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JUN 06 2022

COMMUNITY DEVELOPMENT
DEPARTMENT

June 9, 2022
City of Woodburn
Planning Commission
SENT VIA email to chris.kerr@ci.woodburn.or.us

Re: 2540 & 2600 Newberg Hwy, "US Market" gas station (CU 21-02)

052W12DB03700 (primary) & 3600

Consolidated land use application package (Type III), Conditional Use 21-02, Design Review 21-10, Exception to Street Right of Way and Improvement Requirements ("Street Exception") EXCP 21-05, & Phasing Plan PP 21-01 for a gas station with convenience store, known as US Market, and commercial office space, in the Commercial General (CG) zoning district.

Chairperson, Members of the Planning Commission:

My name is Michael Mills. I am a Lawyer representing Woodburn Petroleum LLC. The proposed development of the US Market is consistent with Oregon law that requires balancing of infill economic development of properties abutting Oregon State highways ORS 374.331(2),

US Markets are Oregon born and bred. I have represented the Sidhu Family since 1998 when they acquired their first convenience store in Silverton Oregon.

Since that time, they have expanded and grown. They now have over 35 US Markets/gas stations and travel centers, serving over 15,000 customers per day. Those US Markets are similar to what the Planning commission and the City of Woodburn is considering.

Their brand partners at other locations include, Chevron, Arco AMPM, Shell, TA Express. Mobil, Exxon and One 9 Fuel Stop. This location will be the introduction into the Woodburn community of the first Space Age gasoline station, and the first Krispy Krunchy Chicken outlet.

Space Age has been marketing gasoline and diesel products in Oregon for 20 years. In these times of high gasoline prices, Space Age will offer very competitive pricing. According to Gas Buddy, as of the morning of June 6, US Market's Space

Age gasoline just 11 miles South on the freeway at Brooks I-5 Interchange was \$5.19 per gallon, cash or credit for regular. Chevron at Woodburn I-5 was \$5.69 per gallon and Shell at I-5 Interchange was \$5.69 per gallon.

The Krispy Krunchy Chicken franchise has over 2600 locations in 47 states. And from personal experience I can tell you it is delicious.

US Market will employ 20 full time and 4 part time employees and will stock over 3000 items. They will offer products available to Food Stamp (SNAP) recipients.

US Markets will be a very good neighbor and a strong supporter of the Woodburn Community. Don Sidhu has lived in Woodburn since 2003.

Every year for 16 years including this year, US Markets has organized and hosted the US Market Golf Tournament at the OGA course in Woodburn. Last year the US Market Golf Tournament raised and donated over \$80,000.00 to Doernbecher Children's Hospital with 280 out of town golfers and 72 sponsors participating and contributing to the City of Woodburn economy. They plan on continuing this tradition.

1. WHY THIS IS A CONDITIONAL USE APPLICATION

The proposed Convenience store and offices are allowed under existing zoning. The proposed use of gas station is allowed outright unless located within 200 feet of residential zoned properties. There are 2 Residential units zoned R1S that are located within 200 feet, i.e. 943 and 953 Oregon Way.

Exhibit 3. shows those two residential properties and their relationship to the proposed development.

Exhibits 4 and 5 shows them from Oregon Way. Note that one of the residences was adjacent to the drive through driveway of the bank. Exhibits 6 and 7 show the previous bank building.

2. CONCERNS OF RESIDENTS OF PANOR 360 CONDOMINIUMS

A. GREEN AREAS

One of the comments received by some condominium owners stated a desire for more significant open landscaped area. *"We need more green areas especially with ...a residential area close"* US Market worked closely with Staff to develop a site that will maximize greenery in accordance with Woodburn development codes. The proposed plan is shown at Exhibit 12. It may be modified slightly but no proposed vegetation will be eliminated in final form.

Exhibit 10 shows existing lack of vegetation at 214. This will be improved per the landscape plan developed in cooperation with City Staff to add more vegetation than was at original site especially at 214.

B. NOISE VOLUME

“Another concern we have is noise volume and environmental pollution”

“We are Already subjected to constant traffic noise....”

Staff and Developer have incorporated the following into the Development plan:

Fuel pumps: Audible audiovisual advertising, if any, is prohibited from sounding from fuel pump electronic display speakers. Such advertising shall be limited to sight only.

Tire/vacuum: Addition of any vehicle interior vacuum facility outdoors, tire pump facility outdoors, or other similar mechanical facility outdoors for gas station customers that makes noise shall be located min 100 ft north of the south lot line of Tax Lot 3700. Based on Ordinance No. 2312, any vacuum shall be closed to customer use min from 9:00 p.m. to 7:00 a.m.

There is 120 feet distance to back lot line of development with convenience store set back another 50 feet from south property line. The North yard of the condominiums adjacent to the site is fully landscaped. See Exhibits 11 and 13.

A sound impact assessment of the effect of the proposed activity on the condominiums was commissioned by US Market and concluded that *“the proposed use will be no louder than some of the existing, surrounding uses and the increase in sound level will be barely perceptible. With the increased mitigation provided by the 8ft high wall at the perimeter property no further action is needed.”*

C. FUEL FUMES

New style dispensing nozzles allow less fumes to enter the atmosphere. Preset fuel amount monitors and “No top offs” greatly reduce any inadvertent spillage from dispensing nozzles. None of the US Markets have ever had a gasoline or diesel spill that required Department of Environmental Quality to investigate or take remedial action.

US Market expects up to ten fuel truck deliveries per month. Woodburn’s Public Works Department can regulate time, place and manner of fuel truck access to and from the development and adjacent public streets. US Market will have

employees who supervise fueling delivery access to the site, fueling procedures while on site, and egress from the site. Such deliveries can be scheduled at light traffic times, very early morning or later in evening.

D. CRIMINAL ACTIVITY

“Hang out for criminal activity and much louder crowd of people in addition to the existing Dairy Queen.”

US Market will have motion detecting lighting and in-store continual video monitoring of surveillance cameras located in outside areas, with a thirty day retention period. They will post signs prohibiting loitering or consuming alcohol on the US Market premises and “trespass” people who loiter, and call the police to have them arrested. They will cooperate with Woodburn Police and your City Attorney if the City decides to prosecute.

E. SUMMARY

The City of Woodburn Staff has worked closely with the Architects and Engineers. Exhibit 14 pp 1-3 is a comprehensive summary. The development that Staff has recommended you approve will be a valuable addition to your City of Woodburn, supporting it with tax revenue, new services, competitive pricing and general overall support of the Woodburn Community.

I thank you for your attention.

Michael Mills

OSB#721698

 S/ Michael Mills

Michael Mills

OSB #721698

Enclosures:

Exhibit list

Exhibit 1-16

EXHIBITS

EX. 1 SITE PLAN

EX. 2 SITE PLAN SHOWING LOCATION OF PREVIOUS BANK BLDGS

EX. 3 SHOWS TWO RESIDENTIAL PROPERTIES IN ORANGE THAT MAKES THIS A CONDITIONAL USE APPLICATION

EX. 4 953 OREGON WAY, RESIDENTIAL, LOOKING WEST FROM OREGON WAY. PREVIOUS BANK BLDG ON RIGHT

EX. 5 943 RESIDENTIAL, LOOKING WEST FROM OREGON WAY

EX. 6 PREVIOUS BANK BLDG ON RIGHT LOOKING SW FROM OREGON WAY

EX. 7 PREVIOUS BANK BLDG LOOKING WEST FROM OREGON WAY, DRIVEWAY SHOWN WILL REMAIN

EX. 8 OREGON WAY, LOOKING SOUTH FROM 214

EX. 9 OREGON WAY LOOKING SOUTH, SHOWING DRIVEWAY TO SITE

EX. 10 SITE FRONTAGE AT HWY 214

EX. 11 CONDO YARD, SITE CIRCLED CENTER LEFT

EX. 12 LANDSCAPE PLAN

EX. 13 SHOWS 50 FOOT SET BACK OF C-STORE FROM CONDO NORTH LOT LINE

EZ.14 STAFF SUMMARY SHOWING MITIGATION APPLIED

EX. 15 STAFF PAGES 1 AND TWO REPORT SHOWING MITIGATION CONDITIONS APPLIED TO GAS STATION

EX. 16 PAGES 1-3 FEES TO BE PAID BY APPLICANT FOR TRANSPORTATION STUDY; FEE IN LIEU OF BUS STOP BYCYCLE RACK



U.S. Bank Branch

Walgreens

Rainier Rd

Rainier Rd

214

214

Newberg Hwy

Dutch Bros Coffee

SITE

SITE

Oregon Way

Sara's Salo

Panor 360 Condominiums

Exhibit /

Page /



Google Earth

Executive Summary

Location

The proposal is to consolidate and redevelop five lots totaling 1.42 acres at 2540 & 2600 Newberg Highway (Oregon Highway 214). The subject property is located at the southwest corner of the intersection of the highway and Oregon Way.

Existing Context

The subject property is zoned Commercial General (CG) and was occupied by two vacant bank buildings, now demolished.



Subject property outlined in green

Text

Conditional Use

The applicant/developer applied for a conditional use (CU) for the gas station because it is within 200 feet of residentially zoned property.

A "conditional" use is called such because (1) it's conditional upon discrete approval by the City, and (2) the City can condition physical or operation aspects of a proposal, including on issues particular to the case at hand and above and beyond what Woodburn Development Ordinance (WDO) provisions directly address.

Exhibit 2
Page _____



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Show search results for 052W...

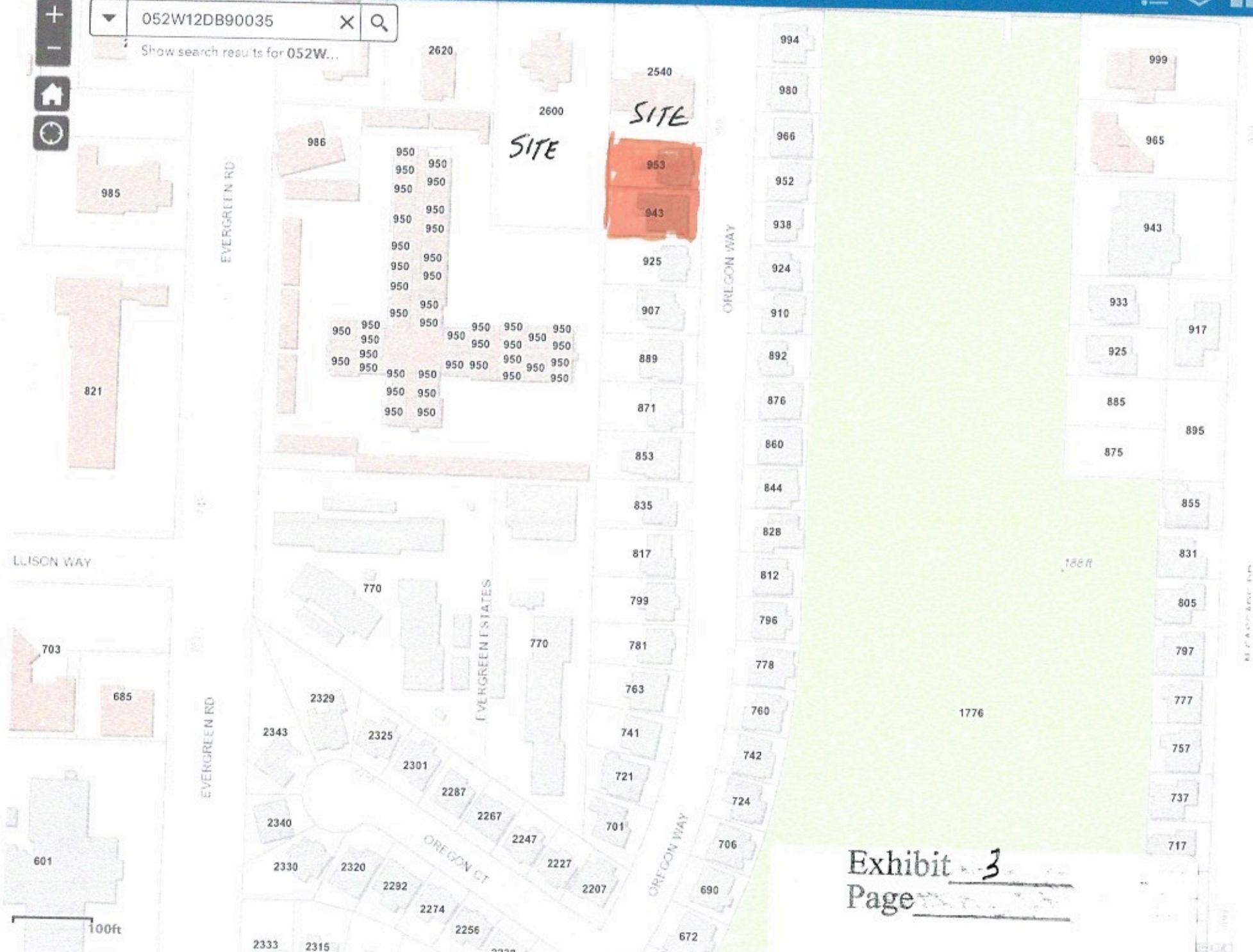


Exhibit 3
Page 1



Image capture: Jun 2019 © 2022 Google

Exhibit 4
Page _____



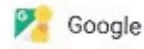
943 Oregon Way

All

Street View & 360°



Woodburn, Oregon



Street View - Jun 2019



Exhibit 5
Page _____



Image capture: Jun 2019 © 2022 Google

Exhibit 6
Page _____



Woodburn, Oregon

Image capture: Jun 2019 © 2022 Google



Street View - Jun 2019

Exhibit 7
Page _____

Rank
SI



Image capture: Jun 2019 © 2022 Google

Exhibit 8
Page



Figure 13. Oregon Way access facing south.



Figure 14. Oregon Way access facing north toward the Newberg Highway.



Figure 11. Newberg Highway right-in, right-out access facing east highlighting the straight and flat topography (to highlight potential pedestrian conflicts at the access).



Figure 12. Newberg Highway right-in, right-out access facing west toward oncoming traffic

Photos Street View

Favorite Share X



one car garage with heating and air conditioning. East facing views, beautiful sunrises and protection from wind. Amenities that include: secure entrance, extra storage, ping-pong tables, library, tv area, card/party/meeting area. Listed by Ann Kirsch - Hallmark Properties, Inc. Redfin last checked: 2 minutes ago | Last updated Dec 28, 2023

Bought with Jeanie White - McCully Realty

Home Facts

Property Type	Condo
Year Built	1973
Community	Marion Co. Except Salem and Keizer

Price Insights

Redfin Estimate	\$134,303
Buyer's Agent Commission	2%

Price/Sq.Ft. \$177

6 of 10

Track this

Exhibit //
Page _____

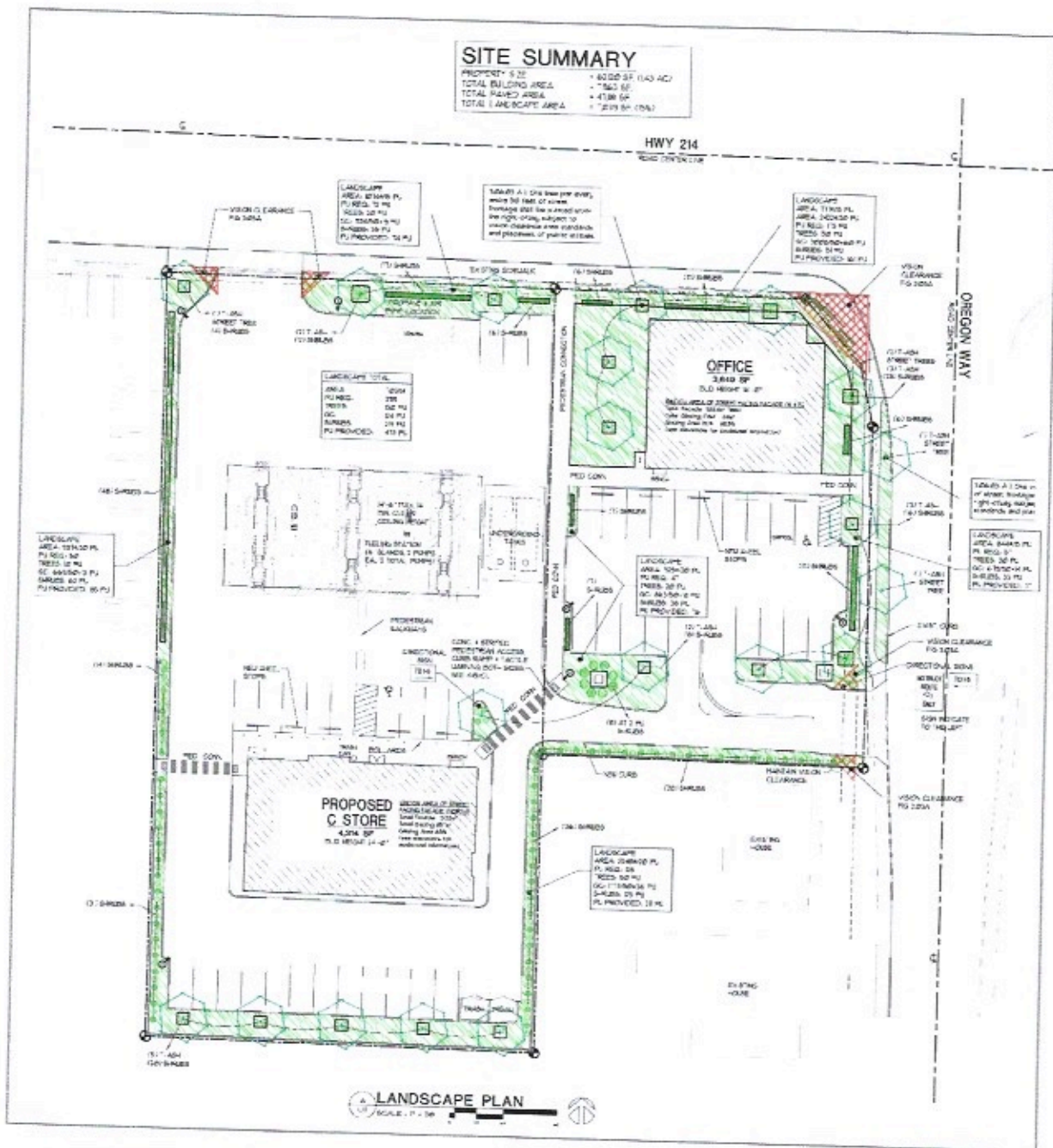


Exhibit PP2: Option 2 Site Plan Excerpt Prior to Revision per Conditions of Approval

The Proposal

Staff and the developer have worked to produce a good site development by focusing on these categories:

- a. The look and feel of street frontage for passers-by walking, cycling, and driving;
- b. The look and feel of yard landscaping along streets for passers-by walking, cycling, and driving as well as on-site employees and customers;
- c. Urban design: how close buildings are to sidewalk, how many and how large are windows, are their entrances visible from sidewalk and whether the public can see main entrances to buildings from sidewalk, and whether placements of entrances orient to those who walk or cycle no worse than to those who drive and park;
- d. How safely and comfortably pedestrians and cyclist can access and circulation among on-site buildings through walkways and visibly distinct crossings of drive aisles;
- e. Having enough on-site trash receptacles near sidewalk to lessen the likelihood of litter of yards along streets and street frontage by convenience store customers on foot;
- f. Avoiding excessive exterior lighting;
- g. Having reasonably decent architecture in the context of strip commercial development;
- h. Having the Architectural Wall look reasonably decent;
- i. Getting highway electric power poles and overhead electric power lines buried or fees in-lieu paid to fund such elsewhere in town;
- j. Having a few evergreen trees among newly planted trees; and
- k. Increase street trees and on-site trees, and provide for fee in-lieu to fund tree plantings elsewhere in town;
- l. Administering Street Exception EXCP 21-05 to have the developer improve Oregon Way to be the best of the two frontages for pedestrians and cyclists in exchange for leaving the highway frontage as is or largely as is;
- m. Mitigation of the unpleasant aspects of neighboring and patronizing a gas station and convenience store.

The staff analyses and findings (Attachment 102), especially the Conditional Use Provisions and Street Exception Provisions sections, provide much more detail, and the recommended conditions of approval secure the above things.

Site Plan

The development is phased and has two site plan Options 1 & 2.

Site plan excerpts follow on the next page(s), and a larger version is among the attached site plans (Attachment 103).

Staff finds that the proposal meets applicable Woodburn Development Ordinance (WDO) provisions per the analyses and findings (Attachment 102).

Exhibit 14
Page 1

extent remaining. The Director may require developer application for any of Extension of a Development Decision per WDO 4.02.05 or Modification of Conditions per WDO 4.02.07.

CU10. Gas station operations:

1. Noise:
 - a. Fuel pumps: Audible audiovisual advertising, if any, is prohibited from sounding from fuel pump electronic display speakers. Such advertising shall be limited to sight only.
 - b. Tire/vacuum: Addition of any vehicle interior vacuum facility outdoors, tire pump facility outdoors, or other similar mechanical facility outdoors for gas station customers that makes noise shall be located min 100 ft north of the south lot line of Tax Lot 3700. Based on Ordinance No. 2312, any vacuum shall be closed to customer use min from 9:00 p.m. to 7:00 a.m.
2. Trash: There shall be at least one trash receptacle along each of the walkways, at min 1 ft from walkway edge, to and from the highway and Oregon Way sidewalks, within 25 ft of ROW, for intended use by convenience store customers, and remaining privately maintained and serviced.
3. Vehicular circulation:
 - a. Driveways:
 - (1) Highway: The driveway shall remain right-in, right-out and be max width 36 ft; however, if the developer widens the driveway from the existing 30 ft, then min 12 ft of the width and min depth equal to either the throat or 13.5 ft, shall be poured concrete. The area of poured concrete that is outside the ROW shall be patterned, stamped, or treated to resemble paving stones and shall be felt by motorists driving over it. (Objective is to calm traffic by preventing fast, swooping maneuvers and to direct vehicles to 24 ft width of asphalt within the driveway throat, while allowing semi-trailer truck turning movement across 36 ft of width.) If the driveway widens, the developer also shall reconstruct the entire driveway to conform to City Public Works standard drawing Detail No. 4150-4 "Property Line Sidewalk at Driveway", except that if and where a specific conflict arises between City and ODOT public works construction standards, that of ODOT engineering guidance shall supersede.
 - (2) Oregon Way: Max 1 driveway, max width 24 ft if two-way or 12 ft if one-way. Option 2: Throat, if two-way, then the inbound lane max 24 ft deep where lane is parallel with the outbound lane.
 - b. I-5 directional signage: There shall be on Tax Lot 3700 outside of ROW and streetside PUEs directional signage that accomplishes directing on-site motorists bound for I-5, min 2 signs for Option 1 and 3 signs for Option 2, each min area 18 by 24 inches, mounted min 2 ft and max 7 ft above grade, text min 6 inches high, and including the standard Interstate 5 logo. The Director may administratively establish

locations, details, specifications, and revisions to administer this condition part during building permit review.

c. Option 2: fuel pump queueing:

(1) General: Fuel pump queues shall be one-way either eastbound in Option 1 or southbound in Option 2. The developer shall stripe directional arrows and lines to direct motorists into fuel pump queues and distinguish the queues from driving routes around the fuel pump canopy.

(2) Stacking:

(a) Option 1: Of six queues, min 3 shall each fit stacking of min one car west of the fuel pump island.

(b) Option 2: Of six queues, min 2 shall each fit stacking of min two cars north of the fuel pump island, and the remaining 4 shall each fit stacking of min one car.

d. Trucks: Until July 1, 2032, the Public Works Department may administratively regulate time, place, and manner of freight and truck access (ingress/egress) to and from the development and adjacent public streets. This condition shall not be construed to preclude the City past the date from regulating development freight and truck access via ordinances that are applicable generally to properties that happen to include the subject property.

CU11. Modification: Because the WDO, including 5.03.01, does not specify how changes to an approved conditional use (CU) and related site improvements might trigger another CU or modification of a CU approval, for Director determination the following serve as criteria and – where noted – as factors:

- a. Significant expansion of the use(s), factors being an increase in any of: total GFA by 25.0% or more or by an absolute value of 1,825 sq ft or more, and, the number of buildings by 1 or more;
- b. Increase in off-street parking by 6 or more stalls, even if the existing supply were in excess of the minimum required ratio(s);
- c. Net increase in impervious surface totaling at least 1,000 sq ft;
- d. Adding the land uses of automotive maintenance and repair, including through service bay structures.
- e. Development as defined in WDO 1.02 within twenty (20) feet of a property boundary and not already conditioned through the subject approval;
- f. Any proposal necessitating a request for Exception to Street Right-of-Way and Improvement Requirements ("Street Exception");
- g. Any proposal necessitating a request to vary from the WDO;
- h. Any proposal necessitating a Type III or IV land use application type; and
- i. City adoption of a unified development ordinance replacing the WDO were to have intervened.

Conditional Use 21-02: Transportation

T-A. OR 214 & Oregon Way: The developer shall pay a fee per Attachment 203 to fund a transportation study, specifically to investigate in coordination with ODOT (1) corridor signal timing and coordination adjustments and (2) improving safety by reducing vehicle turning or angle crashes. This is due by building permit issuance. [TSP R11 & TIA p. 12]

T-T. Bus transit: Bus stop improvements: To further TDM through bus transit, regarding the WTS Oregon Way northbound stop that is adjacent to 966 & 980 Oregon Way, where because ROW and streetside PUE are too narrow relative to the street to accommodate installation, the developer shall pay a fee in-lieu as well as a fee in lieu of a bus stop bicycle rack per Attachment 203.

Exhibit 15
Page 1

Part B. Fee Table

Table 203B. Conditioned Fees

Condition Reference	Fee Type	Amount	Context	Timing	Staff Tracking:
T-A	Transportation signal timing and crash safety study fee in-lieu	\$25,000	Fee in lieu of investigation in coordination with ODOT of (1) corridor signal timing and coordination adjustments and (2) safety improving by reducing vehicle turning or angle crashes	Building permit issuance	
T-T	Bus shelter fee in-lieu	By year of assessment: 2022: \$13,140 2023: \$13,535 2024: \$13,940 or 2025 or later: \$14,359	Oregon Way northbound stop	Building permit issuance	
	Bus stop bicycle parking fee in-lieu	\$510.20			
EX1 & EX2	Street tree fee in-lieu	For highway:	\$950 per tree. For EX1, assessed at minimum 5 trees.	Street Exception EXCP 21-05 from standard frontage improvements, which includes existing curb-tight sidewalk	Building permit issuance
		For Oregon Way street trees omitted through civil engineering plan (CEP) review, or, inspection missing tree fee	\$950 per tree	Applies to omitted street trees, or, ones missing from required number upon inspection	If CEP context, then by building permit issuance; if in inspection context, then prior to passing final inspection / obtaining certificate of occupancy
EX1	Sidewalk upgrade fee in-lieu	For highway sidewalk	\$76,320	A fee for sidewalk that EXCP 21-05 excepts from conformance/upgrade	Building permit issuance

Table 203B. Conditioned Fees

Condition Reference	Fee Type	Amount	Context	Timing	Staff Tracking:
G6 through this Attachment 203	City tree fund	\$2,850	Existing City tree fund (for new trees in City ROWs and parks)	Building permit issuance	
G6 through this Attachment 203	Public Works Dept. civil engineering plan (CEP) review: Review by Planning Division	\$250; \$346	Original/1 st submittal; each subsequent inc. deferral/piecemeal	Upon CEP application to PW	
	Inspections by Planning Division	\$75; \$346	1st inspection or "walkthrough"; each subsequent	Inspection requests related to public (street) improvements and building permits	
G6 through this Attachment 203	Bond / bonding / performance guarantee: Specifically any that would allow or allows the developer to delay construction of street improvements beyond building permit issuance.	\$4,474 ; \$346	Original/1st submittal; each subsequent inc. deferral/piecemeal. Serves as bond application / review request fee and isn't a bond amount itself. Fees not applicable to warranty bonds or ordinary construction bonds if they do not authorize delay of construction of street improvements beyond building permit issuance	If CEP context, then payment (through Planning Division) upon CEP application to PW; if developer applies for building permit review and there has been no CEP application to PW, then building permit issuance	