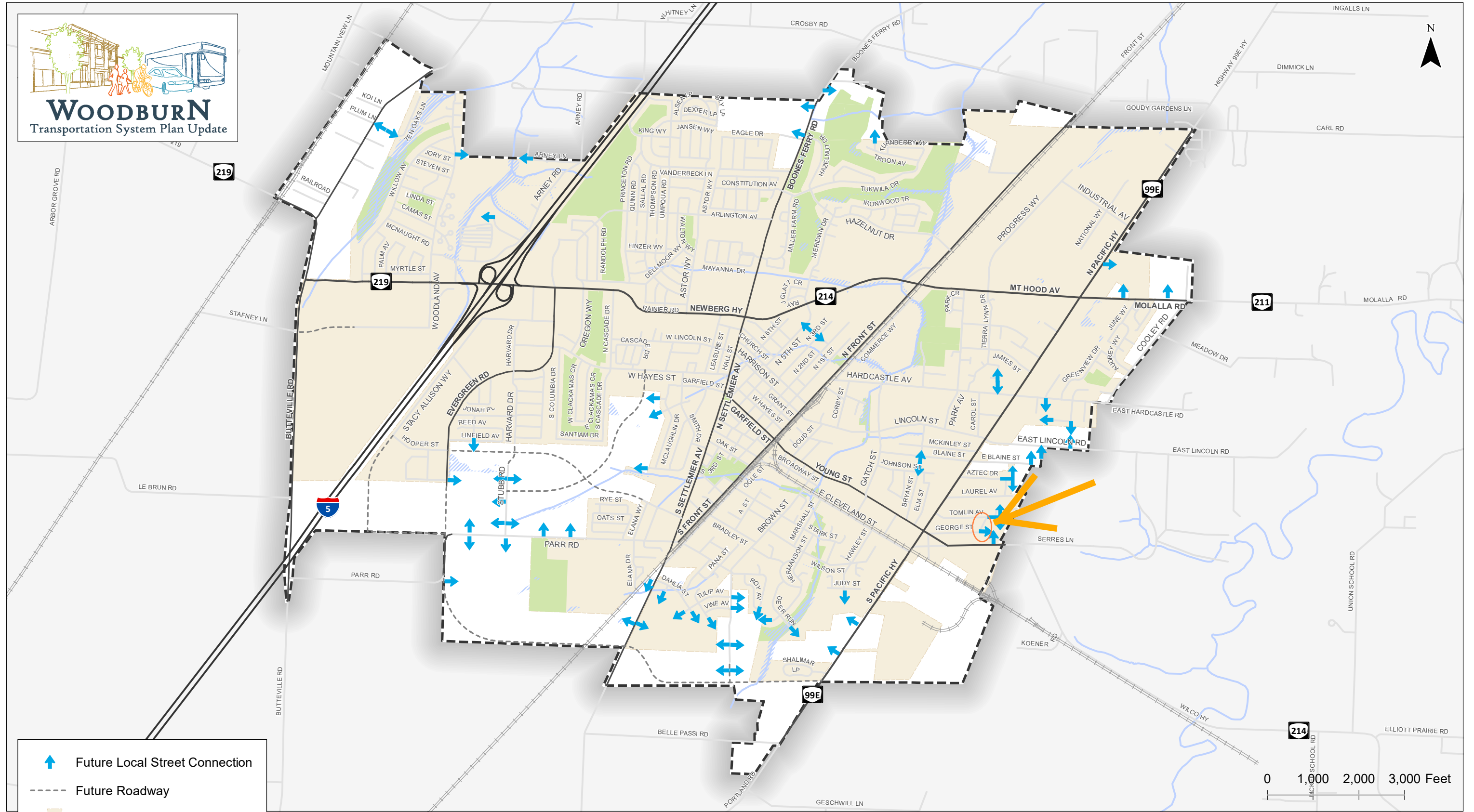
Thank you  
Jorge  
Dominguez Construction LLC





SUBTOTAL	8,700.00
TAX	0.00
<b>TOTAL</b>	<b>\$8,700.00</b>

Accepted By

Accepted Date





-  Future Local Street Connection
-  Future Roadway
-  City Boundary
-  Urban Growth Boundary

0 1,000 2,000 3,000 Feet

**Local Street Connectivity Plan  
Woodburn, Oregon**

**Figure  
6**

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

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

H:\1212\1071 - Woodburn TSP Update\GIS\TSP\06 Local Street Connectivity Plan.mxd - mmccormick - 5:46 PM 9/16/2019

## SA 23-06 Flores Residence / 1600 Tomlin Avenue:

### Attachment 201: Conditioned Fees

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

#### **Part A. Fee Provisions**

1. Any and all conditioned fees are in addition to, and not in place or as discounts of, any existing charge or fee however termed ordinarily assessed based on any existing ordinance, resolution, or administrative policy, inc. adopted fee schedules. If and when the City amends any ordinance, resolution, or administrative policy, inc. a fee schedule, to increase a charge or fee that is (a) the same kind of charge or fee that is conditioned, (b) the amended charge or fee amount would exceed the amount conditioned, and (c) the increase takes effect before the conditioned fee is due, then the developer shall pay the greater amount.
2. Payments of conditioned fees shall reference a final decision case file number and the condition of approval letter/number designation, be it in a check memo field or through a cover or transmittal letter.
3. For fees due by building permit issuance, a developer may request the Director to allocate payments the same as allowed for fees in-lieu by WDO 4.02.12A.2, specifically, to pay across issuance of two or more structural building permits for the subject development (where two or more are relevant).

For all administrative and logistical questions about payment of land use conditioned fees outside the context of assessment and payment through building permit, the developer is to contact the Administrative Assistant at (503) 982-5246 and refer to this attachment within the final decision, citing the case file number.

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

**Part B. Fee Table**

<i>Table 201B. Fee Table</i>					
<i>Condition Reference</i>	<i>Fee Type</i>	<i>Amount</i>	<i>Context</i>	<i>Timing</i>	<i>Staff Tracking:</i>
SA3b(1)	Christiansen Ave sidewalk fee in-lieu	2023-24: \$13,050; 2025: \$13,442; or 2026 or later: \$13,845.	Implements WDO 4.02.12A regarding 3.01.03C.2c.	By building permit issuance	
SA3b(2)	Christiansen Ave street tree fee in-lieu	2023-24: \$250; 2025: \$258; or 2026 or later: \$265.	Implements WDO 4.02.12A regarding 3.01.03C.2d.  Applies to omitted street trees, or, ones missing from required number upon inspection.	If building permit or CEP context, then by building permit issuance; if in inspection context, then prior to passing final inspection / obtaining certificate of occupancy	
G5c through this 200 series attachment	Tomlin Ave sidewalk fee in-lieu	2023-24: \$5,597; 2025 or later: \$5,765	Implements WDO 4.02.12A regarding 3.01.03C.2c.	By building permit issuance	
	Tomlin Ave street tree fee in-lieu	\$950 per tree	Applies to omitted street trees, or, ones missing from required number upon inspection; WDO 4.02.12A	If building permit or CEP context, then by building permit issuance; if in inspection context, then prior to passing final inspection / obtaining certificate of occupancy	

Condition Reference	Fee Type	Amount	Context	Timing	Staff Tracking:
	Public Works Dept. (PW), or ODOT as applicable, civil engineering plan (CEP) review: Review by Planning Division.	See context note.	Per the <a href="#">Planning Division fee schedule</a> . (Attachment 102A Public Works comments [Dec. 20, 2023], item 7.). Applicable whether civil plan review is through building permit or separate Public Works process.	Upon CEP application to PW, or to ODOT as applicable, or building permit application if civil plan review is through permit review; in any case no later than building permit issuance	
	Inspections by Planning Division	Public improvements: zero; \$75. Building permit: zero; \$75.	1st inspection or “walkthrough”; 2nd. (3rd is per the <a href="#">Planning Division fee schedule</a> .)	Inspection requests related to public (street) improvements and building permits	
	Street tree bonding / performance guarantee request fee	\$150	Free to submit request form and materials for review by the Planning Division. Bond release or status letter fee is per the <a href="#">Planning Division fee schedule</a> .	Upon street tree bonding request	
	Tomlin Ave: Any of (1) Bond / bonding / performance guarantee or (2) public improvements deferral through PW per WDO 3.01.02E: Specifically any that would allow or allows the developer to delay construction of street improvements beyond either final plat, as applicable, or building permit issuance, with exceptions, if any, per land use conditions.	Tomlin Ave: Deferral of driveway and street trees only: \$250; Any additional deferrals, including sidewalk: \$1,305 total.	Serves as bond or deferral disincentive fee and isn’t a bond amount itself. Fee not applicable to warranty bonds or ordinary construction bonds if they do not authorize delay of construction of street improvements beyond building permit issuance. (See WDO 3.01.02E.)	By building permit issuance	

[General ledger (GL) account 363-000 3678 “Developer Contributions”.]