



Staff Report

To: Planning Commission

Through: Chris Kerr, AICP, Community Development Director *CK*

From: Colin Cortes, AICP, CNU-A, Senior Planner

Meeting Date: June 9, 2022 (Prepared June 2, 2022)

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

Tax Lot(s): 052W12DB03700 (primary) & 3600

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Issue before the Planning Commission

Action on a 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.

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.



The Proposal

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

- 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).

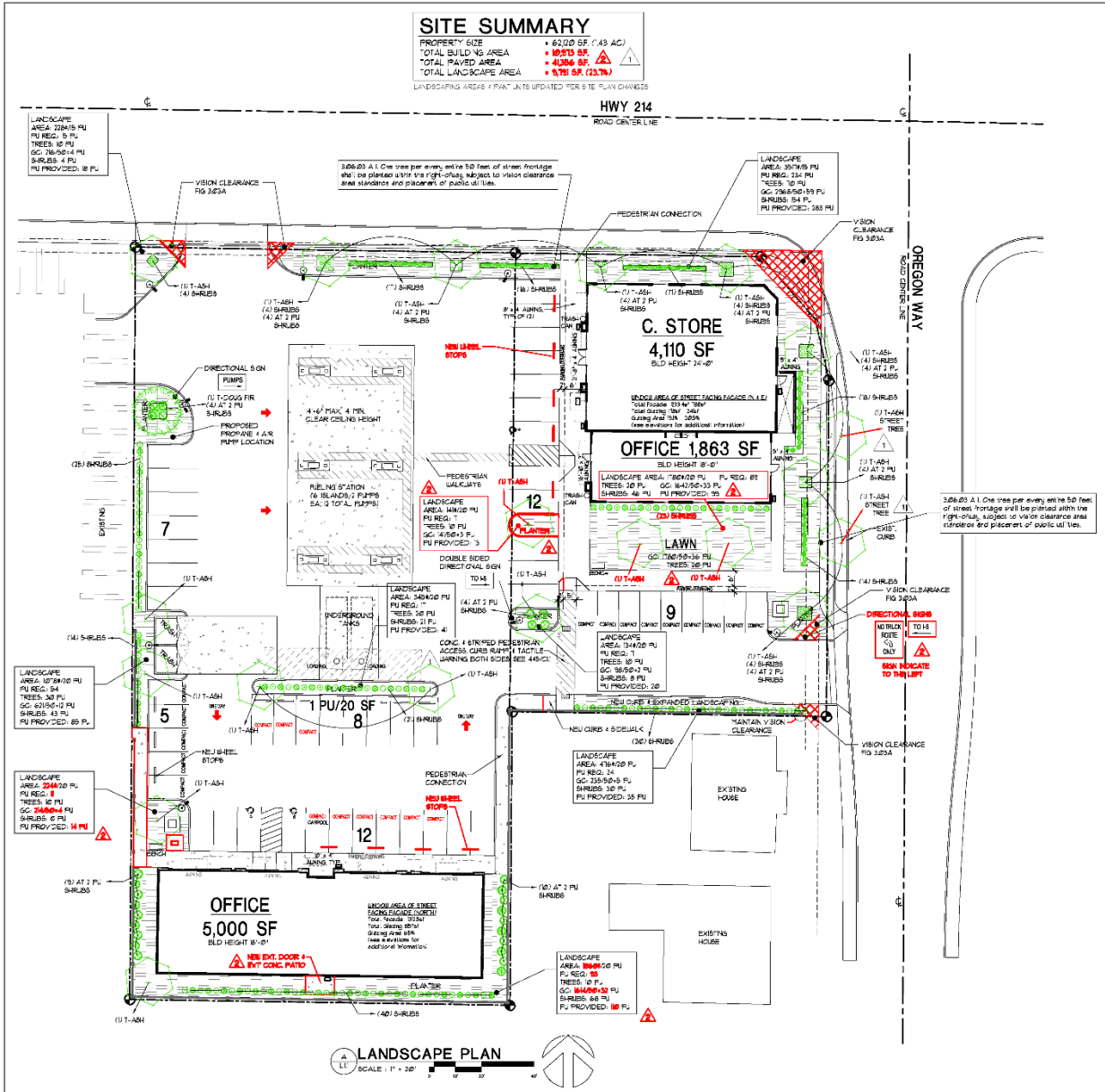


Exhibit PP1: Option 1 Site Plan Excerpt Prior to Revision per Conditions of Approval

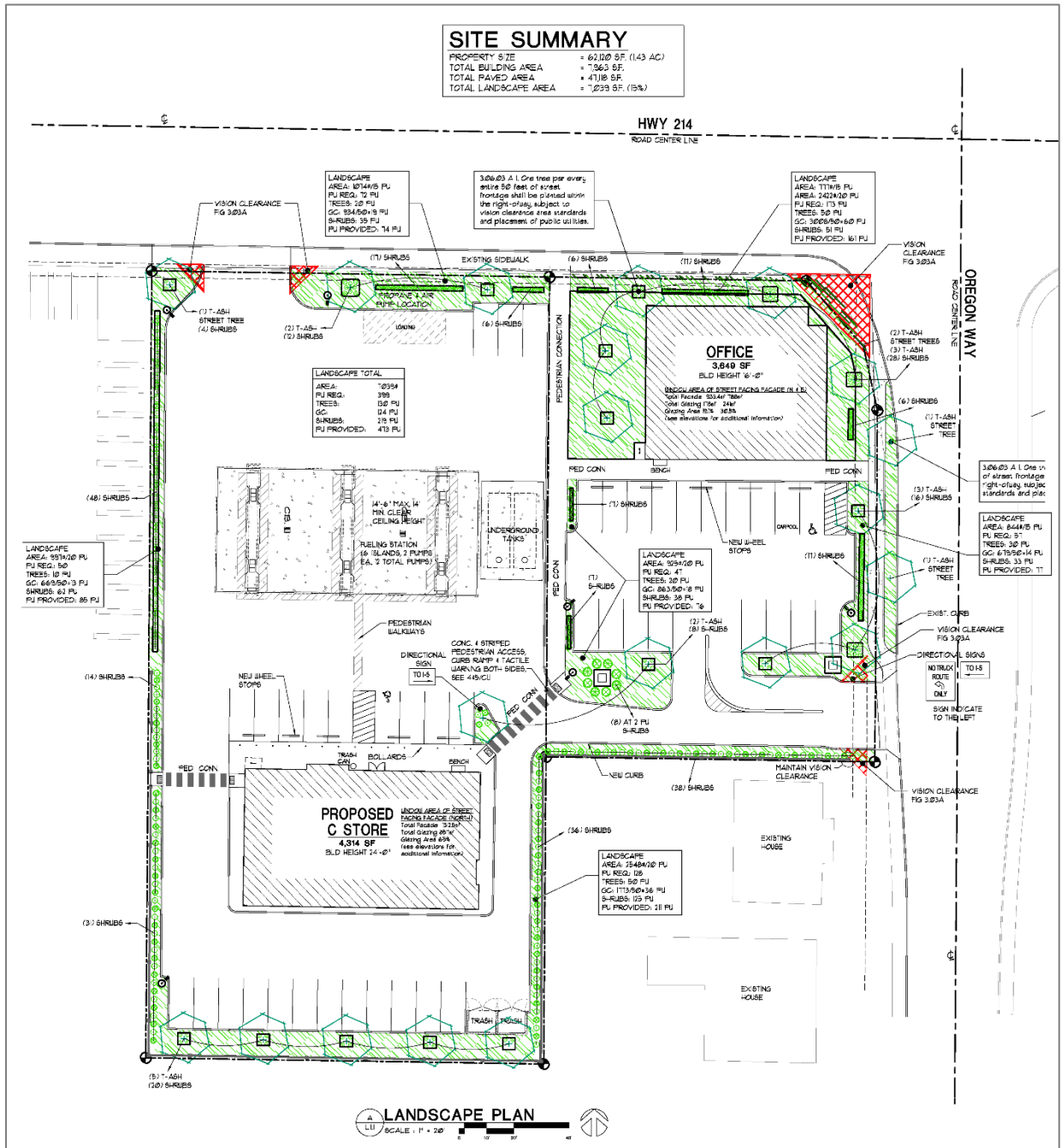


Exhibit PP2: Option 2 Site Plan Excerpt Prior to Revision per Conditions of Approval

Recommendation

Approval with conditions: Staff recommends that the Planning Commission consider the staff report and its attachments and approve the consolidated applications package with the conditions recommended by staff below.

Conditions of Approval

The conditions are copied from towards the end of the analyses and findings (Attachment 102):

General

G1. By and 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 by the Building Division.

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

G3. References: Attachment 201 serves as a dictionary or glossary defining certain abbreviations, acronyms, phrases, terms, and words in the context of the conditions of approval. The 200 series of attachments are as binding as the conditions of approval in the main body of the final decision.

G4. Due dates / public improvements:

- a. When public street improvements, and any fees in lieu of public improvements, are due shall be per WDO 3.01.02 and 4.02.12 through Ordinance No. 2602 (LA 21-01) unless if and where a condition of approval has more restrictive timing.
- b. Where phasing is relevant, building permit issuance means issuance for the phase in which the conditioned improvement is located.
- c. Where changes to street addresses are necessary, the developer shall apply through the Planning Division for and obtain approval of an Address Assignment Request. This is due prior to building permit application, and if property line adjustment or lot consolidation were to become relevant, then also after recordation with County.

G5. Recordation due dates: The applicant shall apply to the County for recordations of items that the City requires no later than six (6) months prior to expiration of the land use approval as WDO 4.02.04B establishes, and shall complete recordations no later than three years past the

land use “final decision” date. The due date to complete recordations shall not supersede when recordations are due relative to the building permit stage.

G6. Fees: The developer shall pay fees per Attachment 203.



Phasing Plan 21-01

PP. Phasing Plan:

1. Options 1 & 2: The developer may develop a site plan revised to conform to conditions of approval and based on either:
 - a. Option 1: The site plan concept last revised and re-submitted for land use review on February 9, 2022 and premised on there being no ODOT factor (see the ODOT factor condition); or
 - b. Option 2: The different site plan revised and submitted May 2, 2022 premised on the developer's understanding of the ODOT factor.
This due by building permit application.
2. Basic Descriptions:
 - a. Option 1: See Exhibit PP1 below for plan details.
 - (1) On Tax Lot 3600 (east, corner lot), a single northeast building of with convenience store of 4,110 sq ft and a commercial office of 1,863 sq ft.
 - (2) On Tax Lot 3700 (west, interior lot), a north fuel pump canopy and a south commercial office building of 5,000 sq ft.
 - b. Option 2: See Exhibit PP2 below for plan details.
 - (1) On Tax Lot 3600 (east, corner lot), a single northeast commercial office building of 3,649 sq ft.
 - (2) On Tax Lot 3700 (west, interior lot), a north fuel pump canopy and a south convenience store of 4,314 sq ft.
3. Phasing: The developer may phase an option:
 - a. Option 1: To develop the south office building and necessary corollary improvements later than the gas station complex of convenience store, attached commercial office, and fuel pump canopy and necessary corollary improvements.
 - b. Option 2: To develop at different times (1) the gas station complex of convenience store and fuel pump canopy and necessary corollary improvements, and (2) the northeast office building and necessary corollary improvements.
4. All conditions apply to any option, any phasing, unless worded or under a header such that a condition applies more specifically. Where something is due by building permit application or issuance, it means the first of any phase, any building, unless a condition is more specific.
5. By and as part of building permit application, the applicant shall submit revised site plans meeting the conditions of approval.

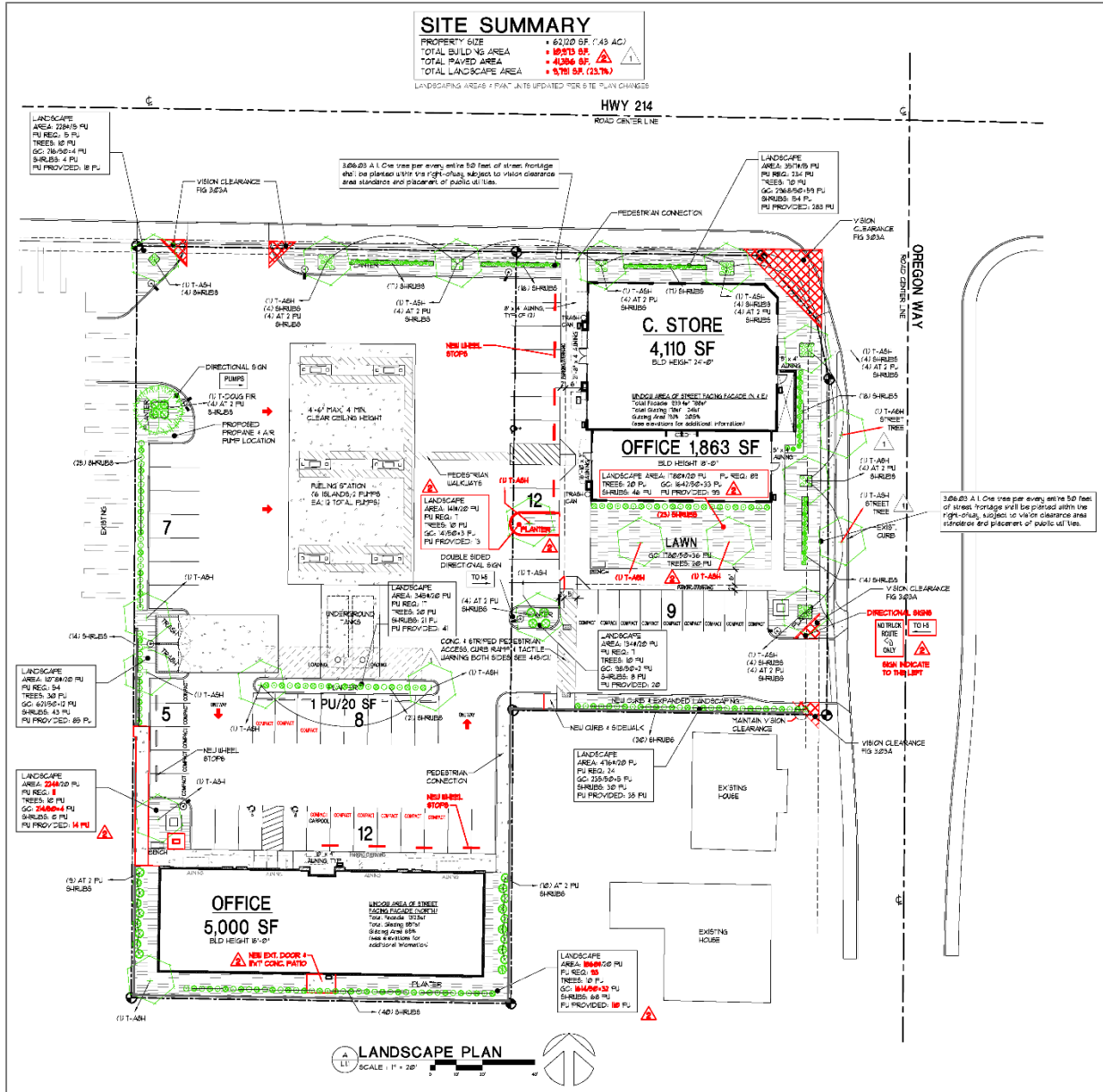


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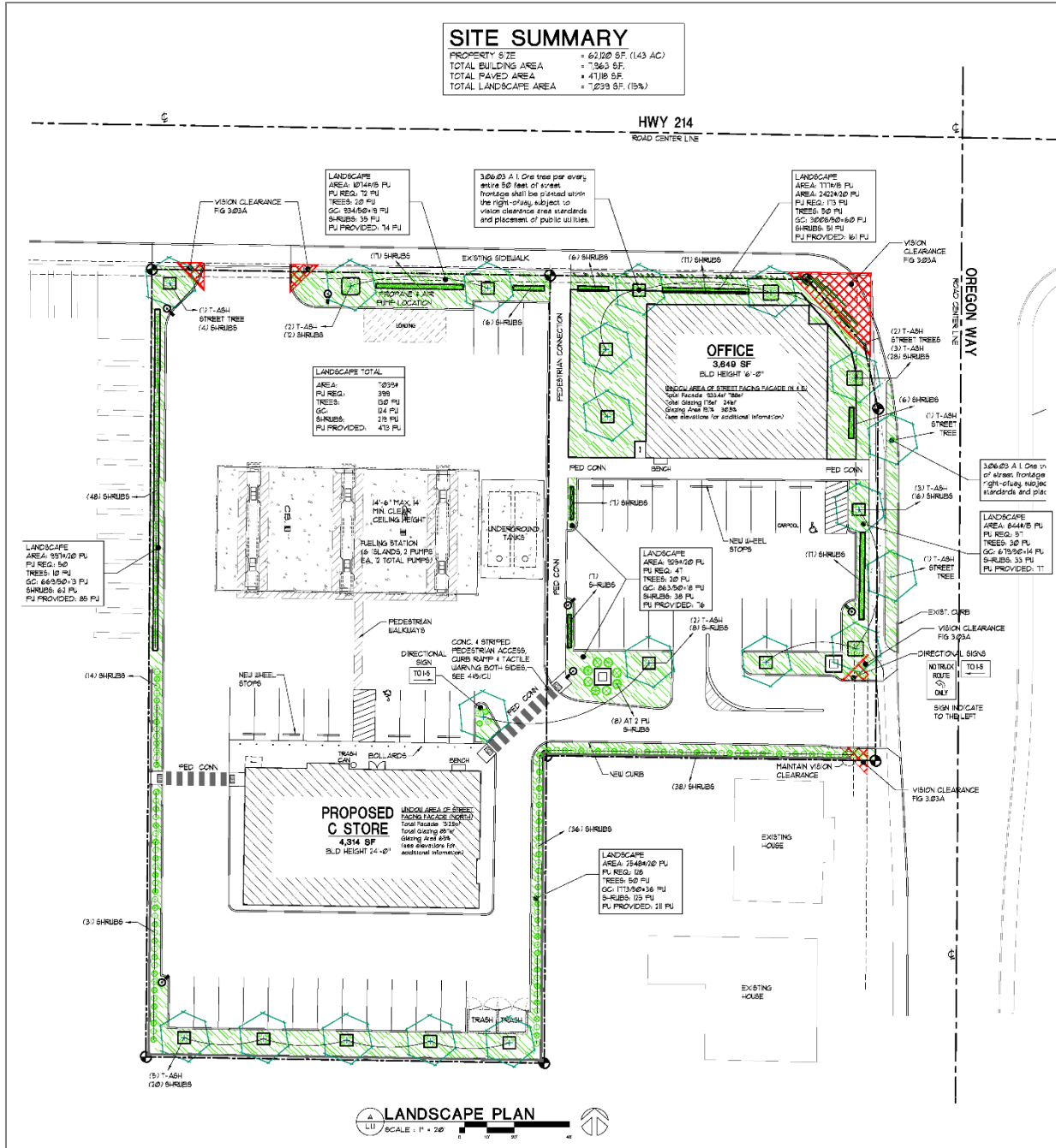


Exhibit PP2: Option 2 Site Plan Excerpt Prior to Revision per Conditions of Approval



Design Review 21-10

D1. PUEs: If minimum width streetside PUEs do not yet exist as 10 ft along the highway per WDO Figure 3.01B or 5 ft along Oregon way per 3.02.01B, the developer shall grant such. Max widths shall be per Conditions EX1 & EX2. This is due by building permit application.

D2. Parking / vehicular circulation setback: Option 2: To conform to WDO 3.05.02E, the developer shall do one of the following: (a) revise the site plan to set back parking and vehicular circulation area min 5 ft from the northerly east lot line of 2600 Newberg Hwy (Tax Lot 3700) and to landscape the setback per 3.06 and plant min 4 trees within it; (b) have a shared use agreement per 3.05.02E; or (c) doing (a) in part and in combination with (b). This is due by building permit issuance.

D3. Parking / vehicular circulation directional markings/signage: To conform to WDO 3.05.02J, during building permit review the Director may administratively establish details, specifications, and revisions to administer the WDO section. Further site plan revisions necessary to conform, if any, shall be due by building permit issuance.



Conditional Use 21-02

CU1. Architecture:

a. Canopies / fixed awnings:

1. General: Min height clearance 9 ft.
2. Fuel pump canopy: Max ceiling height 14.5 ft to either (a) ceiling or (b) ceiling-mounted lighting fixtures, whichever is lower.
3. Option 1:
 - (a) Convenience store / NE office building: Each west entrance shall have a fixed awning, canopy, building wall projection, or secondary roof that shelters from the weather, min area 48 sq ft, min depth 4 ft. Each east mandoor shall have the same, except min area 18 sq ft, min depth 3 ft.
 - (b) South commercial office: Each north entrance shall have a fixed awning, canopy, building wall projection, or secondary roof that shelters from the weather, min area 48 sq ft, min depth 4 ft. It may be smaller if combined with a building recess and together they meet the min area. The south patio door elsewhere conditioned shall have the same, except min area 18 sq ft, min depth 3 ft.
4. Option 2:
 - (c) Convenience store: North entrance shall have a fixed awning or a canopy that shelters from the weather, min area 48 sq ft, min depth 4 ft. Each side or rear mandoor shall have the same, except min area 12 sq ft, min depth 2 ft.
 - (d) NE commercial office: The main entrance shall have any of the following that shelters from the weather: (1) a fixed awning or a canopy, (2) a building recess, or (3) combination. Min area 64 sq ft, narrowest dimension 6 ft. Min one of the other entrances shall have the same, except min area 24 sq ft, narrowest dimension 4 ft. Every south and west façade storefront window shall have any of a fixed awning, canopy, building wall projection, secondary roof, or sun louver min width same as the window and min depth 2 ft. Building color shall be other than black or charcoal.

b. Cladding/materials:

- (1) Option 1: Convenience store / NE commercial office: Base cladding min height 2 ft of brick, CMU finished to resemble cut stone, or adhered stone. The proposed east CMU mandoor screen wall, if not precluded by streetside PUE, shall be max height 4 ft, 2 inches, have the bottom 2 courses be split face and the upper 4 courses ground face and be capped with smooth concrete. The NE corner angled wall shall have a window min area 15 sq ft, min 2.5 ft wide, and wholly within 8.5 ft of grade.
- (2) Option 2: NE commercial office: Base cladding min height 2 ft of brick, CMU finished to resemble cut stone, or adhered stone.

- c. Entrance: Option 2: NE commercial office: The main entrance door or doors of the office building shall be at any of the NE corner, within the east façade, or at the SE corner of the building. A corner entrance may be angled or both at one side of a corner and within 12 ft of the corner where main wall planes intersect or would intersect.
- d. Scuppers: Any building rainwater scuppers shall not to dump onto the pavement of a wide walkway.
- e. Setbacks:
 - (1) General: Site NE corner min setback shall equal streetside PUE.
 - (2) Option 1:
 - (a) Convenience store / NE commercial office: max 15 ft from highway and max 20 ft from Oregon Way ROW (measured from straight line ROW, not variable ROW at intersection).
 - (b) South commercial office: min 5 ft from Tax Lot 3700 east, south, and west lot lines.
 - (3) Option 2: NE commercial office: max 15 ft from each of highway and Oregon Way ROW (measured from straight line ROW, not variable ROW at intersection). NE corner min setback shall equal streetside PUE. West and south setbacks each shall be min 10 ft.
- f. Windows:
 - (1) General: All windows shall be square, round, or vertically proportioned. Operable windows shall have insect screens.
 - (2) Min area:
 - (a) Option 1:
 - (1) Convenience store: West façade 30%; north 30%; east 36 sq ft.
 - (2) NE commercial office: West and south façades 30%; east 144 sq ft.
 - (3) South commercial office: North façade 30%; east 15%; south 20%; and west 20%.
 - (b) Option 2:
 - (i) Convenience store: North façade 30%. Each of east, south, and west facades min 1 window min 7.5 sq ft, min 1.5 ft wide, and wholly within 8.5 ft of grade.
 - (ii) NE commercial office: North façade 30%; east 40%; south 30%; and west 20%.

CU2: Architectural Wall (AW) / Fences / Fencing:

- a. Exemption: Where chain-link fence with slats already exists along the north and west lot lines of Tax Lot 3500 (953 Oregon Way), the developer may exempt these two lines from AW if the homeowner in writing consents to exemption and the developer submits documentation by and as part of building permit application.

- b. Min height shall be along the:
 - (1) North and west lot lines of Tax Lot 3500 6 ft, 2 inches (if CMU, equal to 9 courses of blocks plus 2-inch smooth concrete cap).
 - (2) North and east lot lines of Tax Lot 90000 (950 Evergreen Road) 8 ft, 2 inches (if CMU, equal to 12 courses of blocks plus 2-inch smooth concrete cap).
 - (3) Where fencing may substitute per other conditions, for part 1. above it shall be 6 ft, and for part 2. above, 8 ft.
- c. Height at AW ends: Min height shall drop where subject to stair-stepped height limits in yards abutting streets per WDO 2.06.02, within VCA or sight triangles per 3.03.06, and AW shall remain outside streetside PUEs. AW may cross an off-street PUE, if any exist, with written authorization by the Public Works Director, and the Public Works Director may instead direct that instead of a segment of wall that there be coated chain-link fencing with slats across an off-street PUE. For crossing of private easements, the developer similarly may instead fence.
- d. Gaps or rectangular openings:
 - (1) There shall be one along the east lot line of Tax Lot 90000, min 4 ft wide and 6 ft, 8 inches high above grade, and with the south end of the gap aligned with the Tax Lot 90000 north east-west drive aisle, south curb, north face.



Exhibit CU2d(1)



Exhibit CU2d(2)

- (2) If AW exemption per part a. above is not applicable, then there may be a gap along the west lot line of Tax Lot 3500, aligned with where there exist west backyard chain-link gates, minimum width equal to the width of the gates.
- e. Color: Masonry and any paint shall be a color or colors other than black, charcoal, or gray. For any other fence / fencing or free-standing wall, including gates if any, the coating and slats that WDO 2.06.02D requires and any wall shall be a color or colors other than black or charcoal. On free-standing walls with two or more colors, darker colors shall be towards the bottom and lighter ones towards the top.
- f. Material: AW segments at 40 ft north or farther from the south lot line of Tax Lot 3700 may be partly made of opaque cedar wood fencing if the wall remains mostly masonry. Specifically, masonry must constitute the bottom extent of wall segment from grade up to min 2 ft, 8 inches above grade, and there shall be piers or pilasters per “Details” below. Exhibit CU2f below illustrates a similar, conforming example:

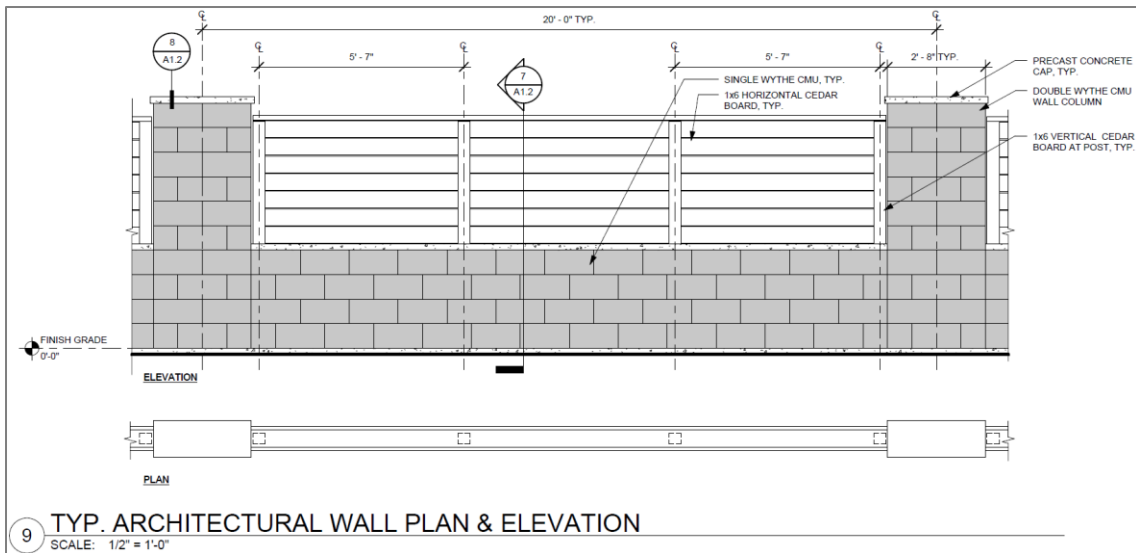


Exhibit CU2f (DR 2017-08)

- g. Details: Each AW segment end shall have a pier or pilaster min 16 inches wide relative to wall face and projecting min 4 inches. Each segment shall have a min number of piers or pilasters equal to a ratio of 1 per 40 ft of wall. Each pier or pilaster shall be capped with ornamental concrete in the form of any of a shallow-sloped pyramid or sphere or other finial atop such pyramid. If the AW is CMU, the 8th and 9th CMU courses above grade shall be ground face (5 ft, 4 inches through 6 ft above grade).

CU3. Bicycle parking: Amount and general location: The developer shall provide bicycle parking as follows:

- a. Option 1 min stalls:
- (1) Convenience store: 2
 - (2) NE commercial office: 2
 - (3) South commercial office: 4

- b. Option 2 min stalls:
 - (1) Convenience store: 2
 - (2) NE commercial office: 4
- c. General: Standards other than amount and general location shall conform to WDO 3.05.06 through Ordinance No. 2602 (LA 21-01).

CU4. Electric power lines: The development shall conform to WDO 3.02.04 through Ordinance No. 2602 (LA 21-01).

CU5. Landscaping:

- a. Bench: In the landscaped open space at or near the NE commercial office space, along a wide walkway or in a plaza, install either a 6-ft wide bench with back or a picnic bench. Set back from walkway and pave the setback, min either 2 ft for a bench or 3 ft for a picnic bench.
- b. Buffering/Screening: Evergreen hedge or shrubbery shall:
 - (1) Line AW segments.
 - (2) Screen transformers and other at-grade electrical and mechanical equipment along their sides, excepting the side intended for technician access.
 - (3) Serve as means of conformance with WDO 3.06.05B (parking screening).
- c. Coniferous/evergreen trees: 1 min of trees new to the site. The 1 shall be 1 min of the following coniferous or evergreen species:

Cedar, Western Red	Madrone, Pacific
Douglas-Fir	Oak, Oregon White
Fir, Grand	Pine, Ponderosa; and
Hemlock, Western	Yew, Pacific

- d. Front yard
 - (1) Trees:
 - (a) Plant min 7 trees in the yard along the highway and min 10 ft and max 20 ft from ROW.
 - (b) Plant min 4 trees in the yard along Oregon Way, min 5 ft and max 20 ft from ROW, in a loose row with min 3 of them spaced offset from and complementing street trees.
 - (2) Hedge/shrubbery: In all areas not occupied by buildings and pavement, landscape per WDO 3.06.
 - (a) On Tax Lot 3700 in the yard along the highway, plant a hedge or row of continuous small or medium shrubbery extending between the driveway and east lot line. Plant and maintain min 5 ft from sidewalk and max 12 ft from ROW.
 - (b) Option 1: On Tax Lot 3600 in the yard along the Oregon Way, line the convenience store rear east free-standing wall with a hedge or row of continuous small or medium shrubbery.

- (c) Option 2: On Tax Lot 3600 in the yard along the Oregon Way, plant a hedge or row of continuous small or medium shrubbery extending along the east dead-end of the drive aisle. Plant and maintain min 1 ft from sidewalk.
- e. Site interior:
 - (1) AW: Line each Architectural Wall segment with a hedge or row of continuous medium or large shrubbery.
 - (2) Bark dust: Of landscaped area, max 3% may be bark dust, mulch, wood chip, pebbles, or sand. Walkway and plaza paving do not count against landscaping minimums.
 - (3) Lawn large tree: Within open space within 30 ft of the NE commercial office, plant min 2 trees, either both large or min 1 medium and 1 large.
 - (4) Plaza: At or within 30 ft of the NE commercial office space and adjacent to a wide walkway shall be a plaza min 81 sq ft, exc. walkway area, at 9 ft narrowest dimension, paved with bricks, concrete pavers, field or flagstone, or poured cement.
 - (5) South yard: Within 100 ft of the Tax Lot 3700 south lot line, plant either for Option 1 min 2 trees or for Option 2 min 5 trees. Of these for Option 2, min 2 large with the westernmost tree being one of the large ones.
- f. Parking area:
 - (1) Option 1:
 - (a) Convenience store: A landscape island shall be roughly in the middle the parking aisle fronting the convenience store that conform to WDO 3.06.03C through Ordinance No. 2602 (LA 21-01).
 - (b) NE office: Plant a large tree in the southwesterly area of the south yard lawn.
 - (c) South office: For common use by tenants, have a south rear door and a patio of brick, pavers, or poured concrete min 7 ft north-south by 11 ft east-west. Align patio flush with door outer swing. Plant a small tree near patio west side.
 - (2) Option 2:
 - (a) Convenience store: A landscape island shall cap each end of the parking aisle fronting the convenience store per WDO 3.06.03C through Ordinance No. 2602 (LA 21-01), and the east island may be on the west side of the wide walkway that another condition requires.
 - (b) NE office: The office parking area drive aisle east end shall have the inside of curb min 3 ft from edge of streetside PUE, and the 3-ft width shall have a tree.

CU6. Lighting:

- a. General: Shall conform to WDO 3.11 through Ordinance No. 2602 (LA 21-01).
- b. Buffer: Parking area or other pole-mounted fixtures are prohibited between the north lot line of 953 Oregon Way (Tax Lot 3500) and the east-west drive aisle.
- c. Fuel pump canopy: Max 16 ceiling fixtures. Any ceiling fixture shall be no closer to ceiling outer edge than 4 ft. Neon lighting, or a lighting technology that mimics the appearance of neon lighting, is prohibited on the fuel pump canopy and on the

southernmost primary building on Tax Lot 3700. The developer shall make so either of the following: (1) ceiling light fixtures shall not drop below the ceiling plane, or (2) for ceiling-mounted fixtures, the canopy roof edge perimeter shall as a shield drop or extend down to the same plane as the underside of the lowest fixture. In either case, fixtures that drop or extend down from the ceiling shall each have opaque housing on all sides.

d. Option 1: Max of:

- (1) Convenience store: 1 wall fixture on the east rear and none on the north side.
- (2) NE commercial office: 1 wall fixture each on the west front and east rear.
- (3) South commercial office: 1 wall fixture at the south rear and none at the east and west sides.

e. Option 2: Max of:

- (1) Convenience store: 2 wall fixtures on the south rear, 1 each on the east and west sides. Parking area or other pole fixtures prohibited in the east side, south rear, and west side yards.
- (2) NE commercial office: 1 wall fixture on the south, 1 each on the east and west sides, and the south yard limited to 2 parking area poles. No other pole types in the north, east, or west yards.

CU7: Parking:

1. Standard stall length: The developer may set standard size 90° angle stall length at 18 ft instead of 19 per WDO Table 3.05B through Ordinance No. 2602 (LA 21-01).
2. EV: Electric vehicle (EV) parking shall be min 1 stall with a charging station and placed near commercial office area. Remaining EV parking standards shall be per WDO 3.05 through Ordinance No. 2602 (LA 21-01).
3. Wheelstops / wheel stops: Every angled or 90° parking stall along a wide walkway shall have a wheel stop max 4 inches high. A wheel stop shall not straddle adjacent stalls. If and where the developer opts to install wheel stops where not required, they also shall conform to the height limit.

CU8. Walkways:

- a. General: Shall conform with WDO 3.04.06 through Ordinance No. 2602 (LA 21-01).
- b. Gap: A walkway, min 3.5 ft wide as an exception to part a., shall connect a building perimeter walkway system west to the AW conditioned gap or opening along the west lot line of Tax Lot 3700.
- c. Convenience store & fuel pump canopy: The three pump islands together shall have one or more walkway crossings to the convenience store main entrance walkway, and as an exception to part (a) above, each min 3 ft wide. For Option 1, minimum 1 crossing; for Option 2, min 2. A walkway crossing may incorporate an ADA parking space accessible aisle. Walkways should be straight, and where needing to jog, should

jog at 45° max and at the point where vehicles pass in opposite directions or between vehicle lanes.

- d. Option 2: At the NE of the convenience store, the wide walkway crossing of drive aisle shall be at or near a right angle to drive aisle.

CU9. Access management: These are due by building permit application:

- a. General: Access management shall conform with WDO 3.02.01E, 3.04.01A.2, and 3.04.03C & D through Ordinance No. 2602 (LA 21-01). Regarding recordation of one or more types of legal instruments and how, the developer shall conform to the conditions in ways that satisfy the County.
- b. Bicycle/pedestrian: The developer shall grant the public access to walk, cycle, and roll along each wide walkway across Tax Lot 3600 to the benefit of 3700, relating to Oregon Way sidewalk access, and across Tax Lot 3700 to the benefit of 3600, relating to highway sidewalk access.
- c. Shared parking: If and where one or both of the subject lots lack minimum off-street parking ratio for all land uses on the lot, the developer shall revise site plans to conform to WDO 3.05.02 & Table 3.05A or shall create a shared parking agreement per WDO 3.05.05. This is due by building permit issuance.
- d. Cross access:
 - (1) Local: To conform to WDO 3.04.03A.3, B.1, B.3 & C.2 and, through Ordinance No. 2602 (LA 21-01), WDO 3.04.03B.3, C.1, C.3, C.4, & D.2, for what is termed any of cross access, ingress/egress, public access, or shared access, the developer shall grant the public access (a) across Tax Lot 3600 to the benefit of 3700, (b) across Tax Lot 3700 to the benefit of 3600, and (c) across Tax Lot 3700 to the benefit of 3800. The cross access shall follow a drive aisle or aisles and align at the common lot line. Regarding (c), the north east-west drive aisle shall stub to somewhere along the northerly 75 ft of the west lot line and at min 20 ft wide, and though the stub shall not be curbed it may be fenced.
 - (2) ODOT factor:
 - (a) The developer shall apply to and obtain from ODOT the proper access rights for both tax lots prior to any construction, so as to not violate the deeds.
 - (b) For context, see Attachment 102B. The ODOT Region 2 contact is Casey Knecht, P.E., Development Review Coordinator, (503) 986-5170, casey.knecht@odot.state.or.us. The City interprets “prior to any construction” to mean by issuance of the first structural building permit. Otherwise, City staff are inclined to defer to ODOT interpretation of part (a) above, including whether it is applicable to either Option 1 only or both site plan options.
 - (c) If after City land use decision ODOT objects specifically to how the City administers or the developer conforms to other parts of the condition or to other conditions concerning vehicular access, then the developer may request

and the Director may administratively approve in writing changes to administration or conformance to accommodate the ODOT factor while still having the development meet the WDO and conditions of approval to the maximum 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.

- (d) If after City land use decision ODOT directs access management in conflict with other parts of the condition or to other conditions concerning vehicular access, then the developer shall forward the written direction from ODOT to the attention of the Director; describe the conflict(s); describe the minimum deviation from conformance necessary to comply with ODOT direction while also conforming to the remainder of the condition to the maximum, including plan view illustrations where helpful; and request Director approval through a dated document that cites the land use case file and condition numbers. The Director may approve what the developer first requests or a modified request. The City intends that if the developer were to make use of this part (d) of the condition, he would do so once.

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: Max 1 driveway. The driveway shall remain right-in, right-out and be max width equal to the existing 30 ft unless ODOT approves wider up to 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, whichever is longer, 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. (The 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 would 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. Further site plan revisions necessary to conform, if any, shall be due by building permit issuance.
- 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:
 - (i) Option 1: Of six queues, min 3 shall each fit stacking of min one car west of the fuel pump island.
 - (ii) 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, 2030, 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, whether or not 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, that is, a variance;
- 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.

Modification of a specific condition of approval remains pursuant to WDO 4.02.07. Were the City to have amended the WDO to establish modification provisions for conditional uses, the Director may decide that the provisions supersede this condition of approval.




Conditional Use 21-02: Transportation

T-A:

1. 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]
2. Consultant review: The developer shall pay a fee for the City to recoup the cost of its transportation consultant reviewing and advising upon the TIA.
3. I-5 interchange with OR 214: To reduce vehicle crashes, the developer shall pay a fee per Attachment 203.
4. OR 214 & Evergreen Rd: To mitigate effect on the intersection and reduce vehicle crashes, the developer shall pay a fee per Attachment 203.
5. OR 99E & OR 211/214: To mitigate effect on the intersection and reduce vehicle crashes, the developer shall pay a fee per Attachment 203.

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.



Street Exception 21-05

EX1. Frontage/street improvements: Highway: These shall be as follows:

- a. ROW: If and where there is a deficit, the developer shall dedicate ROW that meets or exceeds the min width necessary to conform to WDO Figure 3.01B “Major Arterial”.
- b. PUE: If minimum width streetside PUE does not yet exist per WDO Figure 3.01B, then the developer shall grant it. Max width shall be 10 ft, unless if and where existing utilities that the developer does not relocate necessitate wider as documented by franchise utilities and the developer.
- c. Improvements: No min surface improvements other than either elsewhere conditioned or necessary to comply with ODOT engineering guidance or conform to PW direction. The developer shall pay fees in lieu of highway improvements per Attachment 203.

EX2. Frontage/street improvements: Oregon Way: These shall be as follows:

- a. ROW: The developer shall dedicate ROW that meets or exceeds the min width necessary to conform to WDO Figure 3.01E “Access Street” and exceeds that width where necessary to accommodate both the existing northbound left turn lane and required half-street improvements.
- b. PUE: If minimum width streetside PUE does not yet exist per WDO 3.02.01B, then the developer shall grant it. Max width shall be per WDO 3.02.01F.2 through Ordinance No. 2602 (LA 21-01).
- c. Improvements:
 - (1) Parking: No 8-ft wide on-street parallel parking lane is required, this being an exception from what Figure 3.01E would have required. The developer shall pay a fee in-lieu per Attachment 203.
 - (2) Landscape strip: Min 6½ ft wide inc. curb width and with min 3 street trees with allowance of fee in lieu of 1 tree max. Planting of area remaining after tree planting and irrigation shall be per WDO 3.01.04B through Ordinance No. 2602 (LA 21-01).
 - (3) Sidewalk: Min 8 ft wide.

Overlap: Wider sidewalk shall not narrow the landscape strip. The extra width of planter strip and sidewalk shall either (a) be within additional ROW that accommodates them, or (b) overlap outside ROW into streetside PUE, there being a recorded legal instrument granting public access to the overlap. If (b), then the developer shall submit a draft of the legal instrument for Planning and PW review by either civil engineering plan (CEP) review application to PW or building permit application, whichever is earlier. The developer shall submit copies of correctly recorded documents to the Planning Division by building permit issuance.

Actions

The Planning Commission may instead act on the land use application to:

1. Approve with modified conditions, or
2. Deny, based on WDO criteria or other City provisions.

If the Planning Commission were to act upon the recommendation, staff would prepare a “final decision” document for signature by the Commission chair in the days following the hearing.

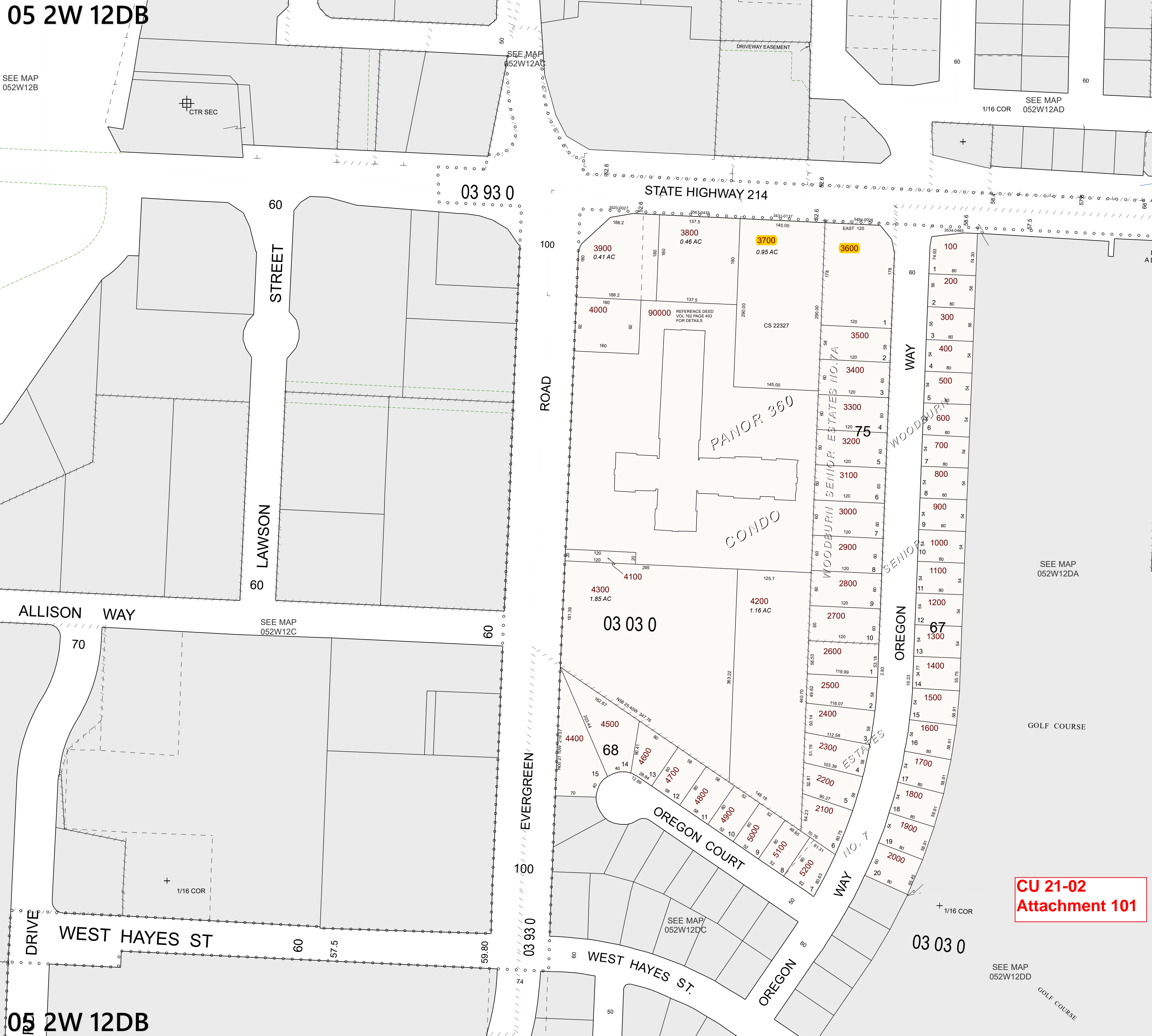
Attachment List

101. Marked Tax Map
102. Analyses & Findings
- 102A. Public Works comments (May 5, 2022; 2 pages)
- 102B. Agency commentary ODOT e-mail with two exhibits (May 4, 2021; 15 pages)
- 103A. Application materials / site plans Option 1 (Feb. 9, 2022; 3 sheets)
- 103B. Application materials / site plans Option 2 (May 2, 2020; 5 sheets)
104. Transportation System Plan (TSP) Fig. 2 “Functional Roadway Classification”
- 201.* CU 21-02 US Market Gas Station: Dictionary & Glossary
202. CU 21-02 US Market Gas Station: Civil Engineering Plan (CEP) Review Provisions
203. CU 21-02 US Market Gas Station: Conditioned Fees

*The 200 series of attachments are details for the Attachment 102 conditions of approval.

05 2W 12DB

SEE MAP 052W12B



05 2W 12DB
WOODBURN



MARION COUNTY, OREGON
NW1/4 SE1/4 SEC12 T5S R2W W.M.
SCALE 1" = 100'

LEGEND

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

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

NUMBERS

Tax Code Number
00 00 0

Acreage
0.25 AC

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

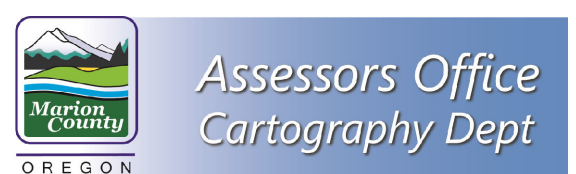
NOTES

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

CANCELLED NUMBERS

3900A1			
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DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



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

PLOT DATE: 10/16/2020

WOODBURN
05 2W 12DB

**CU 21-02
Attachment 101**

SEE MAP 052W12DD

GOLF COURSE

CU 21-02: Analyses & Findings

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

<i>Symbol</i>	<i>Category</i>	<i>Indication</i>
✓	Requirement (or guideline) met	No action needed
✗	Requirement (or guideline) not met	Correction needed
⊖	Requirement (or guideline) not applicable	No action needed
▲	<ul style="list-style-type: none"> Requirement (or guideline) met, but might become unmet because of condition applied to meet separate and related requirement that is not met Plan sheets and/or narrative inconsistent Other special circumstance benefitting from attention 	Revision needed for clear and consistent records
■	Deviation: Planned Unit Development, Zoning Adjustment, and/or Variance	Request to modify, adjust, or vary from a requirement

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

Table of Contents

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Project Name & Case File Numbers

The applicant submitted the project name US Market. The land use application master/parent case file number is Conditional Use CU 21-02, and the children/corollary case file numbers are Design Review 21-10, Exception to Street Right of Way and Improvement Requirements (“Street Exception”) EXCP 21-05, & Phasing Plan PP 21-01.

The subject property is composed of two lots, and the developer of the proposed strip commercial development proposes no Property Line Adjustment (PLA) or lot consolidation.

Options 1 & 2: The developer may develop a site plan revised to conform to conditions of approval and based on either:

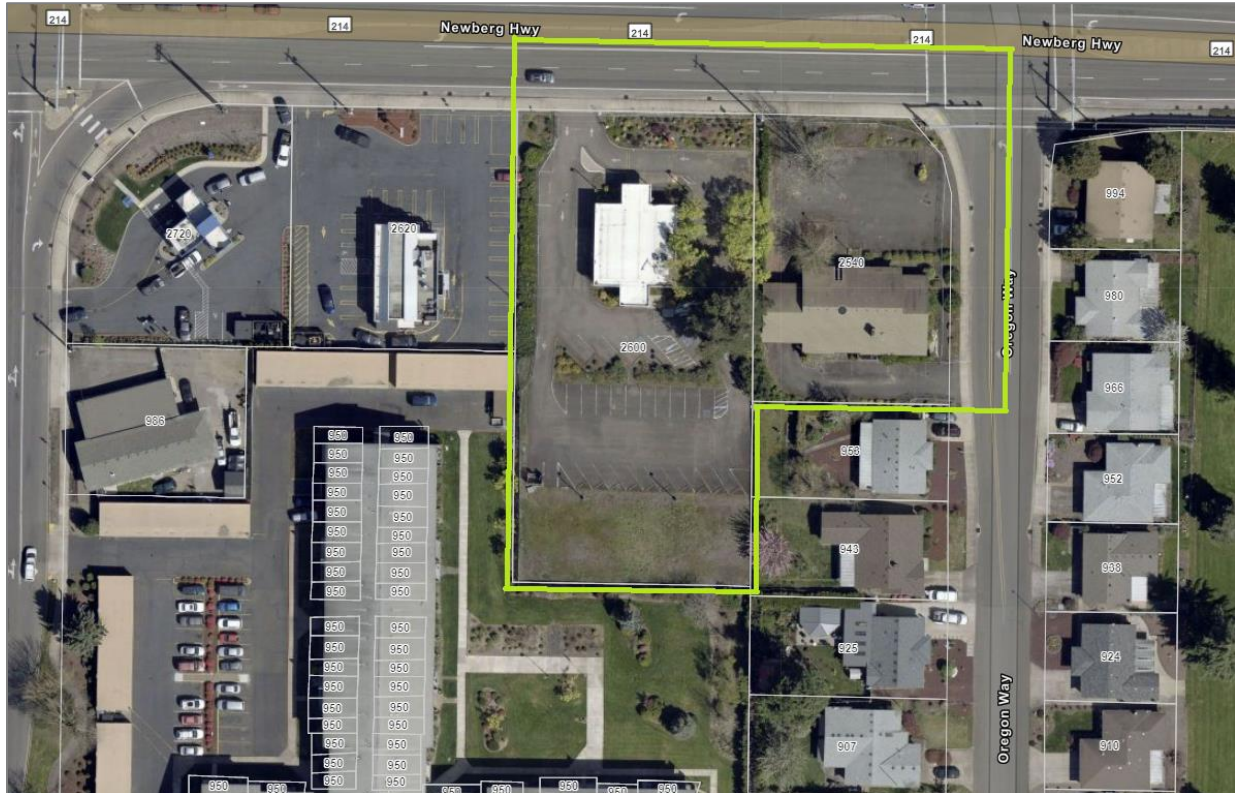
1. Option 1: The site plan concept last revised and re-submitted for land use review on February 9, 2022 and premised on there being no ODOT factor (see an “ODOT factor” condition of approval); or
2. Option 2: The different site plan revised and submitted May 2, 2022 premised on the developer’s understanding of the ODOT factor.

Basic Descriptions:

3. Option 1: See a condition exhibit for plan details.
 - o On Tax Lot 3600 (east, corner lot), a single northeast building of with convenience store of 4,110 square feet (sq ft) and a commercial office of 1,863 sq ft.
 - o On Tax Lot 3700 (west, interior lot), a north fuel pump canopy and a south commercial office building of 5,000 sq ft.
4. Option 2: See a condition exhibit for plan details.
 - o On Tax Lot 3600 (east, corner lot), a single northeast commercial office building of 3,649 sq ft.
 - o On Tax Lot 3700 (west, interior lot), a north fuel pump canopy and a south convenience store of 4,314 sq ft.

Location

Address(es)	2540 & 2600 Newberg Hwy (SW corner of Oregon Hwy 214 / Newberg Hwy & Oregon Way)
Tax Lot(s)	052W12DB03700 (primary) & 3600; respectively 0.95 & 0.47 acres, totaling 1.42 acres
Nearest intersection	Oregon Hwy 214 / Newberg Hwy & Oregon Way



Subject property outlined in green

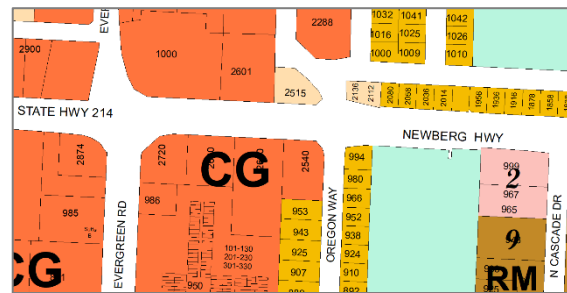
Land Use & Zoning

<i>Comprehensive Plan Land Use Designation</i>	Commercial
<i>Zoning District</i>	Commercial General (CG)
<i>Overlay District(s)</i>	none
<i>Existing Use(s)</i>	None following demolition of two vacant bank buildings

For context, the comprehensive plan land use map designations and zoning are illustrated below with excerpts from the City geographic information system (GIS) and the zoning is tabulated further below:



Comprehensive Plan land use map excerpt



Zoning map excerpt

<i>Cardinal Direction</i>	<i>Adjacent Zoning</i>
North	Across OR Hwy 214: Commercial General (CG)
East	Across Oregon Way: Retirement Community Single Family Residential (R1S)
South	East to west: R1S (943 & 953 Oregon Way; houses) and CG (950 Evergreen Rd; Panor 360 condominiums)
West	CG (950 Evergreen Rd; Panor 360 condominiums; and 2620 Newberg Hwy; Dairy Queen)

Statutory Dates

<i>Application Completeness</i>	March 8, 2022
<i>120-Day Final Decision Deadline</i>	July 6, 2022 per Oregon Revised Statutes (ORS) 227.178 . (The nearest and prior regularly scheduled City Council date would be June 27, 2022.)

Design Review Provisions

DR Provisions

Volume 1 Organization and Structure

1.04 Nonconforming Uses and Development

The developer already obtained demolition permits from the Building Division, and the site is cleared. Because the proposal is full redevelopment, nonconformance of private, on-site improvements is not an applicable concept and the development will conform to the WDO and conditions of approval. Regarding nonconforming public street improvements, staff further addresses this nonconformance under the Exception to Street Right of Way and Improvement Requirements (“Street Exception”) section of this document.

⊖ Not applicable.

Volume 2 Land Use Zoning and Specified Use Standards

2.03 Commercial Zones

2.05 Overlay Districts

2.06 Accessory Structures

2.07 Special Uses

2.08 Specific Conditional Uses

Uses Allowed in Commercial Zones Table 2.03A		
Use		Zone
Accessory Uses (A) Conditional Uses (CU) Permitted Uses (P) Special Permitted Uses (S) Specific Conditional Uses (SCU)		CG
B	Commercial Retail and Services	
2	Automotive maintenance and gasoline stations, including repair services	CU ³
6	Business services	P
16	Office and office services and supplies	P
19	Printing, publishing, copying, bonding, finance, insurance, medical, data processing, social assistance, legal services, management, and corporate offices	P
20	Professional services	P
3. Allowed outright if not within 200 feet of residentially zoned properties		

A proposed use is a gasoline station, hereafter referred to as gas station. Because it is within 200 ft of residentially zoned property – 943 & 953 Oregon Way to the southeast that is zoned R1S, for the subject property the use remains a conditional use.

The remaining commercial office use is permitted.

2.05 Overlay Districts

2.05.02 Interchange Management Area Overlay District

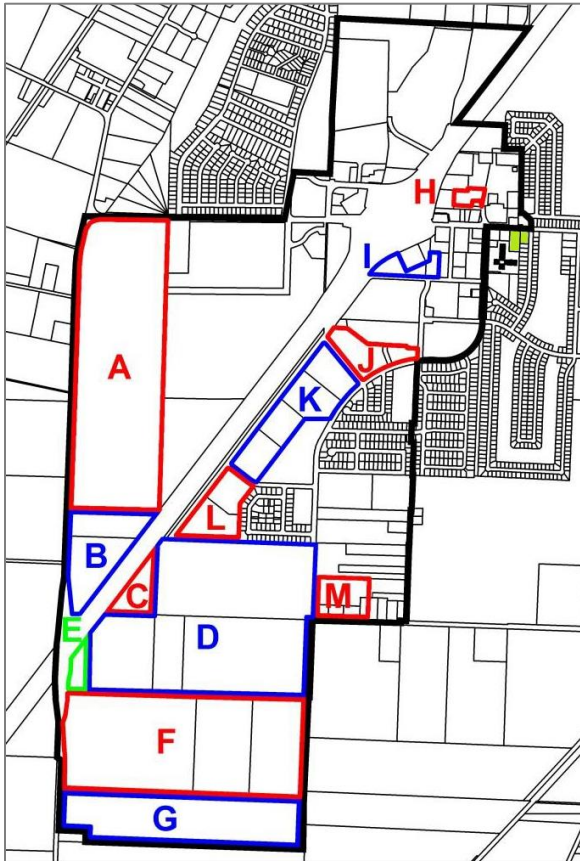


Figure 2.05B – Interchange Management Area Boundary and Subareas (with subject property at NE marked in green)

For those aware of the Interchange Management Area Overlay District (IMA), the above WDO figure marked to show the subject property confirms that the property lies just outside the IMA, that is, the property is *not* in the IMA. (Also, none of the other overlay districts are applicable.)

⊖ Not applicable.

2.06 Accessory Structures

2.06.02 Fences and Walls

Regarding the “Architectural Wall” as a buffer or screen wall per 3.06.05 to the standards of 3.06.06 and any fence or fencing the developer would build and install, a condition or conditions of approval would secure conformance, as well as a fence permit application type per 5.01.03 “Fence and Free Standing Wall”.

▲ In order to secure conformance to 2.06.02, staff applies a condition or conditions.

2.06.03 Structures

Within the proposal, which is phased development, neither the Option 1 nor Option 2 site plan include accessory structures such as sheds, making this WDO section not applicable.

⊖ Not applicable.

2.07 Special Uses

2.07.08 Facilities During Construction

This is not directly relevant to land use review. Contractor behavior is to conform during construction. No condition of approval is necessary to reiterate the requirement.

⊖ Not applicable.

2.08 Specific Conditional Uses

None relate to a gas station.

⊖ Not applicable.

Volume 3 Development Guideline and Standards

3.01 Streets

Regarding public street improvements, staff further addresses this under the Exception to Street Right of Way and Improvement Requirements (“Street Exception”) section of this document.

■ *EXCP*: Staff further addresses public street improvements under the Planned Unit Development Provisions section.

3.02 Utilities and Easements

3.02.01 Public Utility Easements

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

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

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

Regarding A, the Public Works Department handles this through its own conditions and processes. Additionally, one of the two frontages is a state highway, which involves the standards and permitting processes of the Oregon Department of Transportation (ODOT).

Regarding B, because the application materials fail to demonstrate conformance along Oregon Way, staff applies a condition or conditions. The highway is subject to a superseding standard requiring a 10-ft wide easement: Figure 3.01B “Major Arterial”. Staff further addresses this under the Exception to Street Right of Way and Improvement Requirements (“Street Exception”) section of this document.

Regarding C, the Public Works Department implements this through its own permit processes, standards, and specifications, and Planning Division also staff apply a condition or conditions for WDO conformance and to deal with existing context of public utilities. Additionally, one of the two frontages is a state highway, which involves ODOT standards and permitting processes.

3.02.02 Creeks and Watercourse Maintenance Easements

There are no creeks or watercourses.

– Not applicable.

3.02.03 Street Lighting

The Public Works Department handles this through its own permit processes, standards, and specifications. Additionally, one of the two frontages is a state highway, which involves the standards and permitting processes of the Oregon Department of Transportation (ODOT).

▲ In order to secure conformance to 3.02.03, the Public Works Department might apply public works standards and specifications.

3.02.04 Underground Utilities

Because the application materials fail to show that the development would conform along the highway where electric power poles and overhead electric power lines existing, staff applies a condition or conditions.

▲ In order to secure conformance to 3.02.04, staff applies a condition or conditions.

3.02.04 Underground Utilities

Because the application materials fail to show that the development would conform along the highway where electric power poles and overhead electric power lines existing, staff applies a condition or conditions.

3.03 Setbacks and Open Space

3.03.02 Special Setbacks

This is a street widening setback. Because the development proposes and/or is conditioned to conform regarding ROW widths, the Special Setback is not applicable.

⊖ Not applicable.

3.03.03 Projections into the Setback Abutting a Street

3.03.04 Projections into the Side Setback

3.03.05 Projections into the Rear Setback

Because the development is strip commercial with conventional setbacks that meet or exceed zoning minimums, there are no projections. Were that to change later, the developer would still have to demonstrate conformance and the development conform.

⊖ Not applicable.

3.03.06 Vision Clearance Area

The application materials indicate that the applicant is aware of and intending to conform regarding driveways and the building closest to the site NE corner, which is the SW corner of the highway and Oregon Way, because in site plan Option 1, the NE building is notched at the NE to keep out of the vision clearance area (VCA) or sight triangle, and in Option 2 the NE building is set back far enough to be outside the sight triangle. In both site plans, no buildings are near any driveway. (Were a site plan to fall out of conformance upon building permit application, staff would prompt the developer to correct during permit reviews.)

▲ In order to secure conformance to 3.03.06 during building permit were a site plan to fall out of conformance upon building permit application and to lessen potential resistance by the applicant, staff might apply a condition or conditions to reinforce the WDO VCA provisions.

3.04 Vehicular Access

3.04.01 Applicability and Permit

A. Street Access

Every lot shall have:

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

This standard plus the highway being a state highway affects access management. A main reason the developer proposes site plan Options 1 & 2 is because the Oregon Department of Transportation (ODOT) regulates highway access such that it affects access for both lots composing the subject property and affects site planning.

ODOT agency commentary of May 4, 2022 found as staff report Attachment 102B provides more context. The developer intends through ODOT permitting and standards to obtain an outcome that allows Option 1, but might remain stuck with Option 2. The developer's Phasing Plan application is a basis for having options. In either scenario, each lot would have access to a public street.

3.04.02 Drive-Throughs

The strip commercial development includes none.

⊖ Not applicable.

3.04.03 Driveway Guidelines and Standards

One of the two frontages is a state highway, which involves the standards and permitting processes of the Oregon Department of Transportation (ODOT). The developer wants to widen the highway driveway from 30 to 36 ft, which involves ODOT permitting and standards. That width is within WDO maximum. The Oregon Way driveway width differs between site plan Options 1 & 2. Section 3.04.03 encourages and in part requires joint or shared driveways. Through the conditional use process staff applies conditions limiting driveway widths for both frontages.

▲ In order to secure conformance to conditional use criteria, staff applies a condition or conditions.

3.04.05 Traffic Impact Analysis

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

The applicant submitted a traffic impact analysis (TIA) dated August 13, 2021. Page 31, "Findings and Recommendations" proposed no mitigation measures. Staff addresses the TIA further under the Conditional Use Provisions section of this document.

3.05 Off-Street Parking and Loading

3.05.02 General Provisions

A. All required parking and loading spaces shall be retained and maintained in accordance with the standards of the WDO.

B. The land for off-street parking and loading areas shall either be:

- 1. Owned in fee title by the owner of the structure or site being served by the parking area, or**
- 2. Subject to legal documentation to the satisfaction of the Director, establishing permanent use of off-street parking that is under separate ownership. The parking, subject to such a parking agreement, shall be in compliance with all requirements and development standards of the WDO. The agreement shall be recorded with the County Recorder and filed with the Director.**

D. Location

1. Off-street parking and loading spaces shall be provided on the same lot as the primary building or use except that:

a. In RS, R1S or RM zones, parking spaces for non-residential uses permitted in the zone may be located on another site, if such site is within 250 feet of the lot containing the primary building, structure or use.

b. In any zone other than RS, R1S or RM, the parking spaces may be located on another site, if such site is within 500 feet of the site containing the primary building, structure or use.

Because the application materials fail to show that the development would conform to the requirements, staff applies a condition or conditions.

▲ In order to secure conformance with the above subsections of 3.05.02, staff applies a condition or conditions.

E. Setback

2. Parking, loading, and circulation areas shall be set back from a property line a minimum of five feet, unless there is a shared use agreement to the satisfaction of the Director, verifying shared use between the separate properties.

In site plan Option 2, there is no parking setback along northerly east lot line of 2600 Newberg Hwy (Tax Lot 3700), and there is no and might not be a shared use agreement. Because staff can apply a reasonable condition or conditions to secure conformance, staff does so. (The idea of doing such in preference to denying either a development or one or more of its land use applications is explained further under the Phasing Plan Provisions section regarding Phasing Plan criterion B.3 in the paragraph about statute legislative intent.)

Also, the WDO provisions do not specify that a shared use agreement be in place prior to land use approval, and the Community Development Director has not interpreted the provisions to require that a shared use agreement be in place prior to land use approval.

Lastly, because the parking setback issue in question is relevant only to site plan Option 2, reviewing a draft agreement might or might not become moot were the applicant to deal with the ODOT factor such that the applicant could developer Option 2, making it a potential waste of time to review a shared use agreement as part of land use review. The applicant can manifest a shared use agreement, if it remains relevant, following land use approval with conditions.

▲ In order to secure conformance with 3.05.02E.2, staff applies a condition or conditions.

J. All uses required to provide 20 or more off-street parking spaces shall have directional markings or signs to control vehicle movement.

The phrase, “directional markings or signs to control vehicle movement” leaves room for interpretation about what kinds of markings or signs, number, size, placements, and symbols and text. A gas station involves a lot of queuing and conflicts among vehicles moving across the site. Site plan Option 1 shows

little detail, and Option 2 shows more, but in staff opinion not enough to direct gas station motorists to pump queues and distinguish queuing areas from drive aisles.

Also, because of how access management would work, motorists returning to I-5 would either exit to Oregon Way to turn left/north to then turn left/west at OR 214, or, turn right onto OR 214 and change across the left through lane to the left turn lane to make a U-turn. (Oregon being a state that prohibits U-turns on public roads and allows them only where signed, this intersection is signed to allow U-turns.)

Anticipating the preferences of ODOT and those who believe in conventional traffic engineering, Planning Division staff intends that markings and signage direct motorists seeking I-5 to go to Oregon Way. Because of the room for interpretation, and that the applicant will later choose and refine site plan option 1 or 2, it is during building permit review that administratively establishing details, specifications, and revisions to administer the WDO section would be timely and fruitful.

3.05.03 Off-Street Parking

C. A maximum of 20 percent of the required vehicle parking spaces may be satisfied by compact vehicle parking spaces.

The developer proposes none.

E. All uses that are required to provide 10 or more off-street parking spaces and residential structures with four or more dwelling or living units shall provide a bicycle rack within 50 feet of the main building entrance. The number of required rack spaces shall be one space per ten vehicle parking spaces, with a maximum of 20 rack spaces.

Staff addresses this further under the Conditional Use Provisions section of this document.

Table 3.05A

Off-Street Parking Ratio Standards Table 3.05A	
Use ¹	Parking Ratio - spaces per activity unit or square feet of gross floor area
COMMERCIAL / PUBLIC	
6. Motor vehicle service	1/ 200 retail area + 3/ service bay + 1/ pump island
12. Offices (such as professional, scientific and technical services, finance and insurance, real estate, administrative and support services, social assistance, and public administration – but not including ambulatory health services)	1/ 350 square feet
1. The Director may authorize parking for any use not specifically listed in this table. The applicant shall submit an analysis that identifies the parking needs, and a description of how the proposed use is similar to other uses permitted in the zone. The Director may require additional information, as needed, to document the parking needs of the proposed use.	

Because the application materials fail to show that the development would conform to the requirements, including as applies to the 3 pump islands of the gas station in both site plan Options 1 & 2, staff applies a condition or conditions.

▲ In order to secure conformance with Table 3.05A, staff applies a condition or conditions.

Remaining provisions of 3.05 either conform or the developer will revise any nonconformance during building permit review.

3.05.05 Shared Parking

As described elsewhere in this document regarding the access management ODOT factor and site plan Options 1 & 2, the developer by the time of building permit application likely will propose a site plan that necessitates shared parking, which would make applicable 3.05.05.

▲ In order to secure conformance with 3.05.02, Table 3.05A, and 3.05.05, staff applies a condition or conditions.

3.06 Landscaping

3.06.03 Landscaping Standards

A. Street Trees

Staff addresses this further under the Conditional Use Provisions and/or Exception to Street Right of Way and Improvement Requirements (“Street Exception”) sections of this document.

3.06.05 Screening

A. Screening between zones and uses shall comply with Table 3.06D.

The row “Property being Developed – must provide screening if no comparable screening exists on abutting protected property” and “CG or MUV zone” that intersects with the columns “Adjacent properties – zone or use that receives the benefit of screening” and both “RS, R1S, or RSN zone” and “Multiple-family dwelling” necessitates an “Architectural Wall” (AW) along the lot lines abutting the lots with the two houses at 943 & 953 Oregon Way and the Panor 360 condominiums at 950 Evergreen Road.

▲ In order to secure conformance with Table 3.06D, staff applies a condition or conditions.

B. All parking areas, except those for single-family and duplex dwellings, abutting a street shall provide a 42-inch vertical visual screen from the abutting street grade. Acceptable design techniques to provide the screening include plant materials, berms, architectural walls, and depressed grade for the parking area. All screening shall comply with the clear vision standards of this ordinance (Section 3.03.06).

Because the application materials fail to show that the development would conform to the requirement, staff applies a condition or conditions.

▲ In order to secure conformance with the screening requirement, staff applies a condition or conditions.

3.06.06 Architectural Walls

Because the application materials fail to show that the development would conform to the requirement, staff applies a condition or conditions.

▲ In order to secure conformance with AW standards, staff applies a condition or conditions.

3.06.07 Significant Trees on Private Property

See the Conditional Use Provisions section under criterion 3, factor c5) “aesthetics”, for analysis.

Through conditional use process, staff applies a fee to mitigate the loss of Significant Trees and to increase the City tree fund that 3.06.07F mentions.

▲ In order to secure Significant Tree removal mitigation, staff applies a condition or conditions.

3.07 Architectural Design

3.07.06 Standards for Non-Residential Structures in Residential, Commercial and Public/Semi Public Zones

Per 3.07.01A, the architectural provisions are standards for land use review Type I and guidelines for higher types. The application types composing the consolidated package result in Type III.

The site plans and building elevations show largely what the guidelines describe. However, as described elsewhere there are two site plan Options 1 & 2. Also, it is unclear from the application materials if each guideline is followed. Also, without conditions applied through the conditional use process, guidelines would remain just that – optional for the developer.

▲ In order to secure reasonably decent architecture in the context of strip commercial development, staff applies a condition or conditions.

3.08 Partitions and Subdivisions

None proposed.

– Not applicable.

3.08 Partitions and Subdivisions

None proposed.

– Not applicable.

3.10 Signs

Land use application types generally are not the means for the City to review or approve signage. Signage, including wall and monument signs, remain subject to review and approval through a Type I sign permit through 5.01.10 “Sign Permit”.

– Not applicable.

Conditional Use Provisions

CU Provisions

5.03.01 Conditional Use

A. Purpose: A conditional use is an activity which is permitted in a zone but which, because of some characteristics, is not entirely compatible with other uses allowed in the zone, and cannot be permitted outright. A public hearing is held by the Planning Commission and conditions may be imposed to offset impacts and make the use as compatible as practical with surrounding uses. Conditions can also be imposed to make the use conform to the requirements of this Ordinance and with other applicable criteria and standards. Conditions that decrease the minimum standards of a development standard require variance approval.

B. Criteria:

1. The proposed use shall be permitted as a conditional use within the zoning district.
2. The proposed use shall comply with the development standards of the zoning district.
3. The proposed use shall be compatible with the surrounding properties.

Relevant factors to be considered in determining whether the proposed use is compatible include:

- a. The suitability of the size, shape, location and topography of the site for the proposed use;
- b. The capacity of public water, sewerage, drainage, street and pedestrian facilities serving the proposed use;
- c. The impact of the proposed use on the quality of the living environment:
 - 1) Noise;
 - 2) Illumination;
 - 3) Hours of operation;
 - 4) Air quality;
 - 5) Aesthetics; and
 - 6) Vehicular traffic.
- d. The conformance of the proposed use with applicable Comprehensive Plan policies; and
- e. The suitability of proposed conditions of approval to ensure compatibility of the proposed use with other uses in the vicinity.

Looking at each criterion and factor:

1 “ The proposed use shall be permitted as a conditional use within the zoning district.”

The use of gas station is permitted as a conditional use as examined under the Design Review Provisions section of this document.

✓ The criterion is met.

2 *“The proposed use shall comply with the development standards of the zoning district.”*
It complies with some but not others as examined under other sections in this document, particularly the Design Review Provisions section.

▲ In order to secure full compliance, staff applies a condition or conditions.

3 *“The proposed use shall be compatible with the surrounding properties.
Relevant factors to be considered in determining whether the proposed use is compatible include:*

a. The suitability of the size, shape, location and topography of the site for the proposed use;”
The site is composed of two lots totaling 1.42 acres, is L-shaped, located at a street corner and zoned Commercial General (CG), and flat. Nothing about these are compelling factors against a gas station.

“b. The capacity of public water, sewerage, drainage, street and pedestrian facilities serving the proposed use;”

Regarding the capacity of public water, sewerage, and drainage facilities, the Public Works Department handles this through its own conditions and processes. The proposed use for any given facility is either sufficient or will be after the developer upgrades per Public Works Department.

Regarding street and pedestrian facilities, the Planning Division is taking the lead. The developer applied for Exception to Street Right of Way and Improvement Requirements (“Street Exception”) EXCP 21-05 for both the highway and Oregon Way. Both frontages are nonconforming relative to Figures 3.01B “Major Arterial” and 3.01E “Access Street”. They lack both landscape strips with street trees and sidewalk that is not curb-tight.

Allowing the existing context to remain with strip commercial development would make the walking and cycling environment along highly-trafficked streets (for those cyclists who feel and are safer riding on sidewalk) no less hostile. Additionally, an EXCP is a discretionary application type. Second, staff applies conditions that secure improvements less than WDO standards, that are reasonably proportional to the development, and serve to secure additional landscape strip and street trees and fees in-lieu of some of them as well as to limit driveway widths because driveways interrupt landscape strips and pedestrian experience. Such trees, funds, and driveway maximum width will help physical and psychologically buffer pedestrians and cyclists from traffic along Oregon way, and along the highway will help shade the remaining curb-tight sidewalk.

Along highway curb-tight sidewalk to remain is reasonable in terms of being compatible with surrounding properties, particularly those along the highway. However, it is not compatible with those along Oregon Way, where most the street south of the highway intersection lacks any sidewalk. Sidewalk is needed to partly relieve the tedium of those walking between those houses to the south and commercial area at the highway to the north, as well as going to and from the proposed development.

“c. The impact of the proposed use on the quality of the living environment:

1) Noise;”

Based on experience at other gas stations, staff fears gas station fuel pumps audible audiovisual advertising, in other words, those loud obnoxious video ads that play while refueling. Staff considers that noise and applies a condition to spare both persons neighboring the development as well as customers, and in case the state of Oregon allows local self-serve and pump attendants disappear. Similarly, gas stations come with tire pumps and vacuums, that is, noisy mechanical equipment. Though the application materials don't show such, that doesn't mean the gas station company doesn't intend them and wouldn't put them in. No particular Planning Division permit is required for such equipment, so a condition of approval is the only regulatory way to address their noise outside of the Ordinance No. 2312. No car wash is proposed. Staff doesn't conceive of other development sources of unusual and continual noise.

“2) Illumination;”

Whatever one's feelings and perceptions of safety from crime, gas stations and convenience store fronts are brightly lit. Lighting by itself doesn't prevent assault or theft.

Second, there are two houses and a three-story condo building next door. The required “Architectural Wall” buffer/screen wall by itself wouldn't and couldn't handle by itself all mitigation of conventional gas station and convenience store annoyances to neighbors.

Third, fuel pumps come with fixed canopies with high ceilings and many ceiling lights, sometimes with neon-like exterior trim.

Fourth, as is conventional in any new development with extensive parking and vehicular circulation area, there are on-site light poles, and both site plan Options 1 & 2 illustrate such.

Fifth, the City Council approved Legislative Amendment LA 21-01 of the WDO on April 25, 2022 and directed staff to prepare an ordinance for adoption, which staff did for the May 9, 2022 Council meeting. As of the May 5, 2022 publication date of the CU 21-02 Planning Commission May 12, 2022 staff report, Administration had published the City Council May

9, 2022 agenda packet. It includes LA 21-01 as Ordinance No. 2602, and its Exhibit A is the amended version of the WDO. Through the conditional use process regarding illumination specifically, because Ordinance No. 2602 includes a new WDO Chapter 3.11 about lighting, staff conditions conformance with it. Conformance with the lighting chapter will have the development avoid lighting annoyances to neighbors as well as to passers-by on sidewalk.

“3) Hours of operation;”

The City could condition this, but staff sees no need to. Through WDO conformance and conditions of approval, the annoyances that could come with neighboring a gas station and convenience store would be avoided or at least much ameliorated. Additionally, if there was conditioned hours of operation, the City would in theory inspect and enforce, and there is no sign that conditioning and enforcing hours of operation would be City Council or Planning Commission direction.

That said, staff applies a condition that, if a vacuum does appear, based on Ordinance No. 2312, it will be closed to customer use minimum from 9:00 p.m. to 7:00 a.m. Staff goes easy on any tire pump that might appear because motorists expect a gas station any time of day or night to have a pump available and working when their car tires need air.

“4) Air quality;”

Staff addresses climate change simply to say, it’s a gas station with all the greenhouse gas and volatile organic compound (VOC) emissions that it would enable.

Putting aside climate change, what else is “air quality?” A gas station comes with fumes, particularly easy to get a whiff of near the pumps. However, once a gas station is in place, a city government can do little to change that fact. If this factor is important to someone, the question would be a simple yes or no to a gas station.

Otherwise regarding air quality, staff applies a condition for electric vehicle (EV) parking associated with the commercial office space. Also, regarding on-site trees, see factor 5) below.

5) Aesthetics; and

Staff interprets this to include:

- 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 to give the City some public benefit for leaving the highway frontage as is or largely as is.

Also, regarding on-site trees, for a condition and Attachment 203 (fee table) regarding contribution to the City tree fund, having a fee is based on conditional use compatibility with surrounding properties (criterion 3) and impact of the proposed use on the quality of the living environment (factor 3c) including air quality and aesthetics (factors 3c4 & 3c5). The reason is a demolition contractor, while demolishing the two vacant banks, removed from the subject property at least two but likely three Significant Trees (as 1.02 defines) in May 2021 without City authorization, particularly a Significant Tree Removal Permit per 5.01.11. Staff had seen and photographed on-site trees during at least two site visits, one each on November 9, 2018 and April 26, 2019. The removal prompted neighbor complaints to the City Council at the May 24, 2021 meeting, and there was code enforcement. The Council on August 9, 2021 adopted Ordinance No. 2592 “establishing an enhanced penalty” for violations of WDO tree preservation and removal provisions.

Through conditional use process, staff applies a fee to mitigate the loss and to increase the City tree fund that 3.06.07F mentions.

Staff applies conditions towards these objectives.

6) Vehicular traffic.

The proposal is strip commercial development of a gas station with convenience store and one or two commercial office spaces. The applicant submitted a traffic impact analysis (TIA) dated August 13, 2021 premised on site plan Option 1. Page 31, “Findings and

Recommendations” proposed no mitigation measures. The applicant revised the TIA May 26, 2022 and submitted it May 31, 2022.

P. 12 of the original TIA identifies high vehicle turning and angle crash rate at the intersection of the highway and Oregon Way, and p. 9 of the revised TIA references crash history. It states:

“As noted within the City review comments, reliance on right-in, right-out only access to the fuel station and convenience market would increase the number of vehicles turning right and then weaving into the left-turn lane to make a U-turn and return to I-5.”

Staff notes that vehicles make U-turns would still be turning across traffic similar to left-turning vehicles, and there remains risk of crashes with vehicles turning right/west onto the highway from the Oregon Way north leg and with highway eastbound vehicles coming up from behind (towards the right or rear of U-turning vehicles).

The revised TIA goes on to say:

“With either Access Option 2 (egress only) or Access Option 3 (Oregon Way ingress and egress) the impact to left-turns on Oregon Way will be reduced.”

This overlooks that with either site plan option, development generates more daily vehicle trips than the two banks, now demolished, did – 422 per revised TIA Table 1 on p. 6, of which 44 of the additional trips are in the AM peak. This would include greater numbers of both left turns (from Oregon Way) and U-turns (from the highway eastbound), suggesting that crash risk remains or rises.

For the above two reasons, staff finds the revised TIA unconvincing about crash safety and applies Condition T-A1 as a mitigation measure to fund the Transportation System Plan (TSP) Project R11, a signal timing study, and to supplement with addition funding both to examine improving safety and to account for inflation after the City Council adopted the TSP in September 2019, using the [U.S. Bureau of Labor Consumer Price Index \(CPI\) Inflation Calculator](#) to adjust from then to April 2022.

Staff had the transportation consultant to the City review the TIA and draft a memo (May 10, 2022), which he then revised (May 18, 2022). Staff applies Condition T-A2 to recoup most if not all of the consultant fees for review of the TIA based on the May 12 invoice for service through April 29 of \$1,020 and a phone call May 31 to the project accountant with Otak for an estimate of the next invoice for service through May: \$3,740.

The consultant's memo included:

"OR-214 and I-5 northbound ramps – elevated crash rate

The TIA indicated this intersection has an existing elevated crash rate, which has been confirmed by other recent TIAs in the vicinity. Project Basie was conditioned to provide a proportionate share contribution of \$10,000 toward a future safety improvement project at this location. Based on a comparison of trip impacts, the US Market share of a signal study and signal timing improvements to alleviate the crash rate issue at the interchange is a reasonable minimum share of \$1,000." (p. 5)

Staff applies Condition T-A3.

The consultant's memo included:

"OR-214 and Evergreen Road – elevated crash rate

Allison Way Apts. was conditioned to provide a proportionate share contribution (fee-in-lieu) of \$15,000 toward a signal/intersection study and improvement to alleviate the crash condition for the 67 additional PM peak hour trips added to that intersection. Project Basie should be conditioned similarly, based on the following calculations:
US Market would add 229 trips to that intersection, a factor of 3.4 compared to Allison Way. The proportionate share calculation then is $\$15,000 * 3.4 = \$50,000$." (p. 5)

"OR-214 and OR 99E – mobility threshold exceeded in 2040; elevated crash rate today

The with-site trips incorporated into 2040 background traffic based on previous traffic impact analyses will result in this intersection exceeding ODOT's volume-to-capacity and the City's level-of-service ODOT thresholds.

There is a current TSP project and a different mitigation project contained in the Woodburn Eastside Apartments development traffic impact analysis, each of which are estimated to cost approximately \$1,100,000.

Woodburn Eastside Apartments was conditioned to contribute an approximate 10.1% share of the cost of the mitigation project as a condition of approval, or approximately \$111,000. This was based on the site generating an additional 84 PM peak hour trips through the intersection.

This intersection was not analyzed in the US Market TIA. I estimate this site would contribute an additional 15 PM trips to this intersection. Based on proportionate share calculations for other projects, US Market's mitigation share is approximately \$21,000." (p. 5)

Staff adds that on June 1, the consultant revised the recommendation regarding OR 214 & Evergreen Road resulting in a dollar amount in the applicant's favor:

“OR-214 and Evergreen Road – elevated crash rate

Allison Way Apts. was conditioned to provide a proportionate share contribution (fee-in-lieu) of \$15,000 toward a signal/intersection study and improvement to alleviate the crash condition for the 67 additional PM peak hour trips added to that intersection. US Market should be conditioned similarly, based on their net new trip contribution to weekday traffic volumes.”

Following the consultant’s memo, staff requested that the applicant revise the TIA including to address the above two intersections. P. 9 of the revised TIA does so, but did not study the intersections to calculate specific trip numbers. Staff goes by the consultant’s estimates and applies Conditions T-A4 & T-A5.

To further transportation demand management (TDM) through bus transit, regarding the Woodburn Transportation System (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 staff applies Condition T-T for fees in lieu of a bus shelter and bus stop bicycle parking. The cost is based on the City Transit Plan Update (TPU; 2010), Chapter 10 “Potential Service Strategies”, p. 10-11, item 9 “Install New Bus Shelters” that estimated the price of a bus shelter at \$10,000. Because the plan dates from November 2010, staff adjusted that figure for inflation.

“d. The conformance of the proposed use with applicable Comprehensive Plan policies; and”
Staff applies conditions in support of [Comprehensive Plan](#) Policies:

<i>Policy</i>	<i>Page</i>	<i>Policy & Analysis</i>
Commercial Land Development and Employment:		
F-1.3	24	“Strip zoning should be discourage 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 that require the use of the private automobile shall be discouraged.”

<i>Policy</i>	<i>Page</i>	<i>Policy & Analysis</i>
		<p>The two lots total 1.42 acres with highway and Oregon Way frontages of 265 and 178 ft respectively.</p> <p>Conditions implement access management to reduce the number of driveways within the development and across successive developments along the major thoroughfares that are the spines of the CG zoning district.</p> <p>Conditions induce walking and cycling, which could make a dent in some vehicular traffic at least for the convenience store and commercial office area, by requiring rain canopies at building entrances, minimum window area on street-facing walls, bicycle parking and some covering/sheltering of it, wide walkways connecting sidewalks with all building main entrances on the site, trees in yards along streets, and landscape strip with street trees and wide sidewalk along Oregon Way, the less trafficked and noisy street.</p>
F-1.4	24	<p>“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. Nodal and mixed use village commercial areas should be neighborhood and pedestrian oriented, with parking to the rear or side of commercial buildings, and with pedestrian connections to neighboring residential areas.”</p> <p>Conditions make a dent in large expanses of asphalt parking areas through a few more parking area landscaped islands/peninsulas with a tree each, more trees in yards along streets, and hedge or shrubbery screening parking areas from streets. From the first pre-application meeting up through CU 21-01, staff also got the applicant for both site plan Options 1 & 2 to locate parking to the rear or side of buildings relative to streets, and with pedestrian connections to neighboring residential areas. Conditions require minimum window area on street-facing walls for attractiveness, and wide walkways connecting sidewalks with all building main entrances on the site. An objective is to make a gas station development less ugly than it might otherwise be.</p>
F-1.6	25	<p>“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 ensure by proper regulations that any commercial uses located close to residential areas have the proper architectural and landscaping buffer zones.”</p>

<i>Policy</i>	<i>Page</i>	<i>Policy & Analysis</i>
		The WDO and conditions secure care in architecture and site planning for the commercial development close to residential area to the south and southwest through a combination of wall, slatted fencing, vegetation, and height limits on light poles and wall-mounted lights.
Transportation:		
H-1.1	33	<p>“Develop an expanded intracity bus transit system that provides 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.”</p> <p>Conditions induce walking and cycling, which could make a dent in some vehicular traffic at least for the convenience store and commercial office area, by requiring rain canopies at building entrances, minimum window area on street-facing walls, bicycle parking and some covering/sheltering of it, wide walkways connecting sidewalks with all building main entrances on the site, trees in yards along streets, and landscape strip with street trees and wide sidewalk along Oregon Way, the less trafficked and noisy street. The easier walking and cycling are, the more likely they become the means of “last mile” travel for those who ride the bus.</p> <p>Conditions also secure a bus shelter and bus stop bicycle parking or fees in-lieu, relating to the Oregon Way northbound stop.</p>
H-1.3	34	<p>“Develop a low stress network of bicycle lanes and routes that link major activity centers such as residential neighborhoods, schools, parks, commercial areas and employment centers. Identify off-street facilities in City greenway and park areas. Ensure all new or improved collector and arterial streets are constructed with bicycle lanes.”</p> <p>Conditions induce cycling by requiring rain canopies at building entrances, bicycle parking and some covering/sheltering of it, wide walkways connecting sidewalks with all building main entrances on the site, and wide sidewalk along Oregon Way, the less trafficked and noisy street. The wide sidewalk and wide walkways are minimum 8 ft, enough to serve as a bicycle/pedestrian path (or “multi-use path”).</p>
H-1.4	34	<p>“Develop a comprehensive network of sidewalks and off-street pathways. Identify key connections to improve pedestrian mobility within neighborhoods and link residential areas to schools, parks, places of employment and commercial areas. Ensure all new collector and arterial streets are constructed with sidewalks.”</p>

<i>Policy</i>	<i>Page</i>	<i>Policy & Analysis</i>
		<p>Conditions induce walking and cycling by requiring rain canopies at building entrances, bicycle parking and some covering/sheltering of it, wide walkways connecting sidewalks with all building main entrances on the site, and wide sidewalk along Oregon Way, the less trafficked and noisy street. The wide sidewalk and wide walkways are minimum 8 ft, enough to serve as a bicycle/pedestrian path (or “multi-use path”).</p>
H-2.3	34	<p>“Encourage multi-modal transportation options, including park-and-ride facilities, carpooling, and use of transit services.”</p> <p>Conditions induce walking and cycling, which could make a dent in some vehicular traffic at least for the convenience store and commercial office area, by requiring rain canopies at building entrances, minimum window area on street-facing walls, bicycle parking and some covering/sheltering of it, wide walkways connecting sidewalks with all building main entrances on the site, trees in yards along streets, and landscape strip with street trees and wide sidewalk along Oregon Way, the less trafficked and noisy street. The easier walking and cycling are, the more likely they become the means of “last mile” travel for those who ride the bus.</p> <p>Conditions secure carpool/vanpool (C/V) parking for commercial office area.</p> <p>They also secure a bus shelter and bus stop bicycle parking or fees in-lieu, relating to the Oregon Way northbound stop.</p> <p>The development site NE corner is approximately 1,000 ft walking distance southeast from the Woodburn Memorial Transit Center / Woodburn Park and Ride at 2900 Tom Tennant Drive.</p>
H-2.5	34	<p>“Provide inter-parcel circulation through crossover easements, frontage or backage roads, or shared parking lots where feasible.”</p> <p>A CU condition secures access management based on WDO 3.04.03 and Table 3.04A through Ordinance No. 2602 (LA 21-01), accounting for the ODOT factor. (Attachment 102B agency commentary provides ODOT factor context.)</p>
H-3.1	35	<p>“Continue coordination with ODOT to improve safety on state facilities within the City and citywide access management strategies.”</p> <p>A CU condition secures access management based on WDO 3.04.03 and Table 3.04A through Ordinance No. 2602 (LA 21-01), accounting for the ODOT factor. (Attachment 102B agency commentary provides ODOT factor context.)</p>

Policy	Page	Policy & Analysis
		<p>CU transportation conditions secure transportation mitigation fees relating to study of highway signal timing and intersection crash reduction. They also secure a bus shelter and bus stop bicycle parking or fees in-lieu, relating to the Oregon Way northbound stop, which could make a dent in some vehicular traffic at least for the convenience store and commercial office area.</p>
H-3.2	35	<p>“Implement strategies to address pedestrian and bicycle safety issues, specifically for travel to and from local schools, commercial areas, and major activity centers.”</p> <p>Conditions induce walking and cycling by requiring rain canopies at building entrances, minimum window area on street-facing walls, bicycle parking and some covering/sheltering of it, wide walkways connecting sidewalks with all building main entrances on the site, trees in yards along streets, and landscape strip with street trees and wide sidewalk along Oregon Way, the less trafficked and noisy street.</p> <p>CU transportation conditions secure transportation mitigation fees relating to study of highway signal timing and intersection crash reduction. They also secure a bus shelter and bus stop bicycle parking or fees in-lieu, relating to the Oregon Way northbound stop.</p> <p>The development site NE corner is approximately 1,000 ft walking distance southeast from the Woodburn Memorial Transit Center / Woodburn Park and Ride at 2900 Tom Tennant Drive.</p>
H-4.1	35	<p>“Evaluate the feasibility of various funding mechanisms, including new and innovative sources.”</p> <p>CU transportation conditions secure transportation mitigation fees relating to study of highway signal timing and intersection crash reduction. They also secure a bus shelter and bus stop bicycle parking or fees in-lieu, relating to the Oregon Way northbound stop.</p>
H-5.1	35	<p>“Implement, where appropriate, a range of potential Transportation Demand Management (TDM) strategies that can be used to improve the efficiency of the transportation system by shifting single-occupant vehicle trips to other models [<i>sic</i>] and reducing automobile reliance at times of peak traffic volumes.”</p> <p>Conditions induce walking and cycling, which could make a dent in some vehicular traffic at least for the convenience store and commercial office area, by requiring rain canopies at building</p>

<i>Policy</i>	<i>Page</i>	<i>Policy & Analysis</i>
		<p>entrances, minimum window area on street-facing walls, bicycle parking and some covering/sheltering of it, wide walkways connecting sidewalks with all building main entrances on the site, trees in yards along streets, and landscape strip with street trees and wide sidewalk along Oregon Way, the less trafficked and noisy street. The easier walking and cycling are, the more likely they become the means of “last mile” travel for those who ride the bus.</p> <p>Conditions secure carpool/vanpool (C/V) parking for commercial office area.</p> <p>They also secure a bus shelter and bus stop bicycle parking or fees in-lieu, relating to the Oregon Way northbound stop.</p> <p>The development site NE corner is approximately 1,000 ft walking distance southeast from the Woodburn Memorial Transit Center / Woodburn Park and Ride at 2900 Tom Tennant Drive.</p>
Natural ... Resources:		
J-1.1	40	<p>“... Outside of designated floodplains and riparian corridors, developers should be required to leave standing trees in developments where feasible.”</p> <p>See the Conditional Use Provisions section under criterion 3, factor c5) “aesthetics”, for analysis relating to Significant Tree removal mitigation. A condition secures contribution to the City tree fund.</p>
Energy Conservation:		
M-1.2	49	<p>“The City shall increase its commitment to energy conservation, including alternative energy vehicles, increased recycling, and reduction in out-of-direction travel.”</p> <p>Conditions secure both carpool/vanpool (C/V) and electric vehicle (EV) parking for commercial office area.</p>

“e. The suitability of proposed conditions of approval to ensure compatibility of the proposed use with other uses in the vicinity.”

Staff applies conditions regarding chiefly a few main topics:

- a. WDO conformance;
- b. Mitigation of the unpleasant aspects of neighboring and patronizing a gas station and convenience store; and
- c. Aesthetics as examined above for 3c5), both (1) on-site and (2) through Street Exception EXCP 21-05 the Oregon Way frontage in particular.

Particularly topics b. & c.(2) but also the three topics together ensure compatibility of the development.

▲ In order to secure the development meeting criteria 2 & 3, staff conditions.



Exception to Street Right of Way and Improvement Requirements ("Street Exception") Provisions

EXCP Provisions

5.03.03 Exception to Street Right of Way and Improvement Requirements

A. Purpose: The purpose of a Type III Exception is to allow a deviation from the development standard required for the functional classification of the street identified in the Transportation System Plan. Street exceptions are processed in conjunction with a development proposal that is a Type III application.

B. Criteria:

- 1. The estimated extent, on a quantitative basis, to which the rights of way and improvements will be used by persons served by the building or development, 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; and**
- 4. The estimated level, on a quantitative basis, of rights of way and improvements needed to mitigate the estimated impact on the public infrastructure system.**

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

D. Minimum Standards: To ensure a safe and functional street with capacity to meet current demands and to ensure safety for vehicles, bicyclists and pedestrians, as well as other forms of non-vehicular traffic, there are minimum standards for right of way and improvement that must be provided to meet the standards of this Ordinance (Section 3.01). Deviation from these minimum standards may only be considered by a variance procedure.

What would have been the standard cross sections are below:

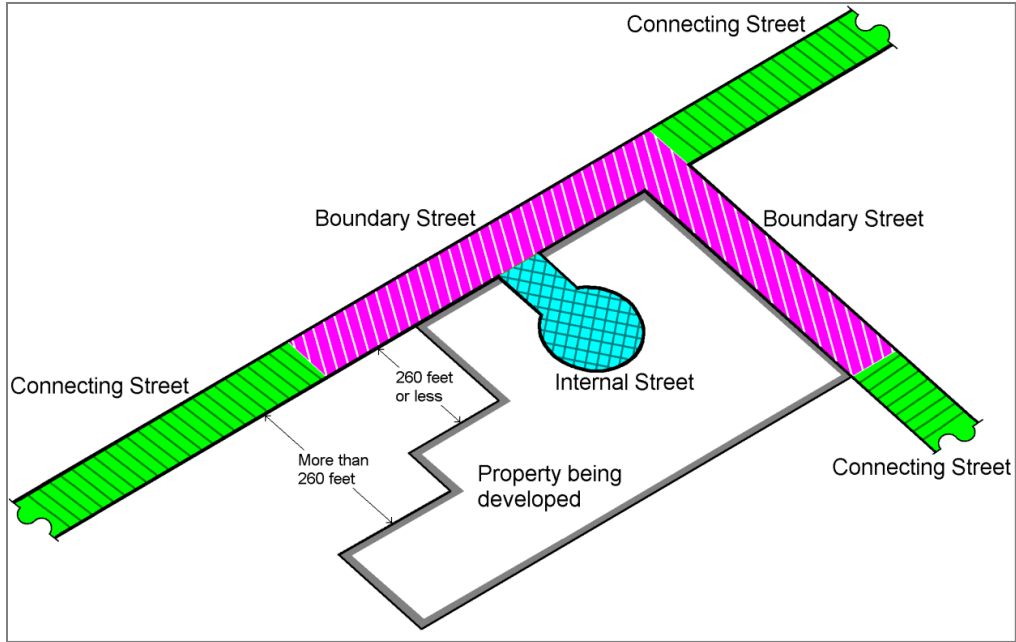
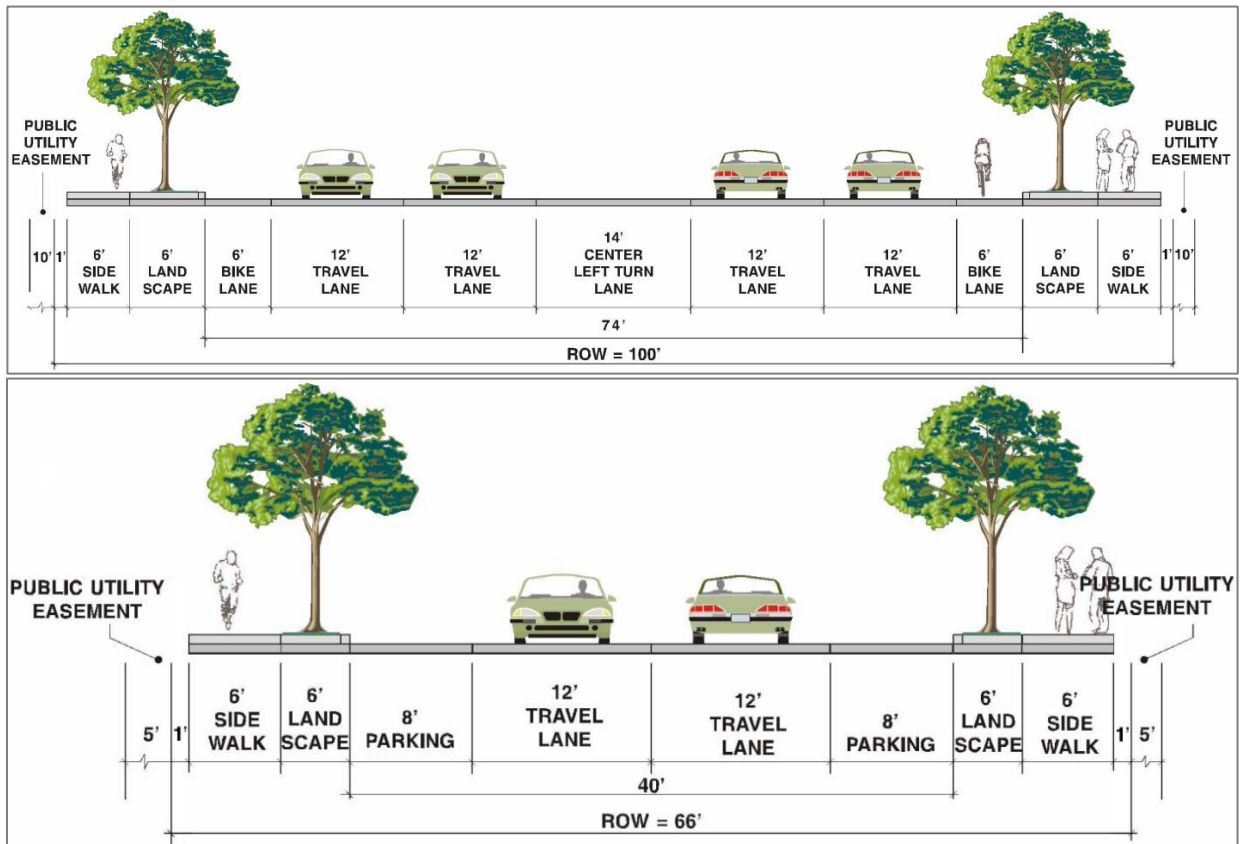


Figure 3.01A – Internal, Boundary, and Connecting Streets



Top: Figure 3.01B – Major Arterial (Oregon Hwy 214 / Newberg Hwy)

Bottom: Figure 3.01E – Access Street (Oregon Way)

The application materials include a Street Exception narrative dated October 11, 2021 and submitted October 18, 2022.

Regarding criterion 1, the applicant's narrative (p. 2) states:

"The existing frontages on Hwy 214 and Oregon Way meet the WDO standards with the exception of the landscape strip and sidewalk being reversed. On Hwy 214 conforming strictly to the WDO standards would actually narrow the road by 6' to add a landscape strip adjacent to the roadway, see A1.1. Changing this would not affect 'the extent to which the right of way and improvements will be used by persons served by the building or development.'"

Staff concurs about no effect on the extent to which the right of way and improvements will be used by persons served by the development in the sense that there are at present and will remain the same number of vehicular lanes along both frontages, highway bicycle lane, and sidewalks. The proposed land uses of gas station and convenience store are for convenience and not safety.

Paragraph 1

Relative to Figure 3.01B, highway non-conformance is limited to lack of planter strip and street trees. Conventional traffic engineering does not address effects of development on walking and cycling as it does for vehicular trips, there is no widely recognized norm for how to address such, and the WDO provides no guidance on the topic. Second, the north frontage context is strip commercial along a heavily trafficked state highway, the kind of dangerous and noisy environment that repels pedestrian and cyclists. Those who do walk and cycle are likely those who are living nearby, the homeless, those without access to car, and those few who wish to brave existing conditions. The presence of a sidewalk is sufficient for sheer practicality for those who wish to walk along a highway or cycle outside of the bicycle lane because they don't feel safe in a highway bicycle lane. In this context, the number of pedestrians and off-street cyclists is moot. Pedestrians and cautious cyclists can and do use the wide sidewalk today, and the pedestrians and cautious cyclists the development might attract would use the same wide sidewalk.

Staff conditions fees in lieu of highway street trees and new sidewalk along a landscape strip.

Paragraph 3

Relative to Figure 3.01E, Oregon Way non-conformance is limited to lack of parking lane, planter strip, and street trees. Staff applies conditions that excepts only the parking lane but also requires fee in lieu of such parking. Additionally, the conditions require wider planter strip and wider sidewalk exceeding the minimums of Figure 3.01E. Like conventional development

and zoning codes, the WDO requires off-street parking for almost all developments, including the subject development, so the absence of on-street parking is not of concern from this perspective. Second, pedestrians and cautious cyclists can and do use the narrow curb-tight sidewalk today, and the pedestrians and cautious cyclists the development might attract would use the new wider sidewalk. Third, Figure 3.01E does not account for the presence of a left turn lane at intersections, and such exists because of ODOT, and given that ODOT and the Public Works Department assume its continued existence, Public Works assumes that the developer would adapt required Oregon Way half-street improvements to fit along the turn lane, and that ODOT typically asks that there be no on-street parking within a certain distance of state highway intersections, usually 50 ft, it is reasonable in this case to allow for fee in lieu of what little on-street parking a civil engineer could fit.

Staff conditions fee in lieu of Oregon Way on-street parking.

With conditioning, the criterion is met.

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

"As stated above there is no change to the extent of use from existing conditions to WDO standards, thus no improvements are needed to meet the estimated use, beyond those shown on the submitted plans. According to our engineer of record:

'I would estimate that the quantitative impact to remove and replaced existing infrastructure to the current standard would be on the order of \$150/lf over the approximately 425 feet of frontage is around \$65,000 not including engineering, permitting and survey work which may add another \$25,000 when dealing with ODOT. The addition of a parking lane on Oregon Way would require ROW dedication, additional paving, adjustment of utilities, etc... to potentially gain 1 or 2 parking spaces since we have a driveway on the south end and you can't park too close to the intersection. The additional cost for that might be \$50,000 or more.'"

Staff has no interest in the developer's estimated civil engineering improvements cost.

Here, the same as criterion 1 analysis "Paragraph 1" and "Paragraph 3".

Staff conditions fees in lieu of highway street trees and new sidewalk along a landscape strip.
Staff conditions fee in lieu of Oregon Way on-street parking.

With conditioning, the criterion is met.

Regarding criterion 3, the applicant's narrative (p. 3) states:

“The extent to which the building or development will impact the public infrastructure would be unaffected by maintaining the existing conditions vs an increased impact the change to strict conformance to the WDO requirements would create.”

Staff has no interest in the developer’s estimated civil engineering improvements cost.

Here, the same as criterion 1 analysis “Paragraph 1” and “Paragraph 3”.

Staff conditions fees in lieu of highway street trees and new sidewalk along a landscape strip.
Staff conditions fee in lieu of Oregon Way on-street parking.

With conditioning, the criterion is met.

Regarding criterion 4, the applicant’s narrative (p. 3) states:

“Changing to conform strictly to the WDO requirements, rather than letting the existing conditions that meet the intent of the code remain, is what would create an impact on the public infrastructure system that is unnecessary. According to our engineer of record:

‘I would estimate that the quantitative impact to remove and replaced existing infrastructure to the current standard would be on the order of \$150/lf over the approximately 425 feet of frontage is around \$65,000 not including engineering, permitting and survey work which may add another \$25,000 when dealing with ODOT. The addition of a parking lane on Oregon Way would require ROW dedication, additional paving, adjustment of utilities, etc... to potentially gain 1 or 2 parking spaces since we have a driveway on the south end and you can’t park too close to the intersection. The additional cost for that might be \$50,000 or more.’”

Staff has no interest in the developer’s estimated civil engineering improvements cost.

Here, the same as criterion 1 analysis “Paragraph 1” and “Paragraph 3”.

Staff conditions fees in lieu of highway street trees and new sidewalk along a landscape strip.
Staff conditions fee in lieu of Oregon Way on-street parking.

With conditioning, the criterion is met.

About Street Exceptions in general, Planning staff adds that the Public Works Department is content with frontages along the corridor, and defers to ODOT for developments where ODOT has jurisdiction. By 2015, ODOT improved the I-5 interchange and as part of that project widened OR 214 east of the interchange to a little east of Oregon Way. As expected, the agency constructed to its own economized standards, which resulted in curb-tight sidewalk, though wide at about 8 ft, no street trees, and no burial of the south side overhead electric

power lines. Also, until late 2017 and early 2018, staff approved any Street Exception that a developer requested, and Planning staff experience in these years was that the Public Works Department prefers curb-tight sidewalk and existing conditions anyway generally beyond curbs as long as there were minimum improvements to driving area between curbs and subsurface/underground potable water, sanitary sewer, and stormwater utilities. In more recent years, Planning staff took the lead in at least imposing conditions on Street Exception approvals to get a degree of improvements and/or fees in-lieu. Regarding OR 214, Planning staff years ago recognized the *de facto* policy decision by other departments to leave the ODOT-improved segment as is and not have individual redevelopments upgrade their frontages to have landscape strips, new sidewalk that conforms, and buried power lines redevelopment by redevelopment.

The developer's chief justification for the EXCP, which originally proposed no upgrades of nonconforming street frontages, was convenience, saving money, and be of no profit to the gas station or commercial office enterprises. For any development, if and where the City grants Street Exceptions, it implicitly assumes the taxpayer cost of upgrading frontages itself through capital improvement projects. This guided Planning staff applying the EXCP criteria and conditioning.

Through both conditional use and Street Exception, Planning staff applies conditions that grant EXCP approval for both frontages, but also to give the City some public benefit for leaving the highway as is or mostly as is and for Oregon way not having required on-street parking; require the developer to make the Oregon Way frontage the best for pedestrians through wide landscape strip with street trees, wide sidewalk, and setting maximums for Oregon Way driveway width; and securing fees in-lieu.

Fees in-Lieu

For Condition EX1 and Attachment 203 (fee table) regarding fees in lieu of upgrading highway sidewalk to conform to Fig. 3.01B, staff derived as follows:

- Poured concrete at \$33.00 per sq ft;
- Sidewalk 6 ft wide per Fig. 3.01B;
- Frontage width of 265 ft per Tax Map 052W12DB as sidewalk extent; and
- 150% of the subtotal to account for construction public labor instead of private labor, based on the percentage in WDO 4.02.08 as Ordinance No. 2602 amended.

This calculates as $(\$33 \times 6 \times 265) \times 1.5 = \$78,705$.

For Condition EX1 and Attachment 203 (fee table) regarding fee in lieu of electric powerline burial/undergrounding to conform with 3.02.04 and 4.02.12 as amended by Ordinance No. 2602, because as of June 2, 2022 the City has not yet adopted a fees in-lieu schedule, staff

establishes a default fee the would be applicable if by the time necessary to assess the fee in order to issue building permit, the City would have not yet established this among other fees in lieu. The default fee is based on a Pacific Gas and Electric Company, a subsidiary of PG&E Corp., estimate that in general burial costs \$3 million per mile (PG&E “Currents” newsletter, article “Facts About Undergrounding Electric Lines”, October 31, 2017 <https://www.pgecurrents.com/2017/10/31/facts-about-undergrounding-electric-lines/>). This equates to \$3,000,000 / 5,280 ft = \$568.18 per foot.

For Condition EX2 and Attachment 203 (fee table) regarding fee in lieu of on-street parallel parking, staff derived as follows:

- Asphalt at \$15.00 per sq ft;
- Parking stall dimensions of 8 ft wide by 22 ft long;
- 3.5 parking stalls after taking the distance from in line with the south property line at Oregon Way north to the stop bar at the intersection with the highway (172 ft), then subtracting 50 ft (minimum parking distance from intersection), 30 ft (driveway and its curb flares), and 16 ft (two 8-ft long transition areas of curb at each end of parking aisle) resulting in $(172 - [50+30+16]) / 22 = 3.5$; and
- 150% of the subtotal to account for construction public labor instead of private labor, based on the percentage in WDO 4.02.08 as Ordinance No. 2602 amended.

This calculates as $(\$15 \times [8 \times 22] \times 3.5) \times 1.5 = \$13,860$.

▲ In order to secure the development meeting the conditional use criteria and justify Street Exception, staff applies conditions.



Phasing Plan Provisions

5.03.05 Phasing Plan for a Subdivision, PUD, Manufactured Dwelling Park or any other Land Use Permit

A. Purpose: The purpose of a Type III Phasing Permit is to allow phased construction of development while meeting the standards of this ordinance (Sections 2 and 3), while providing fully functional phases that develop in compliance with the tentative approval for the development.

B. Criteria: The proposed phasing of development shall:

1. Ensure that individual phases will be properly coordinated with each other and can be designed to meet City development standards; and
2. Ensure that the phases do not unreasonably impede future development of adjacent undeveloped properties;
3. Ensure that access, circulation, and public utilities are sized for future development of the remainder of the site and adjacent undeveloped sites.

Regarding B.1, the same as for B.3 below, and the applicant's Phasing Plan narrative dated October 11, 2021 and submitted October 18 states, "The project was designed as a whole to meet the requirements of the WDO and each phase of the project shall be coordinated and the appropriate steps shall be taken to ensure compatibility of the phases and conformance to the project as a whole." Staff concurs. A few site plan details of both Options 1 & 2 need revision, and reasonable conditions of approval can and would secure such following a land use decision. The criterion is met.

Regarding B.2, the applicant's Phasing Plan narrative dated October 11, 2021 and submitted October 18 states, "[T]he properties in question are not adjacent to any undeveloped sites." This is correct, and staff concurs. Additionally, in both of site plan Options 1 & 2, there are corollary improvements for the proposed buildings across both lots, and so either option would not impede development of either of the two lots composing the subject property. The criterion is met.

Regarding B.3, first, the same as for B.2 above. Also, the applicant's Phasing Plan narrative dated October 11, 2021 and submitted October 18 states, "All access, circulation, utilities, and other items have been designed as one project and will be constructed so that additional phases will fit seamlessly into the project as a whole." The applicant applied for a Phasing Plan to allow not having to construct all improvements with the first of several buildings, such as to stage development of the commercial office and its related improvements at a different time than development of the gas station, convenience store, and fuel pump canopy and related improvements.

The Oregon Department of Transportation (ODOT) through Casey Knecht, P.E., Development Review Coordinator, ODOT Region 2, later informed the applicant and City staff by phone and e-mail of what staff terms the “ODOT factor”, a phrase also found in a condition of approval, and put in an e-mail May 4, 2022 as agency commentary what City staff labels Attachment 102B. The following quotes Attachment 102B:

“Please include these comments as part of the Planning Commission hearing and notify ODOT of the decision by sending a copy to odotr2planmgr@odot.state.or.us when available.

The site has frontage on Hillsboro-Silverton Highway, No. 140 (OR-214), and is subject to state laws administered by ODOT. The site comprises two different tax lots, each with access restrictions recorded in the property deeds. Tax lot 3700 (2600 Newberg Hwy) has one access reservation at MP 37.09 that can serve tax lot 3700 only. This corresponds with the existing driveway on the highway. Tax lot 3600 (2540 Newberg Hwy) has no access rights to the highway and no access rights to a portion of Oregon Way between the highway intersection and a point 191 feet south of the highway intersection center. This leaves a 36-foot window along Oregon Way adjacent to the southern property line where all vehicular access must occur for tax lot 3600. This corresponds with the existing driveway on Oregon Way. I have attached the relevant property deeds from the Marion County clerk.

Both site plans allow for vehicles to enter tax lot 3600 (2540 Newberg Hwy) via tax lot 3700 (2600 Newberg Hwy) which is in violation of the access rights listed in the deeds. The additional driveway on Oregon Way falls in the area of access control (outside the 36-foot window), and would also be in violation of the access rights listed in the deeds. There is a process for modifying or lifting access rights, called a Grant of Access. The applicant would need to apply to the state for a Grant of Access, and demonstrate that the changes to the access rights would benefit the highway. If the application is approved, the deeds would be modified and re-recorded with the county clerk to reflect the change.

If the city approves this land use proposal with either of the site plan options, there must be a condition of approval that the applicant shall obtain the proper access rights for both tax lots prior to any construction, so as to not violate their own deeds.”

Staff had no reason to decline the access management desire of ODOT or challenge its authority over state highways and access to and from them.

Second, the ODOT factor became a reason, if not the compelling reason, for City staff to support with conditions a Phasing Plan for which the applicant had already applied.

Third, either site plan Option 1 or 2 would meet City requirements for access and circulation and meet whatever ODOT access permit decision the agency later makes apart from the City land use process and decision-making. Staff believe it would appear and be punitive for the City to deny the subject development because of the authority and stated position of a state agency regarding its own permit process, particularly a large, byzantine, and slow agency, and because the outcome of that ODOT permit process could be either approval or denial of what

the developer wants: widening the highway driveway and having no restrictions on vehicular access to, from, and within the development as a whole.

Fourth, as is routine for its land use review of developments, the Public Works Department through Attachment 102A has the usual kind of infrastructure text for the development in question and that is premised on the department approach to *de facto* approve any development, in turn premised on the idea that during its own department processes and reviews following the land use review stage, such as for civil engineering plan (CEP) plan review and right-of-way (ROW) permits, it will coordinate with ODOT to apply specific agency and City public works requirements and have the developer make so whatever is necessary to get ODOT and Public Works Department approvals that both respect conditions of approval that the Department sees as led and administered by the Planning Division while also meeting public works requirements for public infrastructure both on-site and in ROW and public utility easements (PUEs), the “public utilities” that criterion B.3 mentions. Essentially, the Public Works Department indicates that criterion B.3 is met or can be met through Attachment 102A and its later department processes and reviews following the land use review stage, such as for civil engineering plan (CEP) plan review and right-of-way (ROW) permits, so Planning Division staff defer and concur.

Lastly, City staff act on the premise that while a local government can and should deny an application that is inconsistent with applicable land use regulations, it can and should avoid denial if staff can impose reasonable conditions of approval. For virtually every land use review, staff can impose reasonable conditions of approval to avoid denial, and the review of the subject development is such a case.

The legislature gives implicit support for the concept in at least two statutes. The statutes are not applicable as regulations but are relevant regarding legislative intent. ORS 197.522 “Local government to approve subdivision, partition or construction; conditions” is about partition, subdivision, and needed housing, none of which are relevant to the subject development; however, its subsection (4) states, “A local government shall deny an application that is inconsistent with the comprehensive plan and applicable land use regulations and that cannot be made consistent through amendments to the application or the imposition of reasonable conditions of approval.” The second, OS 227.185 “Transmission tower; location; conditions” – no transmission tower being relevant to the subject development – states, “The governing body of a city or its designee may allow the establishment of a transmission tower over 200 feet in height in any zone subject to reasonable conditions imposed by the governing body or its designee”. These statutes indicate that the legislature expects local governments to apply land use conditions of approval in preference to denying. Also, neither statute defines the term “reasonable”, and the term is elastic. Staff drafted the conditions to be reasonable and based on the characteristics of the subject development. Staff emphasizes that besides the Phasing Plan, the master or parent application type is Conditional Use, a term that says it all about the premise of conditioning. Criterion B.3 is met.



Remaining Provisions

These are applicable provisions not already addressed in the application type provisions sections above.

4.01.07 Consolidated Applications

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

The proposal is consolidated.

In conclusion to the above analyses and findings, staff would recommend that the Planning Commission consider the staff report and its attachments and approve the consolidated applications package with conditions. Approval would include the site plan Options 1 & 2.

Recommendation

Approval with conditions: Staff recommends that the Planning Commission consider the staff report and its attachments and approve the consolidated applications package with the conditions recommended by staff below:

General

G1. By and 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 by the Building Division.

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

G3. References: Attachment 201 serves as a dictionary or glossary defining certain abbreviations, acronyms, phrases, terms, and words in the context of the conditions of approval. The 200 series of attachments are as binding as the conditions of approval in the main body of the final decision.

G4. Due dates / public improvements:

- a. When public street improvements, and any fees in lieu of public improvements, are due shall be per WDO 3.01.02 and 4.02.12 through Ordinance No. 2602 (LA 21-01) unless if and where a condition of approval has more restrictive timing.
- b. Where phasing is relevant, building permit issuance means issuance for the phase in which the conditioned improvement is located.
- c. Where changes to street addresses are necessary, the developer shall apply through the Planning Division for and obtain approval of an [Address Assignment Request](#). This is due prior to building permit application, and if property line adjustment or lot consolidation were to become relevant, then also after recordation with County.

G5. Recordation due dates: The applicant shall apply to the County for recordations of items that the City requires no later than six (6) months prior to expiration of the land use approval as WDO 4.02.04B establishes, and shall complete recordations no later than three years past the land use “final decision” date. The due date to complete recordations shall not supersede when recordations are due relative to the building permit stage.

G6. Fees: The developer shall pay fees per Attachment 203.



Phasing Plan 21-01

PP. Phasing Plan:

1. Options 1 & 2: The developer may develop a site plan revised to conform to conditions of approval and based on either:
 - a. Option 1: The site plan concept last revised and re-submitted for land use review on February 9, 2022 and premised on there being no ODOT factor (see the ODOT factor condition); or
 - b. Option 2: The different site plan revised and submitted May 2, 2022 premised on the developer's understanding of the ODOT factor.
This due by building permit application.
2. Basic Descriptions:
 - a. Option 1: See Exhibit PP1 below for plan details.
 - (1) On Tax Lot 3600 (east, corner lot), a single northeast building of with convenience store of 4,110 sq ft and a commercial office of 1,863 sq ft.
 - (2) On Tax Lot 3700 (west, interior lot), a north fuel pump canopy and a south commercial office building of 5,000 sq ft.
 - b. Option 2: See Exhibit PP2 below for plan details.
 - (1) On Tax Lot 3600 (east, corner lot), a single northeast commercial office building of 3,649 sq ft.
 - (2) On Tax Lot 3700 (west, interior lot), a north fuel pump canopy and a south convenience store of 4,314 sq ft.
3. Phasing: The developer may phase an option:
 - a. Option 1: To develop the south office building and necessary corollary improvements later than the gas station complex of convenience store, attached commercial office, and fuel pump canopy and necessary corollary improvements.
 - b. Option 2: To develop at different times (1) the gas station complex of convenience store and fuel pump canopy and necessary corollary improvements, and (2) the northeast office building and necessary corollary improvements.
4. All conditions apply to any option, any phasing, unless worded or under a header such that a condition applies more specifically. Where something is due by building permit application or issuance, it means the first of any phase, any building, unless a condition is more specific.
5. By and as part of building permit application, the applicant shall submit revised site plans meeting the conditions of approval.

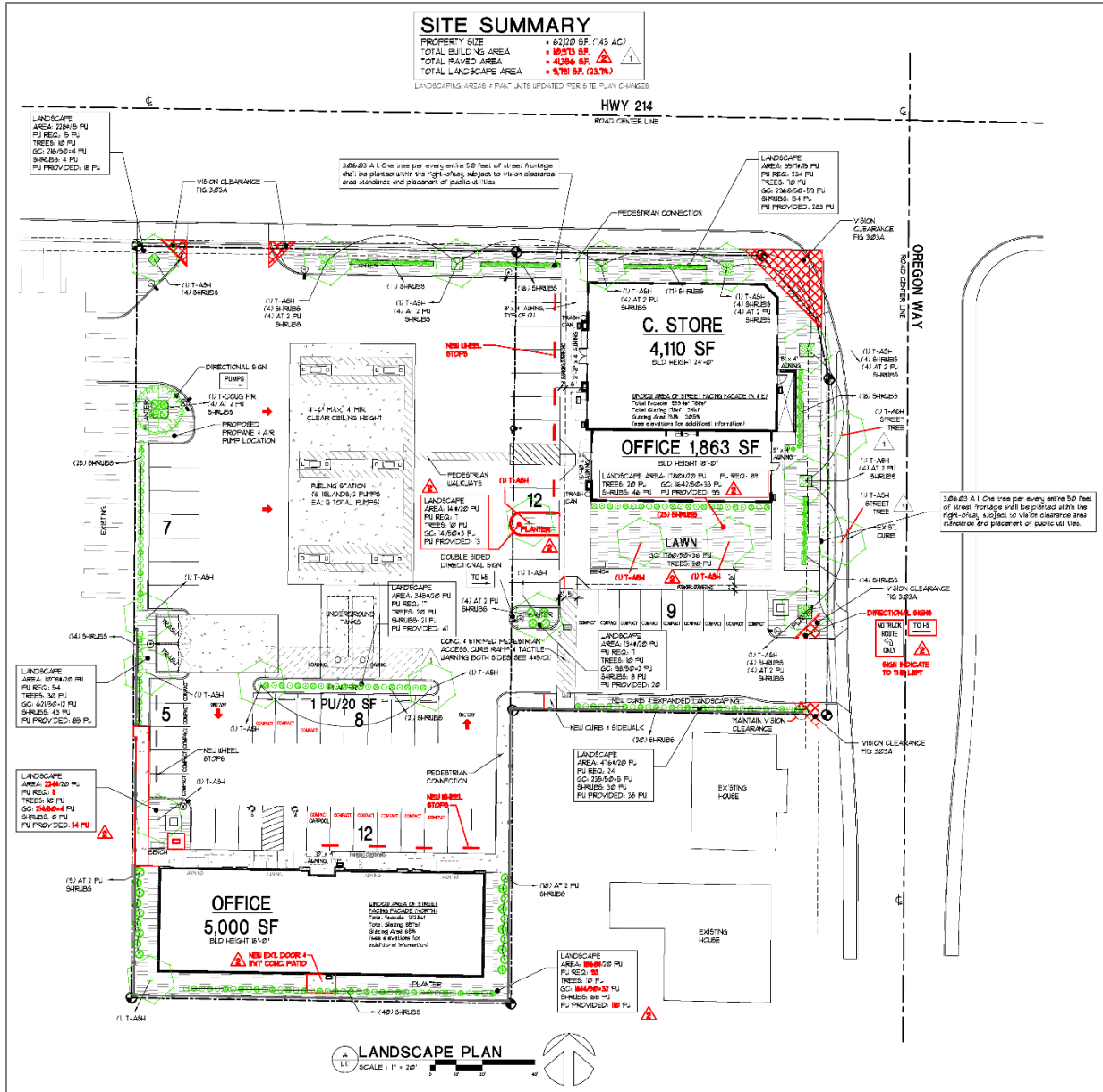


Exhibit PP1: Option 1 Site Plan Excerpt Prior to Revision per Conditions of Approval

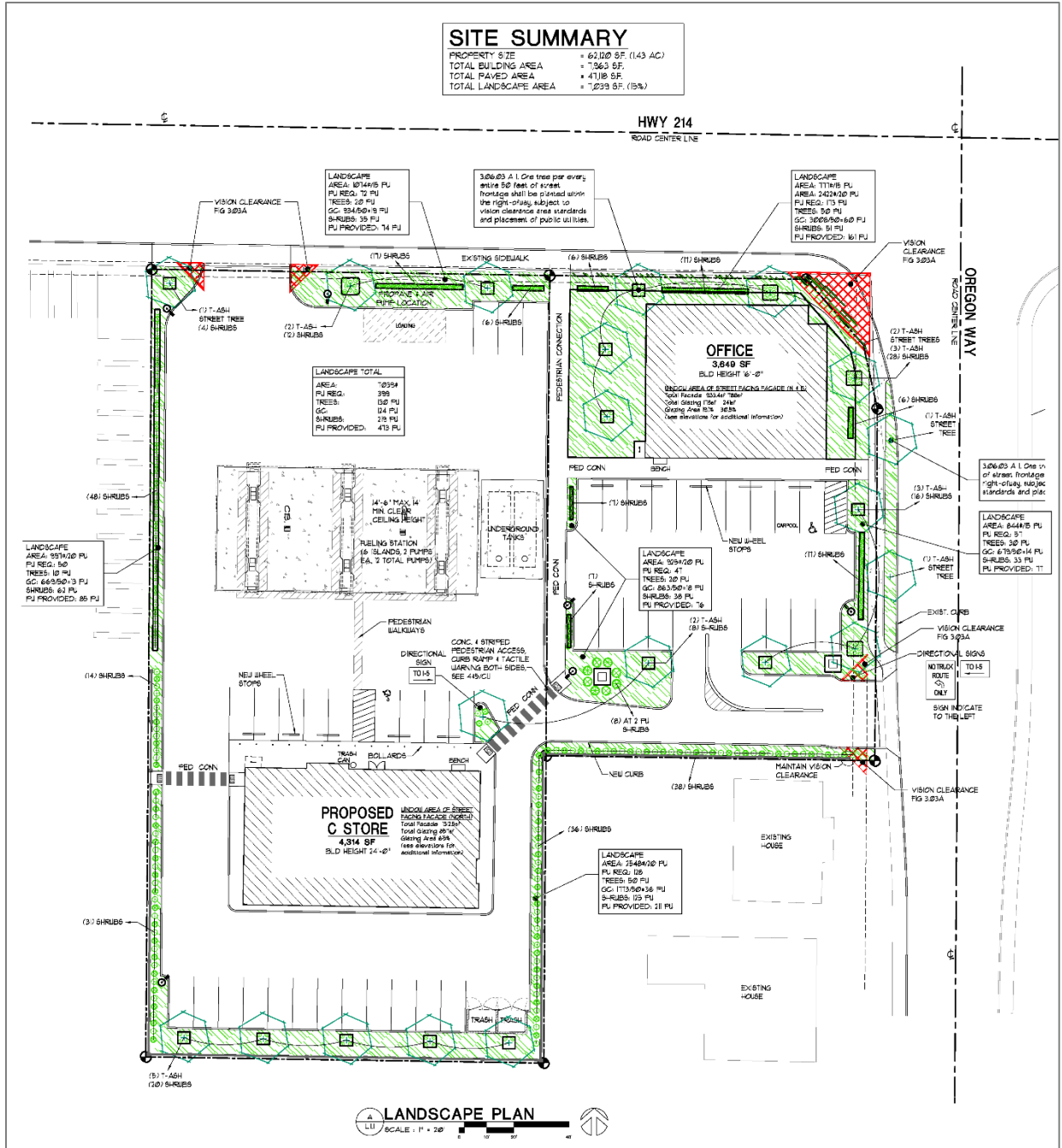


Exhibit PP2: Option 2 Site Plan Excerpt Prior to Revision per Conditions of Approval



Design Review 21-10

D1. PUEs: If minimum width streetside PUEs do not yet exist as 10 ft along the highway per WDO Figure 3.01B or 5 ft along Oregon way per 3.02.01B, the developer shall grant such. Max widths shall be per Conditions EX1 & EX2. This is due by building permit application.

D2. Parking / vehicular circulation setback: Option 2: To conform to WDO 3.05.02E, the developer shall do one of the following: (a) revise the site plan to set back parking and vehicular circulation area min 5 ft from the northerly east lot line of 2600 Newberg Hwy (Tax Lot 3700) and to landscape the setback per 3.06 and plant min 4 trees within it; (b) have a shared use agreement per 3.05.02E; or (c) doing (a) in part and in combination with (b). This is due by building permit issuance.

D3. Parking / vehicular circulation directional markings/signage: To conform to WDO 3.05.02J, during building permit review the Director may administratively establish details, specifications, and revisions to administer the WDO section. Further site plan revisions necessary to conform, if any, shall be due by building permit issuance.



Conditional Use 21-02

CU1. Architecture:

a. Canopies / fixed awnings:

- (1) General: Min height clearance 9 ft.
- (2) Fuel pump canopy: Max ceiling height 14.5 ft to either (a) ceiling or (b) ceiling-mounted lighting fixtures, whichever is lower.
- (3) Option 1:
 - (a) Convenience store / NE office building: Each west entrance shall have a fixed awning, canopy, building wall projection, or secondary roof that shelters from the weather, min area 48 sq ft, min depth 4 ft. Each east mandoor shall have the same, except min area 18 sq ft, min depth 3 ft.
 - (b) South commercial office: Each north entrance shall have a fixed awning, canopy, building wall projection, or secondary roof that shelters from the weather, min area 48 sq ft, min depth 4 ft. It may be smaller if combined with a building recess and together they meet the min area. The south patio door elsewhere conditioned shall have the same, except min area 18 sq ft, min depth 3 ft.
- (4) Option 2:
 - (c) Convenience store: North entrance shall have a fixed awning or a canopy that shelters from the weather, min area 48 sq ft, min depth 4 ft. Each side or rear mandoor shall have the same, except min area 12 sq ft, min depth 2 ft.
 - (d) NE commercial office: The main entrance shall have any of the following that shelters from the weather: (1) a fixed awning or a canopy, (2) a building recess, or (3) combination. Min area 64 sq ft, narrowest dimension 6 ft. Min one of the other entrances shall have the same, except min area 24 sq ft, narrowest dimension 4 ft. Every south and west façade storefront window shall have any of a fixed awning, canopy, building wall projection, secondary roof, or sun louver min width same as the window and min depth 2 ft. Building color shall be other than black or charcoal.

b. Cladding/materials:

- (1) Option 1: Convenience store / NE commercial office: Base cladding min height 2 ft of brick, CMU finished to resemble cut stone, or adhered stone. The proposed east CMU mandoor screen wall, if not precluded by streetside PUE, shall be max height 4 ft, 2 inches, have the bottom 2 courses be split face and the upper 4 courses ground face and be capped with smooth concrete. The NE corner angled wall shall have a window min area 15 sq ft, min 2.5 ft wide, and wholly within 8.5 ft of grade.

- (2) Option 2: NE commercial office: Base cladding min height 2 ft of brick, CMU finished to resemble cut stone, or adhered stone.
- c. Entrance: Option 2: NE commercial office: The main entrance door or doors of the office building shall be at any of the NE corner, within the east façade, or at the SE corner of the building. A corner entrance may be angled or both at one side of a corner and within 12 ft of the corner where main wall planes intersect or would intersect.
- d. Scuppers: Any building rainwater scuppers shall not to dump onto the pavement of a wide walkway.
- e. Setbacks:
 - (1) General: Site NE corner min setback shall equal streetside PUE.
 - (2) Option 1:
 - (a) Convenience store / NE commercial office: max 15 ft from highway and max 20 ft from Oregon Way ROW (measured from straight line ROW, not variable ROW at intersection).
 - (b) South commercial office: min 5 ft from Tax Lot 3700 east, south, and west lot lines.
 - (3) Option 2: NE commercial office: max 15 ft from each of highway and Oregon Way ROW (measured from straight line ROW, not variable ROW at intersection). NE corner min setback shall equal streetside PUE. West and south setbacks each shall be min 10 ft.
- f. Windows:
 - (1) General: All windows shall be square, round, or vertically proportioned. Operable windows shall have insect screens.
 - (2) Min area:
 - (a) Option 1:
 - (i) Convenience store: West façade 30%; north 30%; east 36 sq ft.
 - (ii) NE commercial office: West and south façades 30%; east 144 sq ft.
 - (iii) South commercial office: North façade 30%; east 15%; south 20%; and west 20%.
 - (b) Option 2:
 - (i) Convenience store: North façade 30%. Each of east, south, and west facades min 1 window min 7.5 sq ft, min 1.5 ft wide, and wholly within 8.5 ft of grade.
 - (ii) NE commercial office: North façade 30%; east 40%; south 30%; and west 20%.

CU2: Architectural Wall (AW) / Fences / Fencing:

- a. Exemption: Where chain-link fence with slats already exists along the north and west lot lines of Tax Lot 3500 (953 Oregon Way), the developer may exempt these two lines

from AW if the homeowner in writing consents to exemption and the developer submits documentation by and as part of building permit application.

b. Min height shall be along the:

- (1) North and west lot lines of Tax Lot 3500 6 ft, 2 inches (if CMU, equal to 9 courses of blocks plus 2-inch smooth concrete cap).
- (2) North and east lot lines of Tax Lot 90000 (950 Evergreen Road) 8 ft, 2 inches (if CMU, equal to 12 courses of blocks plus 2-inch smooth concrete cap).
- (3) Where fencing may substitute per other conditions, for part 1. above it shall be 6 ft, and for part 2. above, 8 ft.

c. Height at AW ends: Min height shall drop where subject to stair-stepped height limits in yards abutting streets per WDO 2.06.02, within VCA or sight triangles per 3.03.06, and AW shall remain outside streetside PUEs. AW may cross an off-street PUE, if any exist, with written authorization by the Public Works Director, and the Public Works Director may instead direct that instead of a segment of wall that there be coated chain-link fencing with slats across an off-street PUE. For crossing of private easements, the developer similarly may instead fence.

d. Gaps or rectangular openings:

- (1) There shall be one along the east lot line of Tax Lot 90000, min 4 ft wide and 6 ft, 8 inches high above grade, and with the south end of the gap aligned with the Tax Lot 90000 north east-west drive aisle, south curb, north face.



Exhibit CU2d(1)

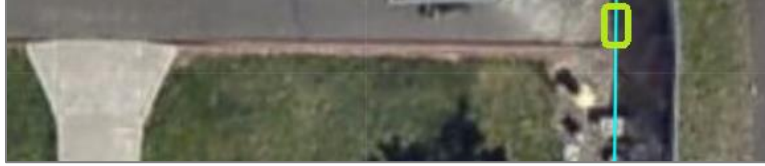


Exhibit CU2d(2)

- (2) If AW exemption per part a. above is not applicable, then there may be a gap along the west lot line of Tax Lot 3500, aligned with where there exist west backyard chain-link gates, minimum width equal to the width of the gates.
- e. Color: Masonry and any paint shall be a color or colors other than black, charcoal, or gray. For any other fence / fencing or free-standing wall, including gates if any, the coating and slats that WDO 2.06.02D requires and any wall shall be a color or colors other than black or charcoal. On free-standing walls with two or more colors, darker colors shall be towards the bottom and lighter ones towards the top.
- f. Material: AW segments at 40 ft north or farther from the south lot line of Tax Lot 3700 may be partly made of opaque cedar wood fencing if the wall remains mostly masonry. Specifically, masonry must constitute the bottom extent of wall segment from grade up to min 2 ft, 8 inches above grade, and there shall be piers or pilasters per “Details” below. Exhibit CU2f below illustrates a similar, conforming example:

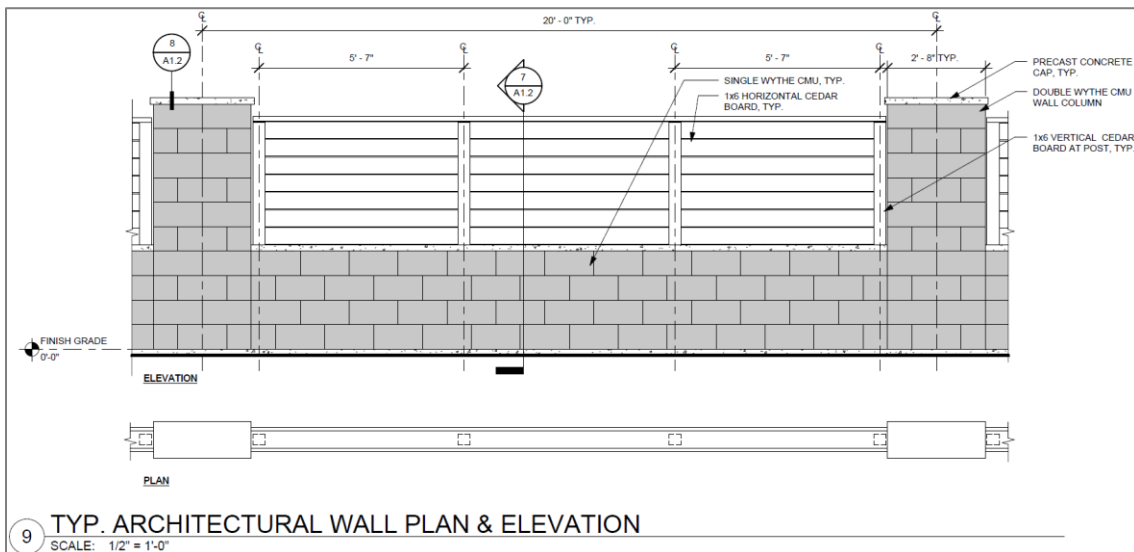


Exhibit CU2f (DR 2017-08)

- g. Details: Each AW segment end shall have a pier or pilaster min 16 inches wide relative to wall face and projecting min 4 inches. Each segment shall have a min number of piers or pilasters equal to a ratio of 1 per 40 ft of wall. Each pier or pilaster shall be capped with ornamental concrete in the form of any of a shallow-sloped pyramid or sphere or other finial atop such pyramid. If the AW is CMU, the 8th and 9th CMU courses above grade shall be ground face (5 ft, 4 inches through 6 ft above grade).

CU3. Bicycle parking: Amount and general location: The developer shall provide bicycle parking as follows:

- a. Option 1 min stalls:
 - (1) Convenience store: 2
 - (2) NE commercial office: 2
 - (3) South commercial office: 4
- b. Option 2 min stalls:
 - (1) Convenience store: 2
 - (2) NE commercial office: 4
- c. General: Standards other than amount and general location shall conform to WDO 3.05.06 through Ordinance No. 2602 (LA 21-01).

CU4. Electric power lines: The development shall conform to WDO 3.02.04 through Ordinance No. 2602 (LA 21-01).

CU5. Landscaping:

- a. Bench: In the landscaped open space at or near the NE commercial office space, along a wide walkway or in a plaza, install either a 6-ft wide bench with back or a picnic bench. Set back from walkway and pave the setback, min either 2 ft for a bench or 3 ft for a picnic bench.
- b. Buffering/Screening: Evergreen hedge or shrubbery shall:
 - (1) Line AW segments.
 - (2) Screen transformers and other at-grade electrical and mechanical equipment along their sides, excepting the side intended for technician access.
 - (3) Serve as means of conformance with WDO 3.06.05B (parking screening).
- c. Coniferous/evergreen trees: 1 min of trees new to the site. The 1 shall be 1 min of the following coniferous or evergreen species:

Cedar, Western Red	Madrone, Pacific
Douglas-Fir	Oak, Oregon White
Fir, Grand	Pine, Ponderosa; and
Hemlock, Western	Yew, Pacific

- d. Front yard
 - (1) Trees:
 - (a) Plant min 7 trees in the yard along the highway and min 10 ft and max 20 ft from ROW.
 - (b) Plant min 4 trees in the yard along Oregon Way, min 5 ft and max 20 ft from ROW, in a loose row with min 3 of them spaced offset from and complementing street trees.
 - (2) Hedge/shrubbery: In all areas not occupied by buildings and pavement, landscape per WDO 3.06.

- (a) On Tax Lot 3700 in the yard along the highway, plant a hedge or row of continuous small or medium shrubbery extending between the driveway and east lot line. Plant and maintain min 5 ft from sidewalk and max 12 ft from ROW.
 - (b) Option 1: On Tax Lot 3600 in the yard along the Oregon Way, line the convenience store rear east free-standing wall with a hedge or row of continuous small or medium shrubbery.
 - (c) Option 2: On Tax Lot 3600 in the yard along the Oregon Way, plant a hedge or row of continuous small or medium shrubbery extending along the east dead-end of the drive aisle. Plant and maintain min 1 ft from sidewalk.
- e. Site interior:
- (1) AW: Line each Architectural Wall segment with a hedge or row of continuous medium or large shrubbery.
 - (2) Bark dust: Of landscaped area, max 3% may be bark dust, mulch, wood chip, pebbles, or sand. Walkway and plaza paving do not count against landscaping minimums.
 - (3) Lawn large tree: Within open space within 30 ft of the NE commercial office, plant min 2 trees, either both large or min 1 medium and 1 large.
 - (4) Plaza: At or within 30 ft of the NE commercial office space and adjacent to a wide walkway shall be a plaza min 81 sq ft, exc. walkway area, at 9 ft narrowest dimension, paved with bricks, concrete pavers, field or flagstone, or poured cement.
 - (5) South yard: Within 100 ft of the Tax Lot 3700 south lot line, plant either for Option 1 min 2 trees or for Option 2 min 5 trees. Of these for Option 2, min 2 large with the westernmost tree being one of the large ones.
- f. Parking area:
- (1) Option 1:
 - (a) Convenience store: A landscape island shall be roughly in the middle the parking aisle fronting the convenience store that conform to WDO 3.06.03C through Ordinance No. 2602 (LA 21-01).
 - (b) NE office: Plant a large tree in the southwesterly area of the south yard lawn.
 - (c) South office: For common use by tenants, have a south rear door and a patio of brick, pavers, or poured concrete min 7 ft north-south by 11 ft east-west. Align patio flush with door outer swing. Plant a small tree near patio west side.
 - (2) Option 2:
 - (a) Convenience store: A landscape island shall cap each end of the parking aisle fronting the convenience store per WDO 3.06.03C through Ordinance No. 2602 (LA 21-01), and the east island may be on the west side of the wide walkway that another condition requires.
 - (b) NE office: The office parking area drive aisle east end shall have the inside of curb min 3 ft from edge of streetside PUE, and the 3-ft width shall have a tree.

CU6. Lighting:

- a. General: Shall conform to WDO 3.11 through Ordinance No. 2602 (LA 21-01).
- b. Buffer: Parking area or other pole-mounted fixtures are prohibited between the north lot line of 953 Oregon Way (Tax Lot 3500) and the east-west drive aisle.
- c. Fuel pump canopy: Max 16 ceiling fixtures. Any ceiling fixture shall be no closer to ceiling outer edge than 4 ft. Neon lighting, or a lighting technology that mimics the appearance of neon lighting, is prohibited on the fuel pump canopy and on the southernmost primary building on Tax Lot 3700. The developer shall make so either of the following: (1) ceiling light fixtures shall not drop below the ceiling plane, or (2) for ceiling-mounted fixtures, the canopy roof edge perimeter shall as a shield drop or extend down to the same plane as the underside of the lowest fixture. In either case, fixtures that drop or extend down from the ceiling shall each have opaque housing on all sides.
- d. Option 1: Max of:
 - (1) Convenience store: 1 wall fixture on the east rear and none on the north side.
 - (2) NE commercial office: 1 wall fixture each on the west front and east rear.
 - (3) South commercial office: 1 wall fixture at the south rear and none at the east and west sides.
- e. Option 2: Max of:
 - (1) Convenience store: 2 wall fixtures on the south rear, 1 each on the east and west sides. Parking area or other pole fixtures prohibited in the east side, south rear, and west side yards.
 - (2) NE commercial office: 1 wall fixture on the south, 1 each on the east and west sides, and the south yard limited to 2 parking area poles. No other pole types in the north, east, or west yards.

CU7: Parking:

- a. Standard stall length: The developer may set standard size 90° angle stall length at 18 ft instead of 19 per WDO Table 3.05B through Ordinance No. 2602 (LA 21-01).
- b. EV: Electric vehicle (EV) parking shall be min 1 stall with a charging station and placed near commercial office area. Remaining EV parking standards shall be per WDO 3.05 through Ordinance No. 2602 (LA 21-01).
- c. Wheelstops / wheel stops: Every angled or 90° parking stall along a wide walkway shall have a wheel stop max 4 inches high. A wheel stop shall not straddle adjacent stalls. If and where the developer opts to install wheel stops where not required, they also shall conform to the height limit.

CU8. Walkways:

- a. General: Shall conform with WDO 3.04.06 through Ordinance No. 2602 (LA 21-01).
- b. Gap: A walkway, min 3.5 ft wide as an exception to part a., shall connect a building perimeter walkway system west to the AW conditioned gap or opening along the west lot line of Tax Lot 3700.
- c. Convenience store & fuel pump canopy: The three pump islands together shall have one or more walkway crossings to the convenience store main entrance walkway, and as an exception to part (a) above, each min 3 ft wide. For Option 1, minimum 1 crossing; for Option 2, min 2. A walkway crossing may incorporate an ADA parking space accessible aisle. Walkways should be straight, and where needing to jog, should jog at 45° max and at the point where vehicles pass in opposite directions or between vehicle lanes.
- d. Option 2: At the NE of the convenience store, the wide walkway crossing of drive aisle shall be at or near a right angle to drive aisle.

CU9. Access management: These are due by building permit application:

- a. General: Access management shall conform with WDO 3.02.01E, 3.04.01A.2, and 3.04.03C & D through Ordinance No. 2602 (LA 21-01). Regarding recordation of one or more types of legal instruments and how, the developer shall conform to the conditions in ways that satisfy the County.
- b. Bicycle/pedestrian: The develop shall grant the public access to walk, cycle, and roll along each wide walkway across Tax Lot 3600 to the benefit of 3700, relating to Oregon Way sidewalk access, and across Tax Lot 3700 to the benefit of 3600, relating to highway sidewalk access.
- c. Shared parking: If and where one or both of the subject lots lack minimum off-street parking ratio for all land uses on the lot, the developer shall revise site plans to conform to WDO 3.05.02 & Table 3.05A or shall create a shared parking agreement per WDO 3.05.05. This is due by building permit issuance.
- d. Cross access:
 - (1) Local: To conform to WDO 3.04.03A.3, B.1, B.3 & C.2 and, through Ordinance No. 2602 (LA 21-01), WDO 3.04.03B.3, C.1, C.3, C.4, & D.2, for what is termed any of cross access, ingress/egress, public access, or shared access, the developer shall grant the public access (a) across Tax Lot 3600 to the benefit of 3700, (b) across Tax Lot 3700 to the benefit of 3600, and (c) across Tax Lot 3700 to the benefit of 3800. The cross access shall follow a drive aisle or aisles and align at the common lot line. Regarding (c), the north east-west drive aisle shall stub to somewhere along the northerly 75 ft of the west lot line and at min 20 ft wide, and though the stub shall not be curbed it may be fenced.
 - (2) ODOT factor:
 - (a) The developer shall apply to and obtain from ODOT the proper access rights for both tax lots prior to any construction, so as to not violate the deeds.

- (b) For context, see Attachment 102B. The ODOT Region 2 contact is Casey Knecht, P.E., Development Review Coordinator, (503) 986-5170, casey.knecht@odot.state.or.us. The City interprets “prior to any construction” to mean by issuance of the first structural building permit. Otherwise, City staff are inclined to defer to ODOT interpretation of part (a) above, including whether it is applicable to either Option 1 only or both site plan options.
- (c) If after City land use decision ODOT objects specifically to how the City administers or the developer conforms to other parts of the condition or to other conditions concerning vehicular access, then the developer may request and the Director may administratively approve in writing changes to administration or conformance to accommodate the ODOT factor while still having the development meet the WDO and conditions of approval to the maximum 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.
- (d) If after City land use decision ODOT directs access management in conflict with other parts of the condition or to other conditions concerning vehicular access, then the developer shall forward the written direction from ODOT to the attention of the Director; describe the conflict(s); describe the minimum deviation from conformance necessary to comply with ODOT direction while also conforming to the remainder of the condition to the maximum, including plan view illustrations where helpful; and request Director approval through a dated document that cites the land use case file and condition numbers. The Director may approve what the developer first requests or a modified request. The City intends that if the developer were to make use of this part (d) of the condition, he would do so once.

CU10. Gas station operations:

- a. Noise:
 - (1) 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.
 - (2) 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.
- b. 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.

c. Vehicular circulation:

(1) Driveways:

(a) Highway: Max 1 driveway. The driveway shall remain right-in, right-out and be max width equal to the existing 30 ft unless ODOT approves wider up to 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, whichever is longer, 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. (The 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 would supersede.

(b) 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.

(2) 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. Further site plan revisions necessary to conform, if any, shall be due by building permit issuance.

(3) Option 2: fuel pump queueing:

(a) 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.

(b) Stacking:

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


(ii) 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.

- (4) Trucks: Until July 1, 2030, 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, whether or not 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, that is, a variance;
- 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.

Modification of a specific condition of approval remains pursuant to WDO 4.02.07. Were the City to have amended the WDO to establish modification provisions for conditional uses, the Director may decide that the provisions supersede this condition of approval.



Conditional Use 21-02: Transportation

T-A:

1. 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]
2. Consultant review: The developer shall pay a fee for the City to recoup the cost of its transportation consultant reviewing and advising upon the TIA.
3. I-5 interchange with OR 214: To reduce vehicle crashes, the developer shall pay a fee per Attachment 203.
4. OR 214 & Evergreen Rd: To mitigate effect on the intersection and reduce vehicle crashes, the developer shall pay a fee per Attachment 203.
5. OR 99E & OR 211/214: To mitigate effect on the intersection and reduce vehicle crashes, the developer shall pay a fee per Attachment 203.

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.

Street Exception 21-05

EX1. Frontage/street improvements: Highway: These shall be as follows:

- a. ROW: If and where there is a deficit, the developer shall dedicate ROW that meets or exceeds the min width necessary to conform to WDO Figure 3.01B “Major Arterial”.
- b. PUE: If minimum width streetside PUE does not yet exist per WDO Figure 3.01B, then the developer shall grant it. Max width shall be 10 ft, unless if and where existing utilities that the developer does not relocate necessitate wider as documented by franchise utilities and the developer.
- c. Improvements: No min surface improvements other than either elsewhere conditioned or necessary to comply with ODOT engineering guidance or conform to PW direction. The developer shall pay fees in lieu of highway improvements per Attachment 203.

EX2. Frontage/street improvements: Oregon Way: These shall be as follows:

- a. ROW: The developer shall dedicate ROW that meets or exceeds the min width necessary to conform to WDO Figure 3.01E “Access Street” and exceeds that width where necessary to accommodate both the existing northbound left turn lane and required half-street improvements.
- b. PUE: If minimum width streetside PUE does not yet exist per WDO 3.02.01B, then the developer shall grant it. Max width shall be per WDO 3.02.01F.2 through Ordinance No. 2602 (LA 21-01).
- c. Improvements:
 - (1) Parking: No 8-ft wide on-street parallel parking lane is required, this being an exception from what Figure 3.01E would have required. The developer shall pay a fee in-lieu per Attachment 203.
 - (2) Landscape strip: Min 6½ ft wide inc. curb width and with min 3 street trees with allowance of fee in lieu of 1 tree max. Planting of area remaining after tree planting and irrigation shall be per WDO 3.01.04B through Ordinance No. 2602 (LA 21-01).
 - (3) Sidewalk: Min 8 ft wide.
 - (4) Overlap: Wider sidewalk shall not narrow the landscape strip. The extra width of planter strip and sidewalk shall either (a) be within additional ROW that accommodates them, or (b) overlap outside ROW into streetside PUE, there being a recorded legal instrument granting public access to the overlap. If (b), then the developer shall submit a draft of the legal instrument for Planning and PW review by either civil engineering plan (CEP) review application to PW or building permit application, whichever is earlier. The developer shall submit copies of correctly recorded documents to the Planning Division by building permit issuance.

Applicant Identity

<i>Applicant</i>	Ronald “Ron” James Ped, Ronald James Ped Architect, PC
<i>Applicant’s Representative</i>	n/a
<i>Landowner(s)</i>	Lal Din Sidhu (“Don” Sidhu), Woodburn Petroleum LLC

Notes to the Applicant

The following are not planning / land use / zoning conditions of approval, but are notes for the applicant to be aware of and follow:

1. Records: Staff recommends that the applicant retain a copy of the subject approval.
2. Fences, fencing, & free-standing walls: The approval excludes any fences, fencing, & free-standing walls, which are subject to WDO 2.06 and the permit process of 5.01.03.
3. Signage: The approval excludes any private signage, which is subject to WDO 3.10 and the permit process of 5.01.10.
4. PLA Time Limit: WDO 4.02.04B. specifies that, “A final decision on any application shall expire within three years of the date of the final decision unless: 1. a building permit to exercise the right granted by the decision has been issued; 2. the activity approved in the decision has commenced; or 3. a time extension, Section 4.02.05, has been approved. Because unrecorded re-plats lingering indefinitely have burdened staff, a condition sets sooner time limits for subsection 2. to begin and finish recordation.
5. Mylar signature: The Community Development Director is the authority that signs plat Mylars and not any of the mayor, City Administrator, Public Works Director, or City Engineer. Only one City signature title block is necessary.
6. PLA Plat Tracker: Marion County maintains a plat tracking tool at <http://apps.co.marion.or.us/plattracker/>. Use it to check on the status of a recordation request to the County. City staff does not track County plat recordation.
7. Technical standards:
 - a. Context: A reader shall not construe a land use condition of approval that reiterates a City technical standard, such as a PW standard, to exclude remaining standards or to assert that conditions of approval should have reiterated every standard the City has in order for those standards to be met.

- b. Utilities: A condition involving altered or additional sidewalk or other frontage/street improvement that would in the field result in displacement or relocation of any of utility boxes, cabinets, vaults, or vault covers does not exempt the developer from having to move or pay to move any of these as directed by the City Engineer and with guidance from franchise utilities.
8. Other Agencies: The applicant, not the City, is responsible for obtaining permits from any county, state and/or federal agencies, which may require approval or permit, and must obtain all applicable City and County permits for work prior to the start of work and that the work meets the satisfaction of the permit-issuing jurisdiction. The Oregon Department of Transportation (ODOT) might require highway access, storm drainage, and other right-of-way (ROW) permits. All work within the public ROW or easements within City jurisdiction must conform to plans approved by the Public Works Department and must comply with a Public Works Right-of-Way permit issued by said department. Marion County plumbing permits must be issued for all waterline, sanitary sewer, and storm sewer work installed beyond the Public Right-of-Way, on private property.
9. Inspection: The applicant shall construct, install, or plant all improvements, including landscaping, prior to City staff verification. Contact Planning Division staff at least three (3) City business days prior to a desired date of planning and zoning inspection of site improvements. This is required and separate from and in addition to the usual building code and fire and life safety inspections. Note that Planning staff are not primarily inspectors, do not have the nearly immediate availability of building inspectors, and are not bound by any building inspector's schedule or general contractor convenience.
10. Stormwater management: The storm sewer system and any required on-site detention for the development must comply with the City Storm Water Management Plan, Public Works storm water practices and the Storm Drainage Master Plan.
11. Public Works Review: Staff performs final review of the civil plans during the building permit stage. Public infrastructure must be constructed in accordance with plans approved by the City, as well as current [Public Works construction specifications, Standard Drawings, Standard Details](#), and general conditions of a permit type issued by the Public Works Department.
12. ROW:
 - a. Dedication: The Public Works Department Engineering Division has document templates for ROW and easement dedications that applicants are to use.

ROW – and public utility easement (PUE) – dedications are due prior to building permit issuance per Public Works policy.
 - b. Work: All work within the public ROWs or easements within City jurisdiction must require plan approval and permit issuance from the Public Works Department. All public

improvements construction work must be performed in accordance with the plans stamped “approved” by the City, and comply with the City’s Standard Specifications and Standard drawings.

13. Franchises: The applicant provides for the installation of all franchised utilities in any required easements.
14. Water: All water mains and appurtenances must comply with Public Works, Building Division, and Woodburn Fire District requirements. Existing water services lines that are not going to be use with this new development must be abandoned at the main line. The City performs required abandonment of existing water facilities at the water main with payment by the property owner. All taps to existing water mains must be done by a “Hot Tap” method and by approved City of Woodburn Contractors. The applicant shall install the proper type of backflow preventer for all domestic, lawn irrigation and fire sprinkler services. The backflow devices and meters shall be located near the city water main within an easement, unless approved otherwise by Public Works. Contact Byron Brooks, City of Woodburn Water Superintendent, for proper type and installation requirements of the backflow device at (503) 982-5380.
15. Grease Interceptor/Trap: If applicable, a grease trap would need to be installed on the sanitary service, either as a central unit or in a communal kitchen/food preparation area. Contact Marion County Plumbing Department for permit and installation requirements, (503) 588-5147.

Fire: Fire protection requirements must comply with Woodburn Fire District standards and requirements, including how the District interprets and applies Oregon Fire Code (OFC). Place fire hydrants within the public ROW or public utility easement and construct them in accordance with Public Works Department requirements, specifications, standards, and permit requirements. Fire protection access, fire hydrant locations and fire protection issues must comply with current fire codes and Woodburn Fire District standards. See City of Woodburn Standard Detail No. 5070-2 Fire Vault. The fire vault must be placed within the public right-of-way or public utility easement.

16. SDCs: The developer pays System Development Charges prior to building permit issuance. Staff will determine the water, sewer, storm and parks SDCs after the developer provides a complete Public Works Commercial/Industrial Development information sheet.



**CU 21-02 "US Market" Gas Station / Convenience Store / Office Building
2540 – 2600 Newberg Highway
Public Works**

May 5, 2022

LAND USE CONDITIONS:

1. The Applicant/owner, not the City, is responsible for obtaining permits from City, State, County and/or Federal agencies that may require such permit or approval. All work within the Oregon Department of Transportation (ODOT) jurisdiction shall comply with ODOT's permit and requirements. Use ODOT details for work within ODOT's jurisdiction.
2. Construct private storm sewer system, including detention facilities, in accordance with the City of Woodburn storm master plan and approved plans and drainage report. The on-site detention area for the runoff from this site shall be provided in accordance with the hydraulic analysis. The property owner shall maintain all on-site detention areas in perpetuity. Applicant is required to obtain approval from the Oregon Department of Transportation (ODOT) for connections to ODOT's storm system along Hwy 214 and Oregon Way.
3. Provide and record required right-of-way and public utility easements dedications prior to building permit issuance if required.
4. The Applicant shall obtain the required 1200C Erosion Control Permit from the Department of Environmental Quality prior to City issuance of permit(s), if applicable.
5. 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 public works and other agencies that may require the applicant to obtain permits.
6. All sanitary sewer laterals serving the proposed developments are private up to the main line. All existing sewer laterals shall be abandoned at the main if they are not going to be utilized.
7. Fire hydrants locations and fire protection requirements shall be as per the Woodburn Fire District and City of Woodburn requirements.

8. System Development Charges shall be paid prior to building permit issuance.
9. Pending ODOT's review and approval and oil/water and sand separator shall be use on the private storm system. Storm system shall comply with ODOT, City and Marion County requirements.
10. All onsite private storm system and sewer lateral lines shall comply with Marion County plumbing permit and requirements.
11. Provide private utility easements for the private storm system that benefit both tax lots (3700 and 3600) if necessary.
12. Storm systems for both gasoline/petroleum product spill and parking areas are not allowed to connect/discharge into the public sanitary sewer system. Applicant to redesign their storm system on the proposed pumps area and to comply with Federal, State, and City's regulations for containment of spills and storm discharges.

Colin Cortes

From: KNECHT Casey <Casey.KNECHT@odot.oregon.gov>
Sent: Wednesday, May 4, 2022 11:10 AM
To: Colin Cortes
Cc: Dan Handel
Subject: ODOT Comments for City of Woodburn CU 21-02 - Ped
Attachments: R3431-0137.pdf; R3986-0148.pdf

**** This email is from an EXTERNAL sender. Exercise caution when opening attachments or click links from unknown senders or unexpected email. ****

Colin,

Thank you for notifying the Oregon Department of Transportation (ODOT) of the proposal at 2540 & 2600 Newberg Hwy in Woodburn. Please include these comments as part of the Planning Commission hearing and notify ODOT of the decision by sending a copy to odotr2planmgr@odot.state.or.us when available.

The site has frontage on Hillsboro-Silverton Highway, No. 140 (OR-214), and is subject to state laws administered by ODOT. The site comprises two different tax lots, each with access restrictions recorded in the property deeds. Tax lot 3700 (2600 Newberg Hwy) has one access reservation at MP 37.09 that can serve tax lot 3700 only. This corresponds with the existing driveway on the highway. Tax lot 3600 (2540 Newberg Hwy) has no access rights to the highway and no access rights to a portion of Oregon Way between the highway intersection and a point 191 feet south of the highway intersection center. This leaves a 36-foot window along Oregon Way adjacent to the southern property line where all vehicular access must occur for tax lot 3600. This corresponds with the existing driveway on Oregon Way. I have attached the relevant property deeds from the Marion County clerk.

Both site plans allow for vehicles to enter tax lot 3600 (2540 Newberg Hwy) via tax lot 3700 (2600 Newberg Hwy) which is in violation of the access rights listed in the deeds. The additional driveway on Oregon Way falls in the area of access control (outside the 36-foot window), and would also be in violation of the access rights listed in the deeds. There is a process for modifying or lifting access rights, called a Grant of Access. The applicant would need to apply to the state for a Grant of Access, and demonstrate that the changes to the access rights would benefit the highway. If the application is approved, the deeds would be modified and re-recorded with the county clerk to reflect the change.

If the city approves this land use proposal with either of the site plan options, there must be a condition of approval that the applicant shall obtain the proper access rights for both tax lots prior to any construction, so as to not violate their own deeds. Please contact me with any questions.

Casey Knecht, P.E.

Development Review Coordinator | ODOT Region 2

503-986-5170 | casey.knecht@odot.oregon.gov

**CU 21-02
Attachment 102B**

WARRANTY DEED with EASEMENT

WELLS FARGO BANK, NA, successor by merger to First Federal Savings and Loan Association of Salem, a federal corporation, Grantor, whose address is 1300 SW Fifth Avenue, 5th Floor, Portland, Oregon 97201, for the true and actual consideration of **\$21,100.00**, does convey unto the **STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION**, Grantee, fee title to the property described as **Parcel 1 on Exhibit "A" dated 12/10/2010**, attached hereto and by this reference made a part hereof.

TOGETHER WITH ALL abutter's rights of access, if any, between the above-described parcel and Grantor's remaining real property, EXCEPT, however,

Reserving access rights for the service of Grantor's remaining property, to and from said remaining property to the abutting highway at the following place(s), in the following width(s):

Hwy. Engr's Sta.	Side of Hwy.	Width
522+80	South	30 Feet

The access rights reserved herein are subject to, and may only be exercised in accordance with, the statutes and administrative rules applicable to access control and road approaches. Such access is contingent upon issuance of an approach road permit, and no access rights may be exercised or construction of an approach road begun unless, and until, a standard Approach Road Permit application is submitted and a permit issued by the Oregon Department of Transportation. The approach road may only be constructed or maintained upon issuance of such permit and in accordance with such permit. If the State constructs the approach road during a highway project, Grantor is required to sign a standard Approach Road Permit to ensure proper operation and maintenance of the approach road.

RETURN TO AND TAX STATEMENTS TO:
OREGON DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY SECTION
4040 FAIRVIEW INDUSTRIAL DRIVE SE, MS#2
SALEM OR 97302-1142

Map and Tax Lot #: 5-2W-12DB-3700
Property Address: 2600 Newberg Highway
Woodburn, OR 97071

730707

Grantor also grants to Grantee, its successors and assigns, a permanent easement to construct and maintain slopes, to construct, operate and maintain drainage facilities, and to relocate, construct and maintain water, gas, electric and communication service lines, fixtures and facilities, and appurtenances therefore, upon, over, under, and across the property described as **Parcel 2 on Exhibit "A" dated 12/10/2010**, attached hereto and by this reference made a part hereof.

IT IS UNDERSTOOD that the easement herein granted does not convey any right, or interest in the above-described Parcel 2, except for the purposes stated herein, nor prevent Grantor from the use of said property; provided, however, that such use shall not be permitted to interfere with the rights herein granted or endanger the lateral support of the public way, or to interfere in any way with the relocation, construction, and maintenance of said utilities, and their appurtenances, as granted herein above.

IT IS ALSO UNDERSTOOD that Grantee shall never be required to remove the necessary slope materials placed by it on said property nor shall Grantor, Grantor's heirs successors and assigns have any claim to Grantee for compensation for damages to Parcel 2, by reason thereof or by reason of any change of grade of the public way abutting on said property.

IT IS ALSO UNDERSTOOD that this easement shall be subject to the same conditions, terms and restrictions contained in the easements, licenses and/or permits granted to the owner of any facilities being relocated.

IT IS ALSO UNDERSTOOD that Grantor shall not place or erect any buildings or structures upon the easement area without the written consent of Grantee.

IT IS FURTHER UNDERSTOOD that nothing herein contained is intended to create any obligation on the part of Grantee for the maintenance of said utilities unless installed by Grantee.

Grantor covenants to and with Grantee, its successors and assigns, that grantor is the owner of said property which is free from encumbrances, except for easements, conditions, and restrictions of record, and will warrant the same from all lawful claims whatsoever, except as stated herein.

Grantor agrees that the consideration recited herein is just compensation for the property or property rights conveyed, including any and all reduction in value to Grantor's remaining property, if any, which may result from the acquisition or use of said property or property rights. However, the consideration does not include damages resulting from any use or activity by Grantee beyond or outside of those uses expressed herein, if any, or damages arising from any negligence.

In construing this document, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this document shall apply equally to corporations and to individuals.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

The statement above is required by law to be included in this instrument. PLEASE NOTE: the property described in this instrument is not a "lot" or "parcel" as defined in ORS 92.010 or 215.010. Nevertheless, the property is a legally created unit of land as described in ORS 92.010 (9) (d) or (e).

It is understood and agreed that the delivery of this document is hereby tendered and that terms and obligations hereof shall not become binding upon the State of Oregon Department of Transportation, unless and until accepted and approved by the recording of this document.

Dated this 24th day of August, 2012.

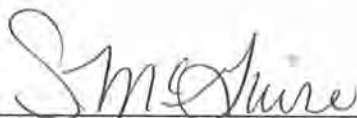
WELLS FARGO BANK, NA, successor by merger to First Federal Savings and Loan Association of Salem, a federal corporation

By 
Joshua S. Gutzwiler, Vice-President

STATE OF OREGON, County of Multnomah

Dated August 24th, 2012. Personally appeared the above named Joshua S. Gutzwiler, known by me to be the Vice-President, of Wells Fargo Bank, NA, who acknowledged that he executed the same for the purposes therein expressed and in the capacity therein stated, as the act and deed of said Bank. Before me:





Notary Public for Oregon
My Commission expires September 12, 2013

*SEE ATTACHED SEPARATE SIGNATURE AND ACKNOWLEDGMENT ON PAGE 5 of 5

*THIS SIGNATURE AND ACKNOWLEDGMENT IS ATTACHED TO A WARRANTY DEED with EASEMENT DOCUMENT
DATED August 24, 2012

WELLS FARGO BANK, NA, successor by
merger to First Federal Savings and Loan
Association of Salem, a federal corporation

By 
David C. Danis, Vice-President

STATE OF CALIFORNIA, County of _____

Dated _____, 20____. Personally appeared the above named David C. Danis, known by me to
be the Vice-President, of Wells Fargo Bank, NA, who acknowledged that he executed the same for the purposes
therein expressed and in the capacity therein stated, as the act and deed of said Bank. Before me:

see attached California Acknowledgment

Notary Public for California
My Commission expires _____

Accepted on behalf of the Oregon Department of Transportation



ACKNOWLEDGMENT

State of California
County of San Francisco)

On Sept 4, 2012 before me, Judy Gonzales, Notary Public
(insert name and title of the officer)

personally appeared David Denis,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.



Signature Judy Gonzales (Seal)

PARCEL 1 - Fee

A parcel of land lying in the Andrew Dubois D.L.C. No. 98, Township 5 South, Range 2 West, W.M., Marion County, Oregon and being a portion of that property described in that Warranty Deed to First Federal Savings & Loan Association of Salem, recorded March 24, 1969 in Book 661, Page 638 of Marion County Record of Deeds; the said parcel being that portion of said property included in a strip of land 52.60 feet in width, lying on the Southerly side of the center line of the relocated Hillsboro - Silverton Highway, which center line is described as follows:

Beginning at Engineer's center line Station 514+00.00, said station being 59.48 feet South and 1,652.55 feet East of the Northwest corner of the Andrew Dubois D.L.C. No. 98, Township 5 South, Range 2 West, W.M.; thence South 87° 17' 33" East 1,124.18 feet to Engineer's center line Station 525+24.18.

Bearings are based on County Survey No. 37627, filed August 27, 2009, Marion County, Oregon.

This parcel of land contains 492 square feet, more or less.

PARCEL 2 – Permanent Easement For Slopes, Drainage, Water, Gas, Electric and Communication Service Lines, Fixtures and Facilities

A parcel of land lying in the Andrew Dubois D.L.C. No. 98, Township 5 South, Range 2 West, W.M., Marion County, Oregon and being a portion of that property described in that Warranty Deed to First Federal Savings & Loan Association of Salem, recorded March 24, 1969 in Book 661, Page 638 of Marion County Record of Deeds; the said parcel being that portion of said property included in a strip of land 62.60 feet in width, lying on the Southerly side of the center line of the relocated Hillsboro - Silverton Highway, which center line is described in Parcel 1.

EXCEPT therefrom Parcel 1.

This parcel of land contains 1,447 square feet, more or less.

REEL: 3431

PAGE: 137

October 04, 2012, 03:47 pm.

CONTROL #: 325141

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: \$ 71.00

BILL BURGESS
COUNTY CLERK

THIS IS NOT AN INVOICE.

File 7139037A
PM224A-005
Drawing 11B-4-30

REEL 3986 PAGE 148
MARION COUNTY
BILL BURGESS, COUNTY CLERK
08-28-2017 02:10 pm.
Control Number 473317 \$
66.00
Instrument 2017 00044715

FATCO NCS-858022-OR1

DEED

The STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION, Grantor, for the true and actual consideration of \$500,000.00 does convey unto, ZOYA PROPERTIES, Inc., Grantee, the property described as Parcel 1 on Exhibit "A" dated 8/13/2015, attached hereto and by this reference made a part hereof.

AND RESERVING unto Grantor an permanent easement for slopes, drainage facilities, water, gas, electric and communication service lines, fixtures and facilities upon the property described as Parcel 2 on Exhibit "A" dated 8/13/2015, attached hereto and by this reference made a part hereof.

This conveyance is made and delivered upon the following express conditions, reservations, and restrictions:

1. Subject to special assessments, existing restrictions, reservations and easements of record, if any.
2. That there is reserved by Grantor, and waived by Grantee, all access rights between the above described real property and the Hillsboro-Silverton Highway and to Oregon Way (City Street) Northerly of Engineer's Station "OW" 11+91 abutting on said parcel.

This reservation shall run with the land and shall not be subject to modification, cancellation, or destruction by adverse user or estoppel, no matter how long continued. Nothing in this conveyance shall be construed as conveying any estate, right, title, or interest in and to said abutting public highway right of way or any rights of reversion therein or thereto.

3. That the above described land shall never be used for the placing or maintenance of any advertising sign, display, or device, except such sign, display, or device used to advertise the activities on said land, or the lease or sale of said land or any portion thereof. In the event of violation of this condition, Grantor shall have the right, through its authorized officers, agents, or employees to enter upon said land and remove, destroy, or obliterate any unauthorized sign, display, or device, without liability for damage or injury thereto, and to recover the cost of such removal, destruction or obliteration from the owner of said land.

TAX STATEMENTS TO:

Zoya Properties, Inc.
1600 NW 167th Place
Suite 300
Beaverton, OR 97003

AFTER RECORDING RETURN TO:

OREGON DEPARTMENT OF TRANSPORTATION
PROPERTY MANAGEMENT / ACCESS RESEARCH
4040 FAIRVIEW INDUSTRIAL DRIVE SE, MS#2
SALEM OR 97302-1142

4. That no junk, scrap, junked motor vehicles, or parts thereof, debris, trash, waste, or other such materials shall be placed on said land for whatever purpose in any manner so as to be visible from a state highway, provided that such items as listed above can otherwise be placed on said land without violating any applicable law, ordinance, or regulation. In the event of violation of this condition, Grantor shall have the right, through its authorized officers, agents, or employees, to enter upon said land and remove or destroy any unauthorized junk, scrap, or other material mentioned above and recover the cost of such removal or destruction from the owner of said land.

5. That this property shall not be used for the operation of any garbage dump or sanitary land fill. If such use is made of the property, Grantor may, at its election, enter upon said land and restore it to the condition that existed prior to said use for garbage dump or sanitary land fill purposes and recover the cost thereof from the owner of said land.

6. That this conveyance is made upon the further condition, which shall constitute a covenant running with the land, that Grantor shall not at any time become liable to Grantee and grantee's heirs, successors and assigns in interest, for damages to the land herein described or any buildings, structures, improvements, or property of any kind or character now or hereafter located upon said land or for any injuries to any owner, occupant, or any person in or upon said land or for any interference with the use and enjoyment of said land or for damages which except for this covenant might constitute a nuisance caused directly or indirectly by noise or air pollutant emissions from transportation vehicles using the highway or transportation facility adjacent to said land. Any reference in this covenant to the highway or transportation facility adjacent to said land refers to the highway or transportation facility as it now exists and also as it will exist with future improvements. Grantee and grantee's heirs, successors and assigns covenant not to sue Grantor for any said injuries or damages.

7. That Grantee acknowledges that it has examined the above described Property to its own satisfaction and has formed its own opinion as to the condition (including environmental condition) and value thereof. Grantee has not relied on any statements or representations from Grantors or any person acting on behalf of Grantors concerning any of the following: the size or area of the Property or any of the parcels of the Property; the location of corners or boundaries of any parcel of the Property; the conditions of the Property, including but not limited to, environmental condition above or below the surface of the Property or compliance with environmental laws and other governmental requirements; the availability of services to the Property; the ability of Purchaser to use the Property or any portion thereof for any intended purpose; or any other matter affecting or relating to the Property or any portion thereof. Grantee is acquiring the Property, both above surface and below surface, in the condition existing at the time of closing, AS IS, with all defects, if any. Grantee waives, releases and forever discharges Grantors of and from all claims, actions, causes of action, fines, penalties, damages (including consequential, incidental and special damages), costs (including the cost of complying with any judicial or governmental order), and expenses (including attorney fees), direct or indirect, known or unknown, foreseen or unforeseen, which may arise on account of or in any way growing out of or in connection with any physical characteristic or condition of the Property, including any surface or subsurface condition, or any law, rule or regulation applicable to the Property.

8. Subject to the rights of any utilities located within said property and further subject to the rights of said existing facilities, if any there be, to operate, reconstruct, and maintain their utility facilities presently located within said property.

It is understood that the conditions, reservations, restrictions, and covenants herein set out have been considered in determining the amount of consideration of this conveyance.

The rights and remedies herein reserved or provided shall not be exclusive and shall not be in derogation of any other right or remedy which Grantor may have. The conditions and restrictions herein contained shall run with said land and shall forever bind Grantee and grantee's heirs, successors and assigns. Where any action is taken to enforce the above mentioned conditions and restrictions, Grantor shall not be liable for any trespass or conversion as to any real or personal property. Where legal proceedings are commenced by Grantor to enforce the foregoing conditions and restrictions or for the recovery of the aforementioned removal or destruction costs, the successful party shall be entitled to reasonable attorney fees and court costs.

In construing this deed, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this deed shall apply equally to corporations and to individuals.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

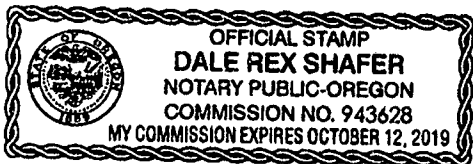
Dated this 25TH day of August, 2017.

STATE OF OREGON, by and through its
DEPARTMENT OF TRANSPORTATION

By Scott C. Claus
Scott C. Claus, Interim State Right of Way Manager

STATE OF OREGON, County of Marion

Dated August 25, 2017. Personally appeared Scott C. Claus, who being sworn, stated that he is the Interim State Right of Way Manager for the State of Oregon, Department of Transportation, and that this document was voluntarily signed on behalf of the State of Oregon by authority delegated to him. Before me:



Dale R. Shafer
Notary Public for Oregon
My Commission expires 10/12/2019

Parcel 1 – To Be Sold

A parcel of land lying in Lot 1, Block 75, WOODBURN SENIOR ESTATES NO. 7A, Marion County, Oregon; the said parcel being that property designated as Parcel 2 and described in that Bargain and Sale Deed to the State of Oregon, by and through its Department of Transportation, recorded April 18, 2013 on Reel 3494, Page 26 of Marion County Records.

This parcel of land contains 20,602 square feet, more or less.

Parcel 2 – Permanent Easement For Slopes, Drainage Facilities, Water, Gas, Electric And Communication Service Lines, Fixtures And Facilities (To Be Retained By The Oregon Department Of Transportation)

A parcel of land lying in Lot 1, Block 75, WOODBURN SENIOR ESTATES NO. 7A, Marion County, Oregon and being a portion of that property designated as Parcel 2 and described in that Bargain and Sale Deed to the State of Oregon, by and through its Department of Transportation, recorded April 18, 2013 on Reel 3494, Page 26 of Marion County Records, the said parcel being that portion of said property lying Northerly and Easterly of the following described line:

Beginning at a point opposite and 62.60 feet Southerly of the center line of the relocated Hillsboro – Silverton Highway at Engineer's center line Station 523+00.00; thence Easterly parallel with said center line to Engineer's Station 524+89.00; thence Southeasterly in a straight line to a point opposite and 35.00 feet Westerly of the center line of Oregon Way (City Street) at Engineer's Station "OW" 10+99.00; thence Southerly in a straight line to a point opposite and 33.60 feet Westerly of said Oregon Way center line at Engineer's Station "OW" 11+19.00; thence Southerly parallel with said Oregon Way center line to Engineer's Station "OW" 12+06.00; thence Southerly in a straight line to the Westerly right of way of said Oregon Way a point opposite and 30.00 feet Westerly of said Oregon Way center line at Engineer's Station "OW" 12+60.00 and the terminus of said described line.

The center line of the relocate Hillsboro – Silverton Highway is described as follows:

Beginning at Engineer's center line Station 514+00.00, said station being 59.48 feet South and 1,652.55 feet East of the Northwest corner of the Andrew Dubois D.L.C. No. 98, Township 5 South, Range 2 West, W.M.; thence South $87^{\circ} 17' 33''$ East 1,124.18 feet to Engineer's center line Station 525+24.18.

The center line of Oregon Way is described as follows:

Beginning at Engineer's center line Station "OW" 10+00.00, said station being 113.39 feet South and 2,792.00 feet East of the Northwest corner of the Andrew Dubois D.L.C. No. 98, Township 5 South, Range 2 Wes, W.M., thence South 2° 14' 09" West 817.80 feet to Engineer's center line Station "OW" 18+17.80.

Bearings are based on County Survey No. 37627, filed August 27, 2009, Marion County, Oregon.

This parcel contains 1,729 square feet, more or less.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

DIGITAL SIGNATURE

CSign

OREGON
JULY 19, 1994
SCOTT RICHARD MORRISON
2674

RENEWS: 12/31/2016

REEL: 3986

PAGE: 148

August 28, 2017, 02:10 pm.

CONTROL #: 473317

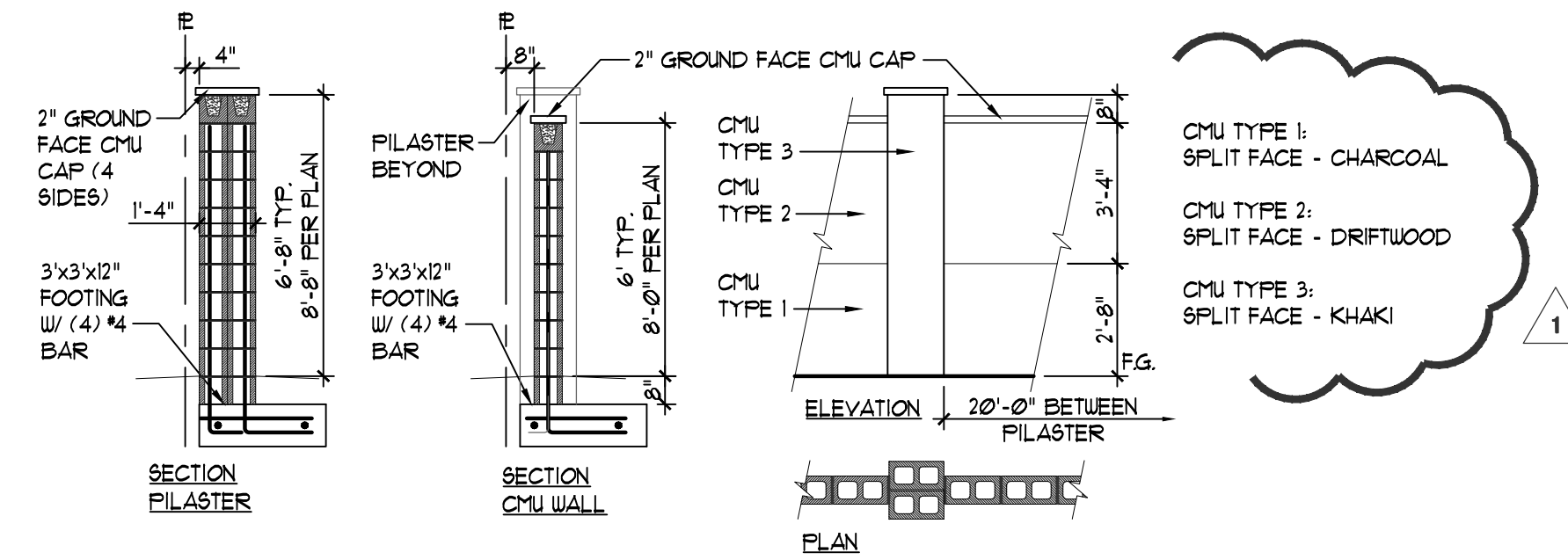
State of Oregon
County of Marion

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

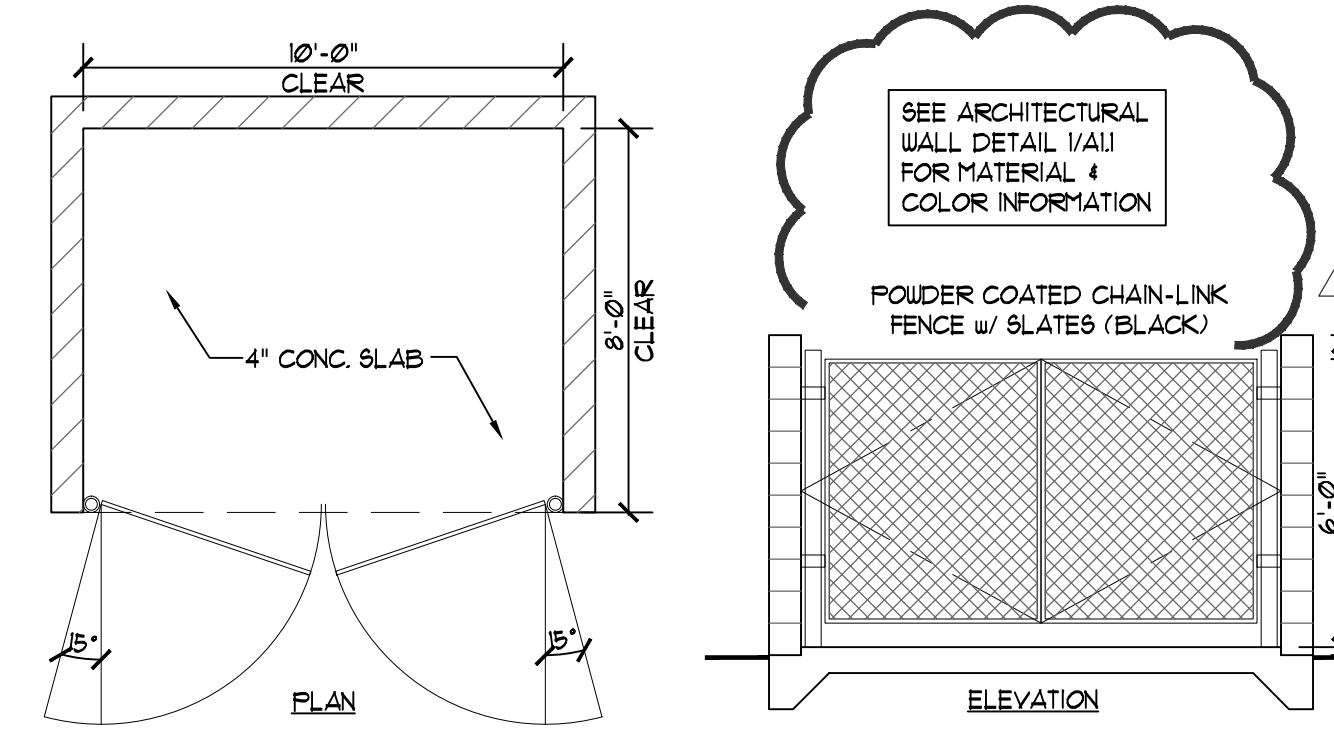
FEE: \$ 66.00

**BILL BURGESS
COUNTY CLERK**

THIS IS NOT AN INVOICE.



1 CMU WALL DETAIL
ARCHITECTURAL SECTION WALL
SCALE: 1/4" = 1'-0"



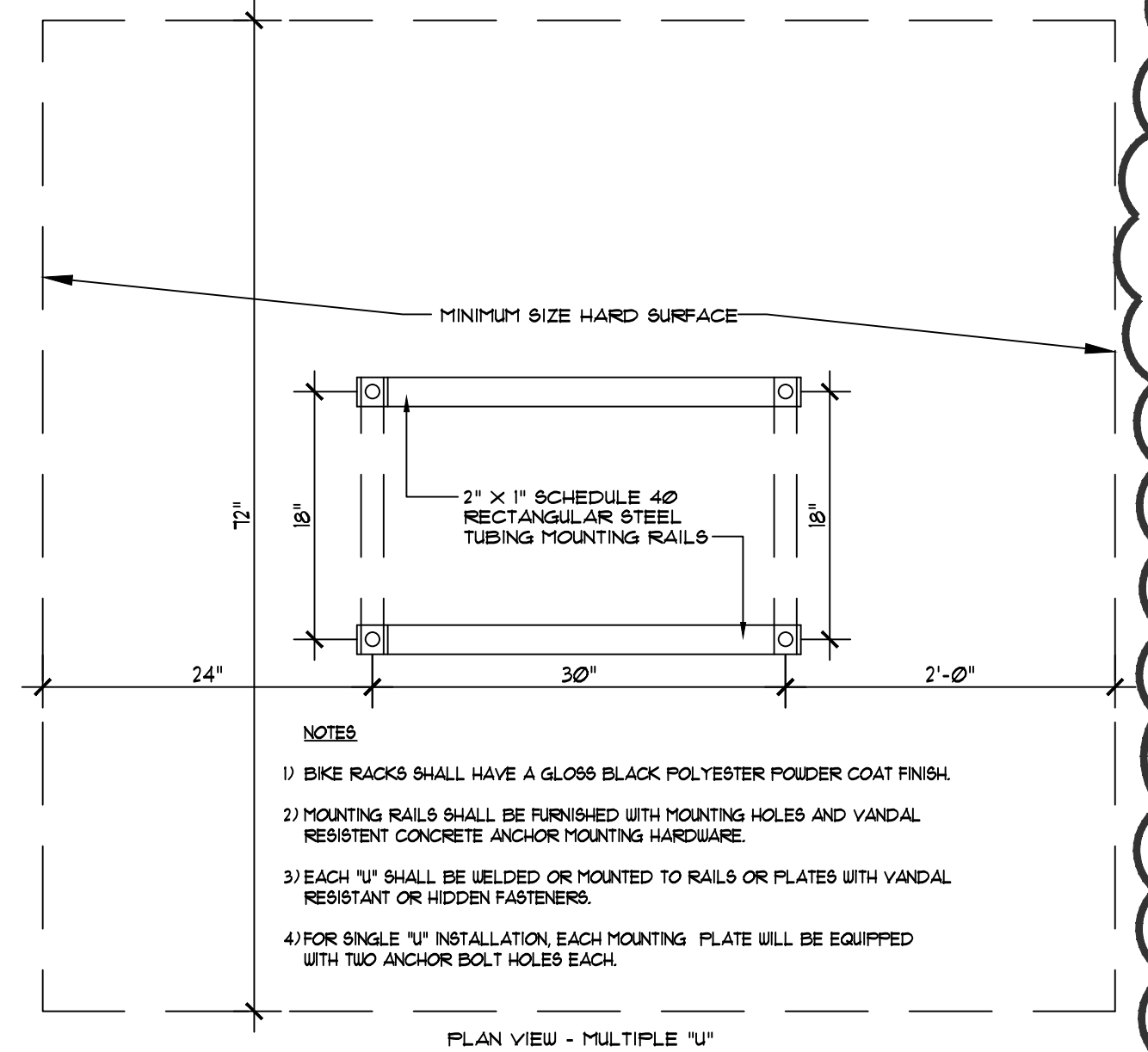
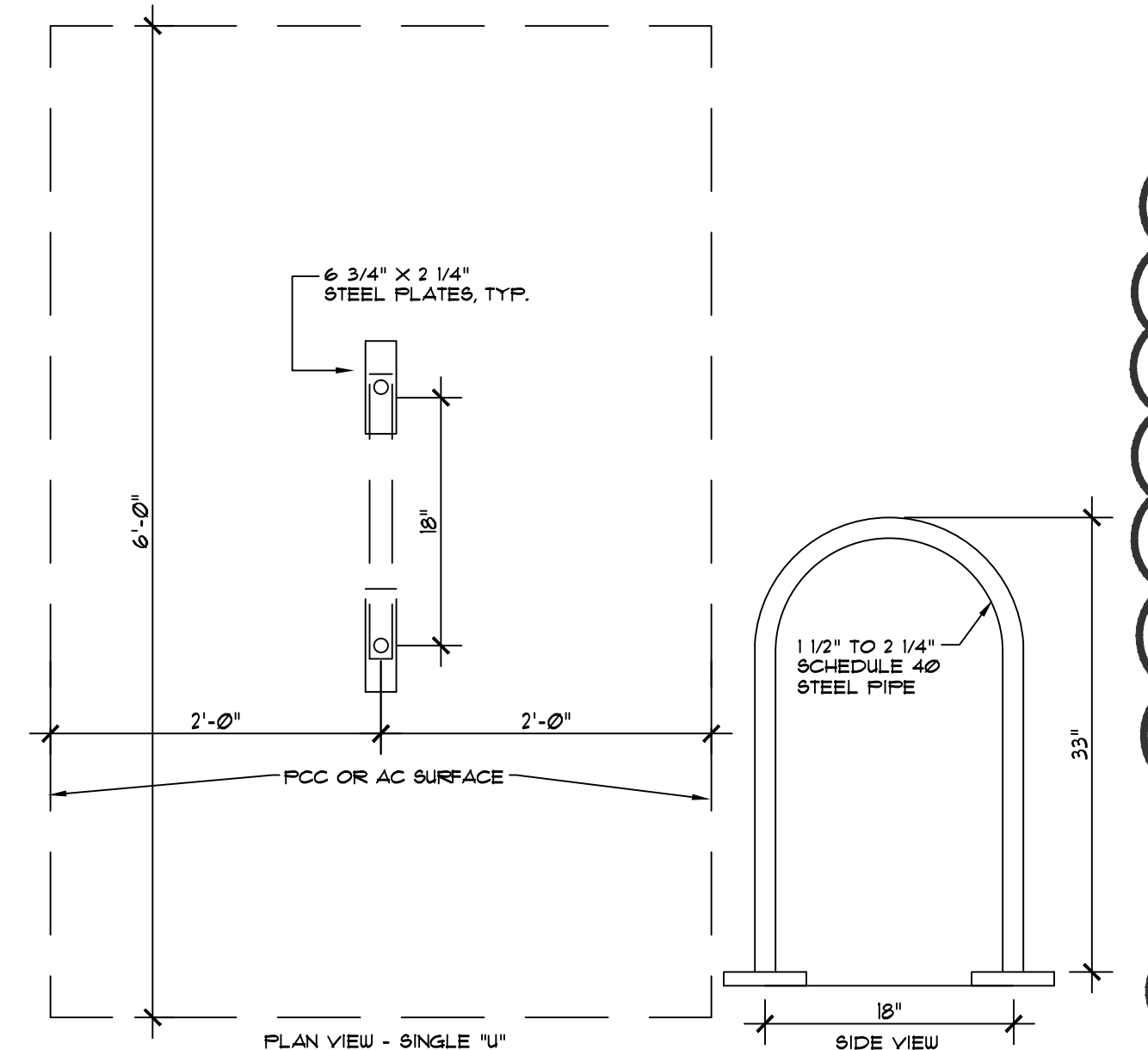
2 TRASH ENCLOSURE
SCALE: 1/4" = 1'-0"

BASED ON WILLAMETTE GRAYSTONE PRODUCTS

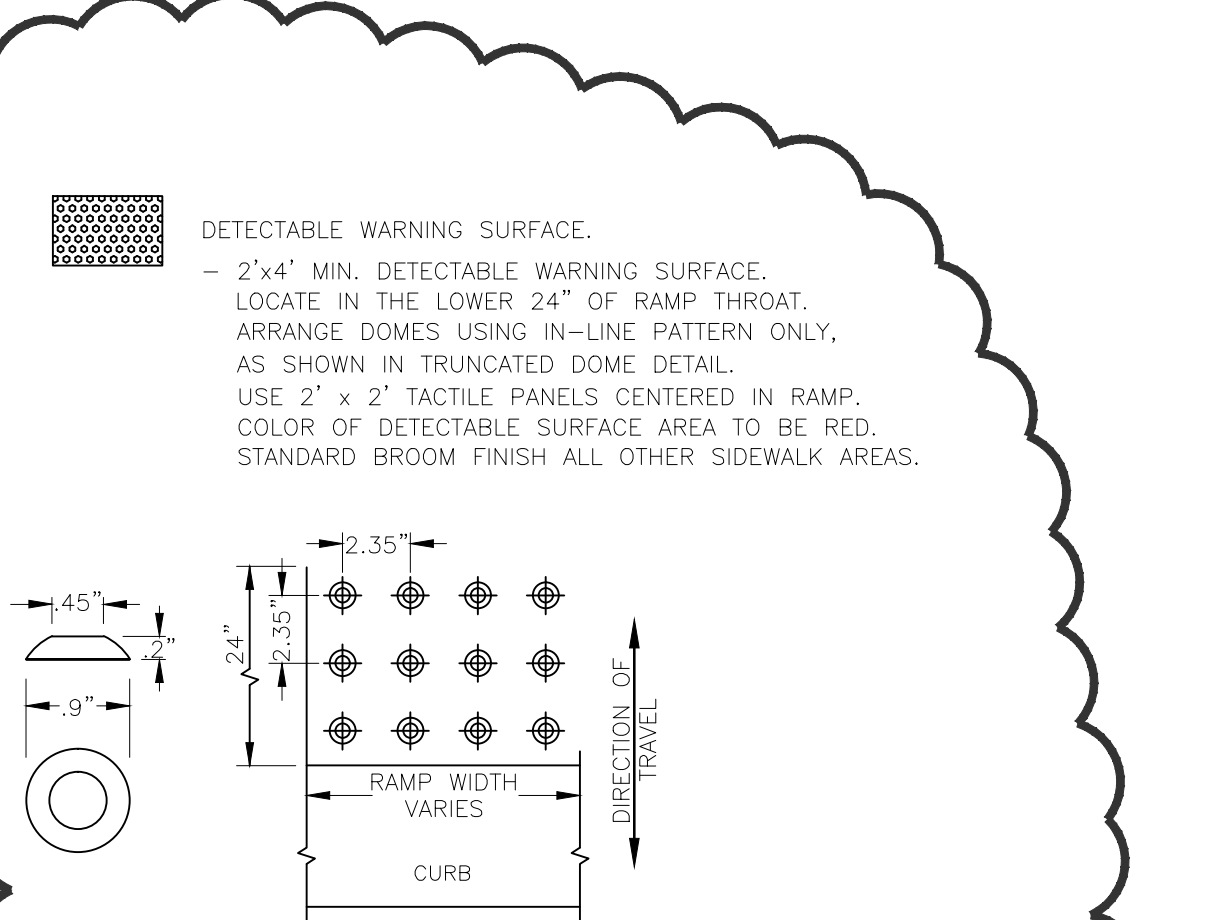
CMU TYPE 1: SPLIT FACE - CHARCOAL

CMU TYPE 2: SPLIT FACE - DRIFTWOOD

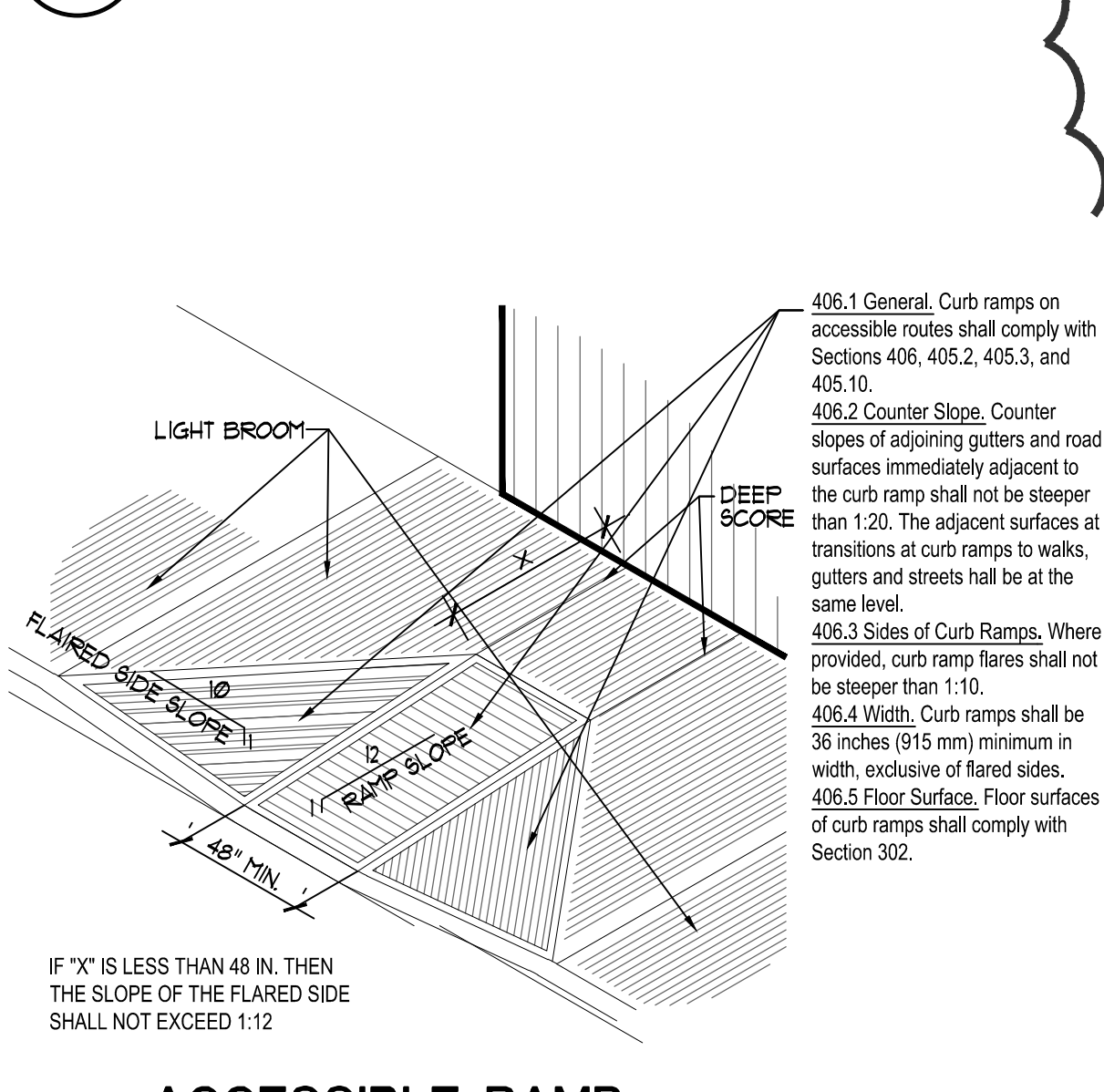
CMU TYPE 3: SPLIT FACE - KHAKI



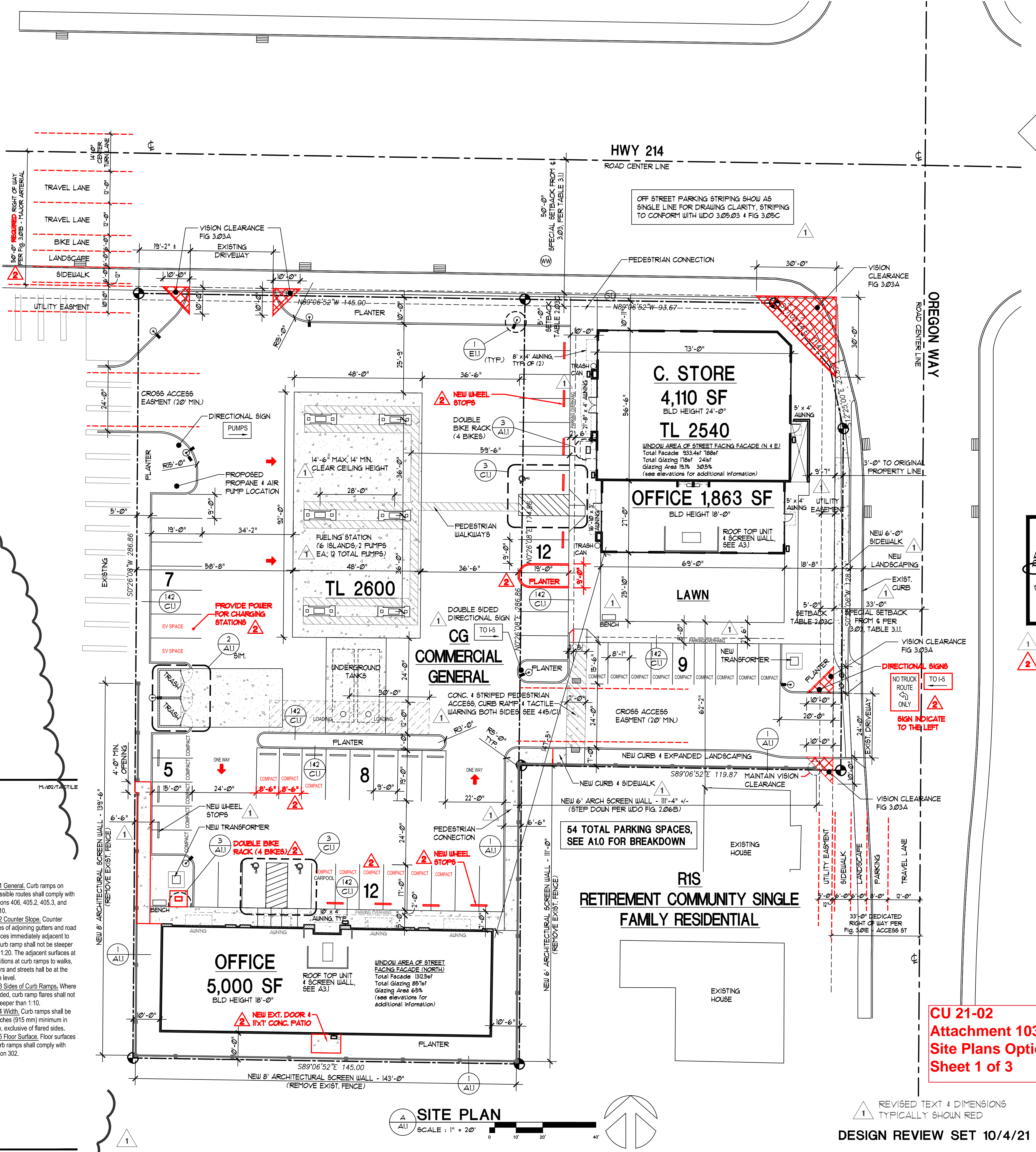
3 BICYCLE PARKING RACK DETAIL
SCALE: 1" = 1'-0"



4 TACTILE WARNING ADA
SCALE: 1" = 1'-0"



5 ACCESSIBLE RAMP
SCALE: 1/4" = 1'-0"

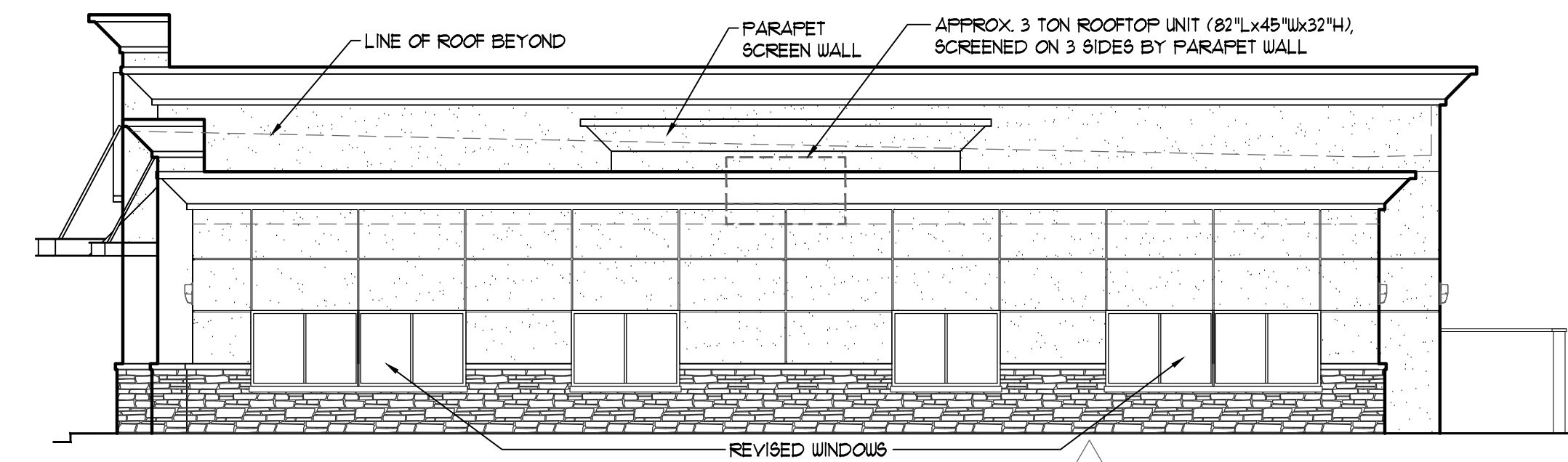


SITE PLAN
SCALE: 1" = 20'

CONVENIENCE STORE

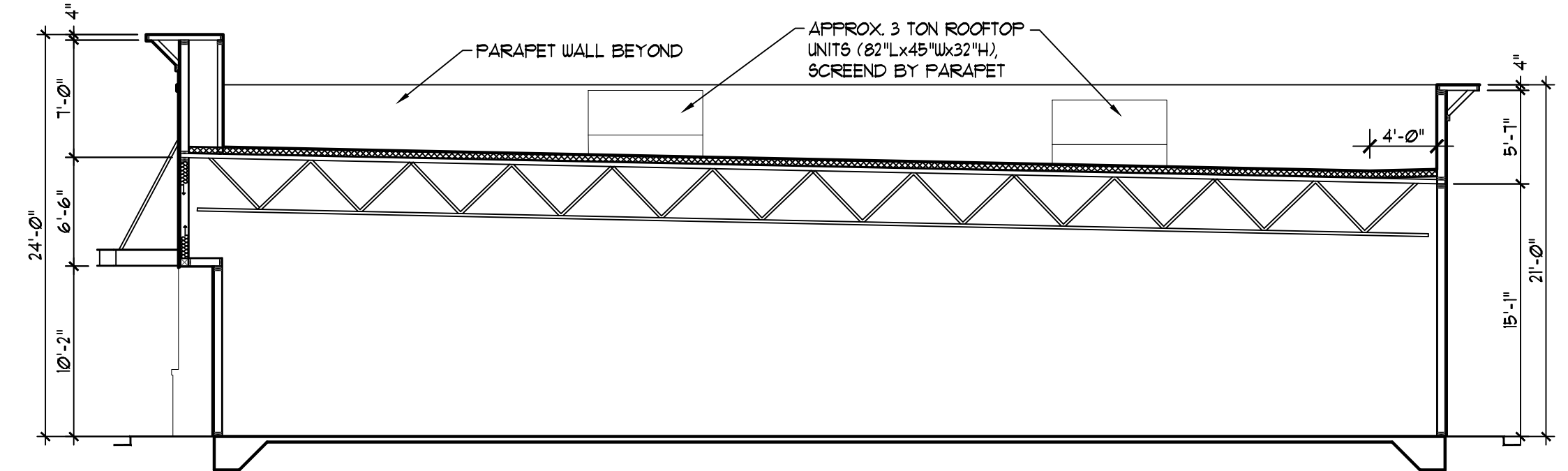


1 REVISED RENDERING



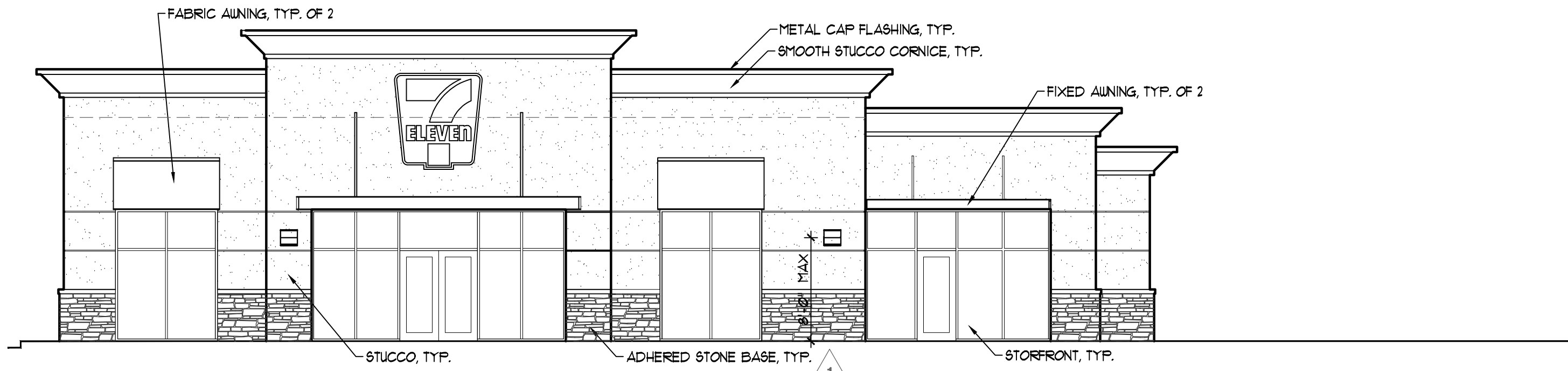
CONVENIENCE STORE - SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



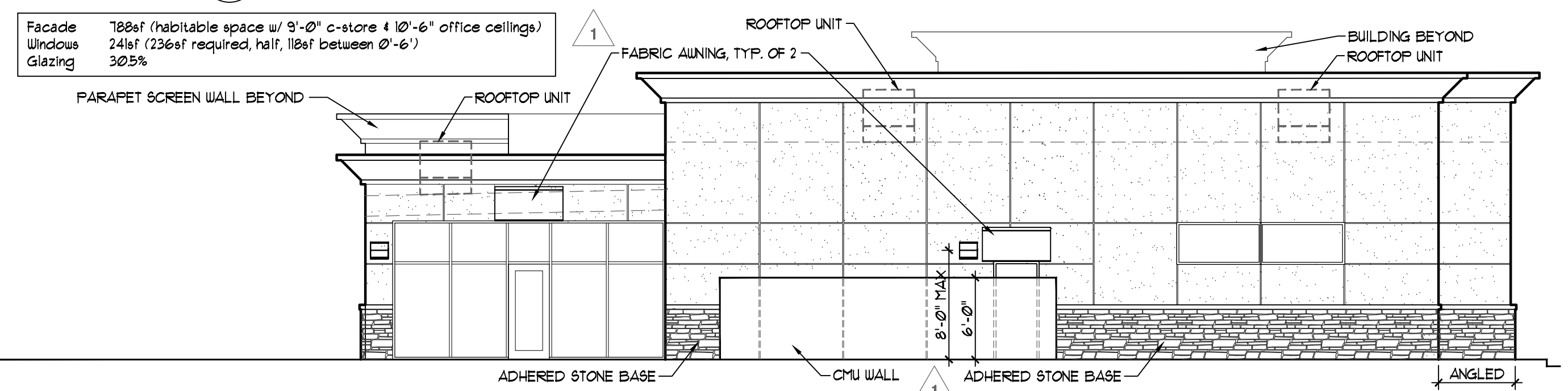
CONVENIENCE STORE - CROSS SECTION

SCALE: 1/8" = 1'-0"



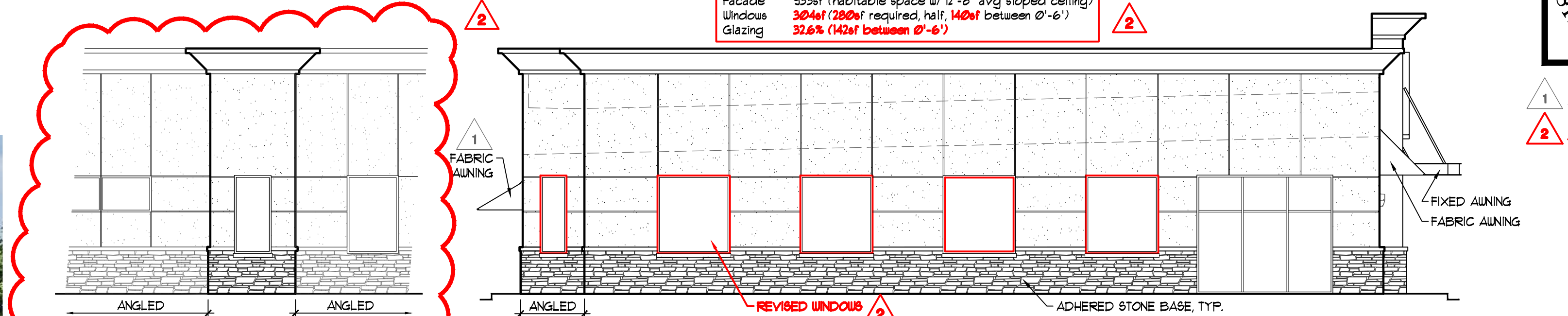
CONVENIENCE STORE - WEST ELEVATION

SCALE: 1/8" = 1'-0"



CONVENIENCE STORE - EAST ELEVATION

SCALE: 1/8" = 1'-0"



ANGLED WALL

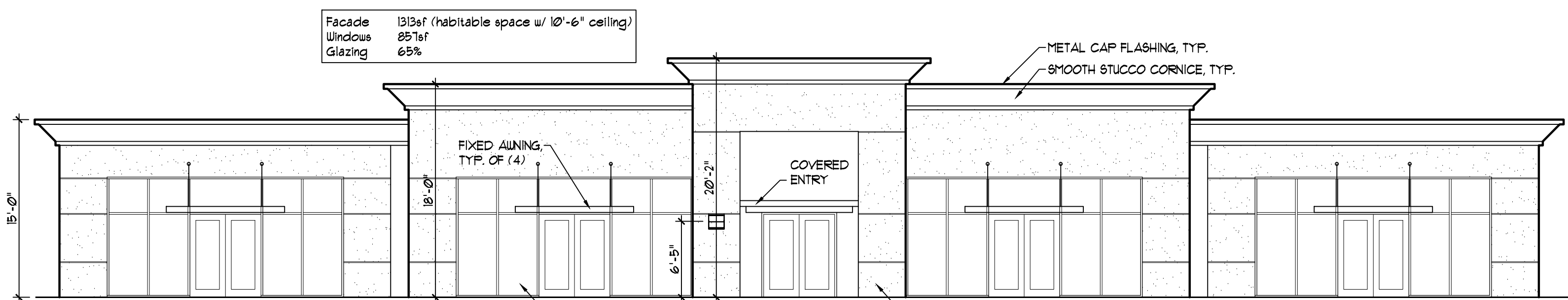
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CONVENIENCE STORE - NORTH ELEVATION

SCALE: 1/8" = 1'-0"

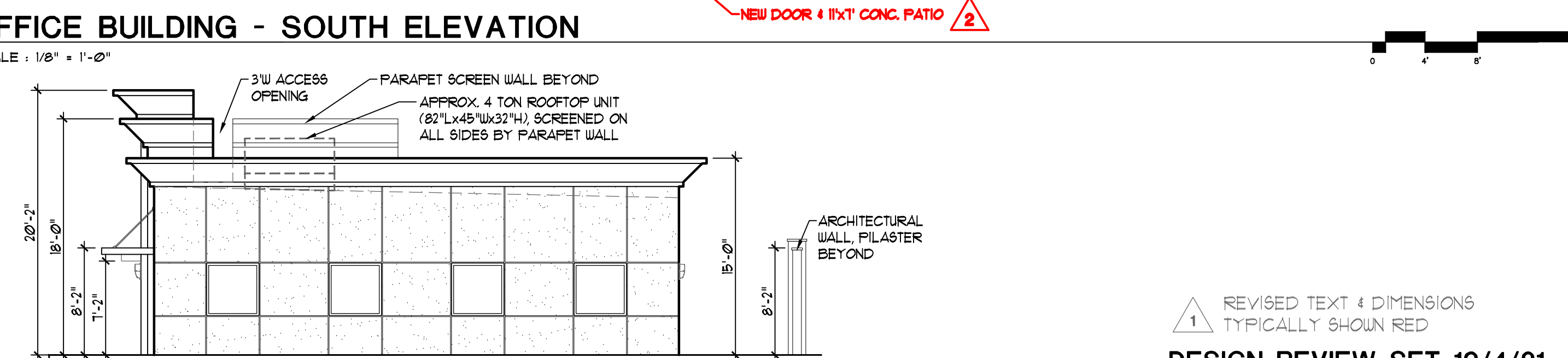


OFFICE BUILDING



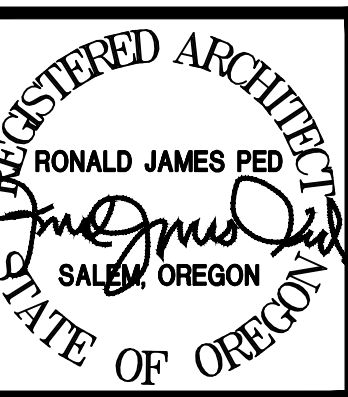
OFFICE BUILDING - NORTH ELEVATION

SCALE: 1/8" = 1'-0"



OFFICE BLDG - WEST ELEV.

SCALE: 1/8" = 1'-0"



1 PLAN REVIEW COMMENTS 1221 REVISION 1
2 PLAN REVIEW COMMENTS 1222 REVISION 2

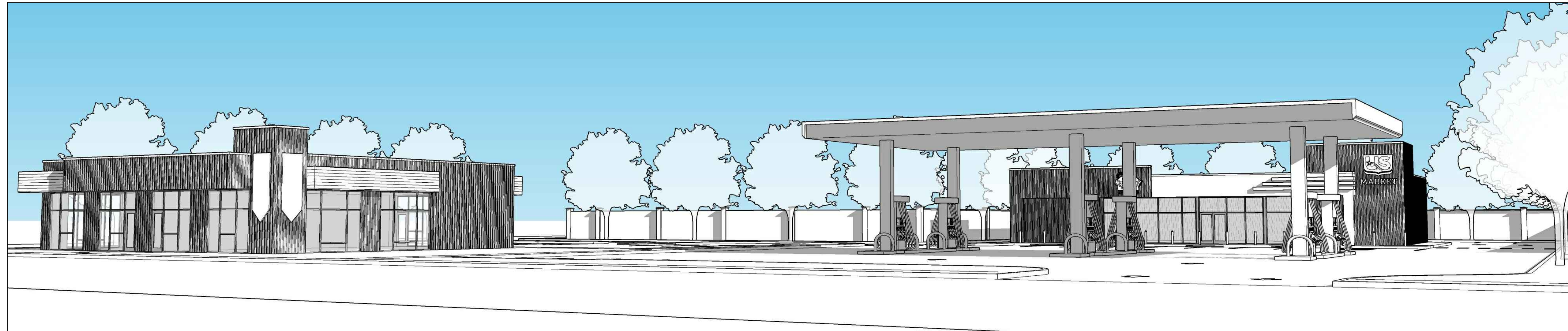
NEW OFFICE, RETAIL AND GAS STATION
US MARKET
2540 AND 2600 NEWBERG HIGHWAY WOODBURN OREGON

DATE: DEC. 1, 2020
DRAWN: AK / KDB
JOB NO.: 1964

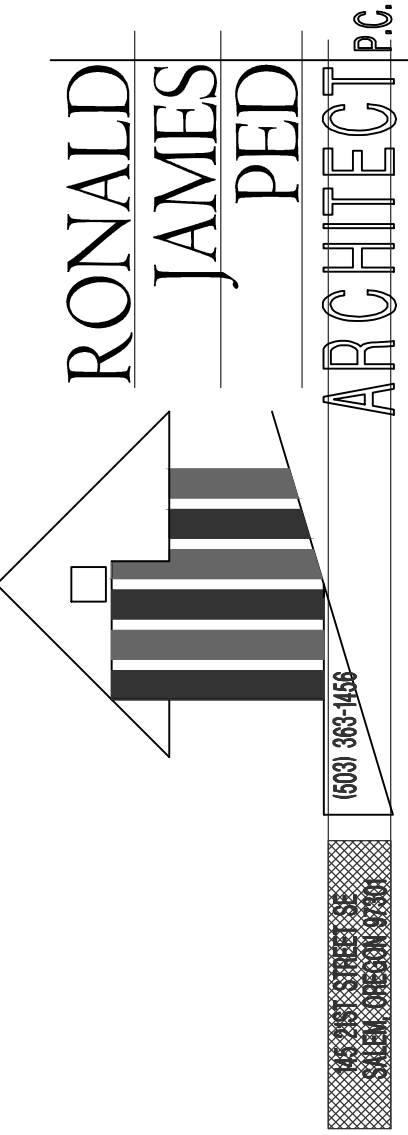
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1 REVISED TEXT & DIMENSIONS
TYPICALLY SHOWN RED
DESIGN REVIEW SET 10/4/21

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LOCATION: C:\Users\kevin\AppData\Local\Temp\AcPublish_5704\A3.1.1.20.22.dwg
A3.1
PRINTED BY: kevin



US MARKET SITE REDESIGN



SITE PLAN SUMMARY

ZONED: CG - GENERAL COMMERCIAL

PROPERTY SIZE = 62,120.42 S.F. (1.43 AC)
 REQ'D LANDSCAPE P.U. = 399 P.U.
 PROPOSED LANDSCAPE P.U. = 473 P.U.

PARKING REQ.

TOTAL PARKING:
 GEN. RETAIL: 4314 SQ.FT. / 250 = 17.3, 18 REQ. (item 7 table 3.05A)
 OFFICE: 3,649 SQ.FT. / 350 = 10.4, 11 REQ. (item 12 table 3.05A)
 TOTAL REQUIRED SPACES: 29 REQ.
 PARKING SPACES: 42 PROVIDED (2 van accessible spaces)

STREET TREES REQ.:

ONE TREE EVERY 50'-0" REQ.
 8 TREES PROPOSED

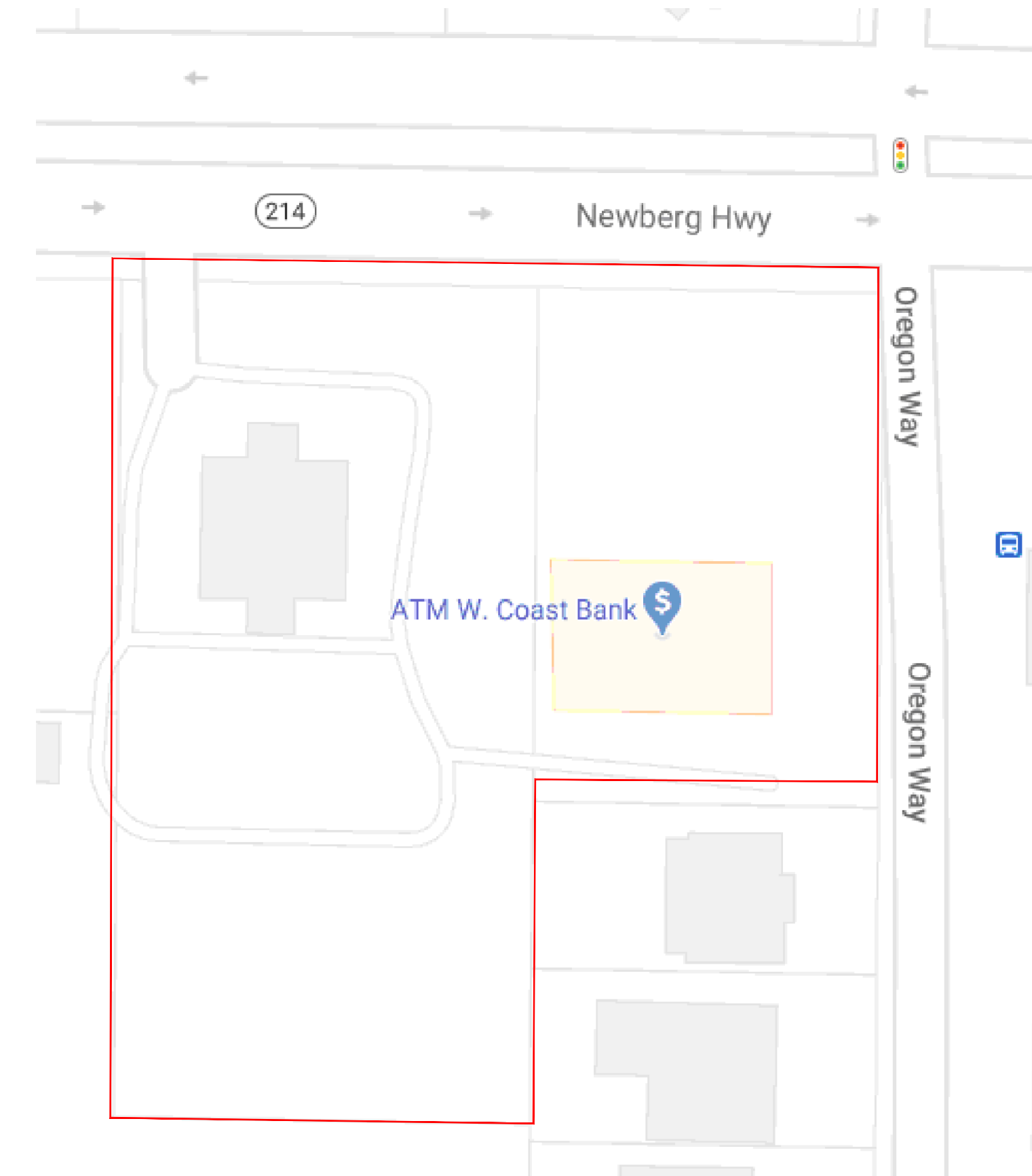
BIKE PARKING REQ.

3.05.03 Off-Street Parking
 E. All uses that are required to provide 10 or more off-street parking spaces and residential structures with four or more dwelling or living units shall provide a bicycle rack within 50 feet of the main building entrance. The number of required rack spaces shall be one space per ten vehicle parking spaces, with a maximum of 20 rack spaces.

42/10 = 4 REQUIRED
 1 BIKE RACKS (2 BIKE SPACES) PROVIDED AT CONVENIENCE STORE
 1 BIKE RACK (2 BIKE SPACES) PROVIDED AT OFFICE BUILDING
 (2 BIKE PER RACK)

DRAWING INDEX

- A1.0 COVER PAGE
- A1.1 SITE PLAN
- A1.2 EXISTING SITE PLAN AND DEMO PLAN
- A1.3 FIRE ACCESS PLAN
- C1.1 GRADING PLAN
- C1.2 UTILITY PLAN & DETAILS
- E1.1 LIGHTING PLAN
- L1.1 PLANTING AND IRRIGATION PLAN
- A3.1 BUILDING ELEVATIONS & SECTIONS



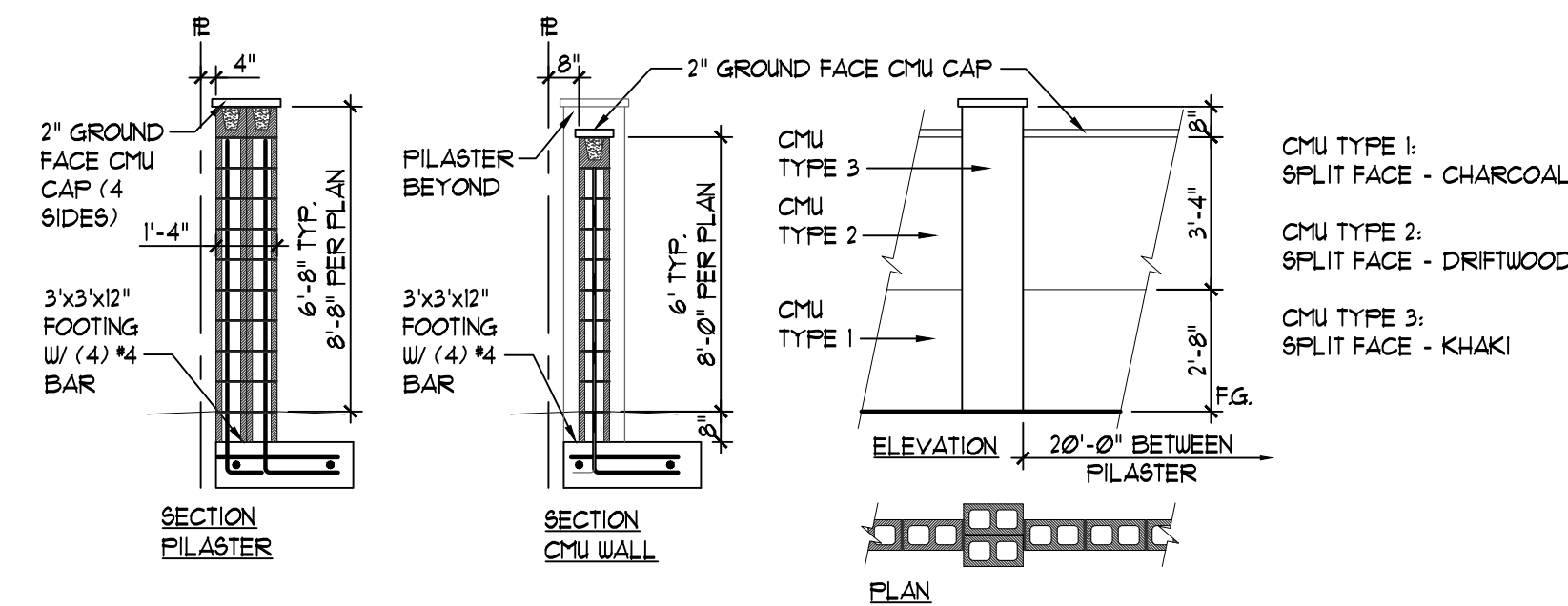
VICINITY MAP
 SCALE: NTS



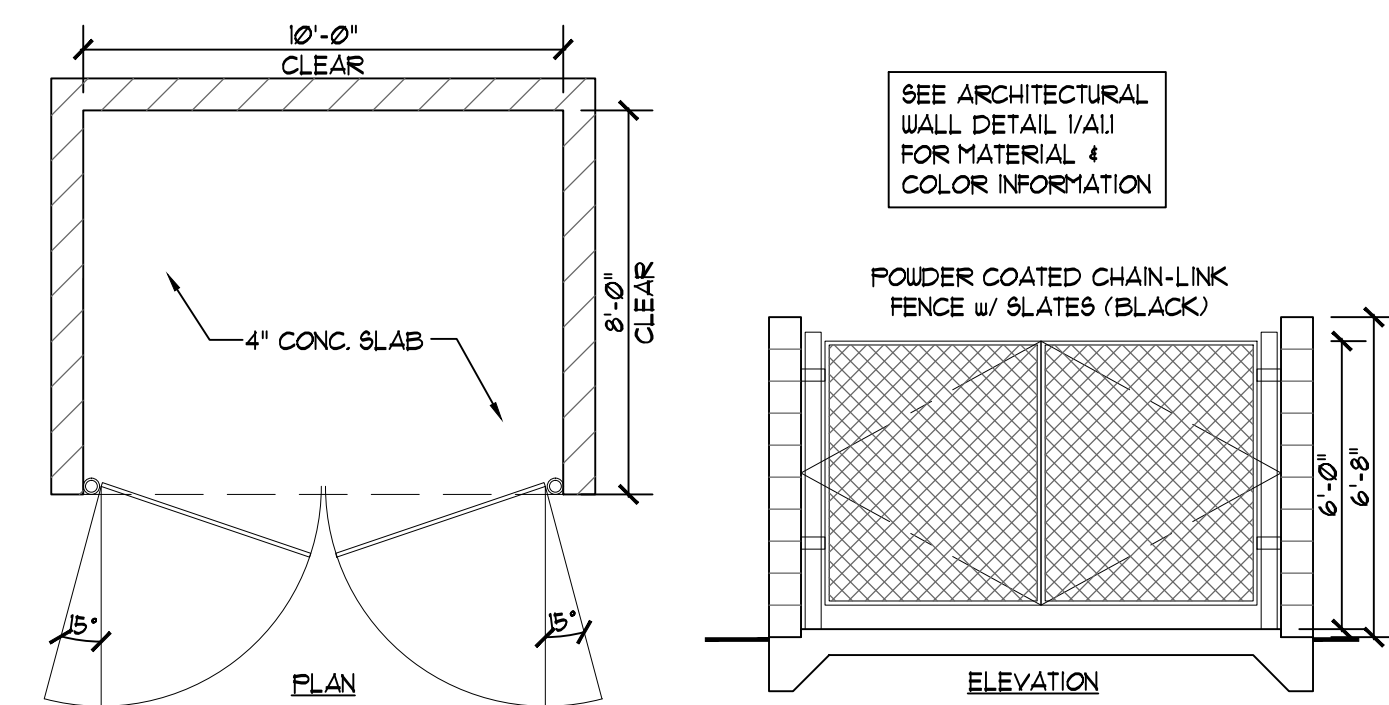
NEW OFFICE, RETAIL AND GAS STATION
US MARKET
 2540 AND 2600 NEWBERG HIGHWAY WOODBURN OREGON
 DATE: DEC. 1, 2020
 DRAWN: GLM / KDG
 JOB NO.: 1984
A1.0

CU 21-02
 Attachment 103B
 Site Plans Option 2
 Sheet 1 of 5

SITE REDESIGN SET 4/28/22



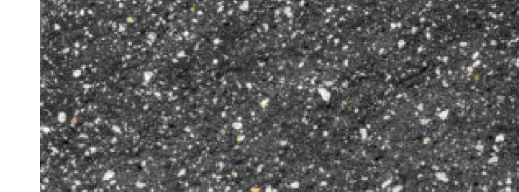
1 CMU WALL DETAIL
ARCHITECTURAL SCREEN WALL
SCALE: 1/4" = 1'-0"



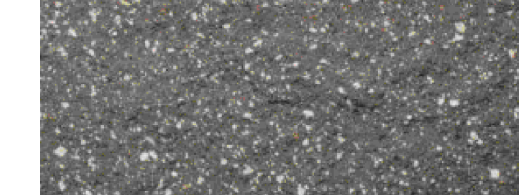
2 TRASH ENCLOSURE
SCALE: 1/4" = 1'-0"

BASED ON WILLAMETTE GRAYSTONE PRODUCTS

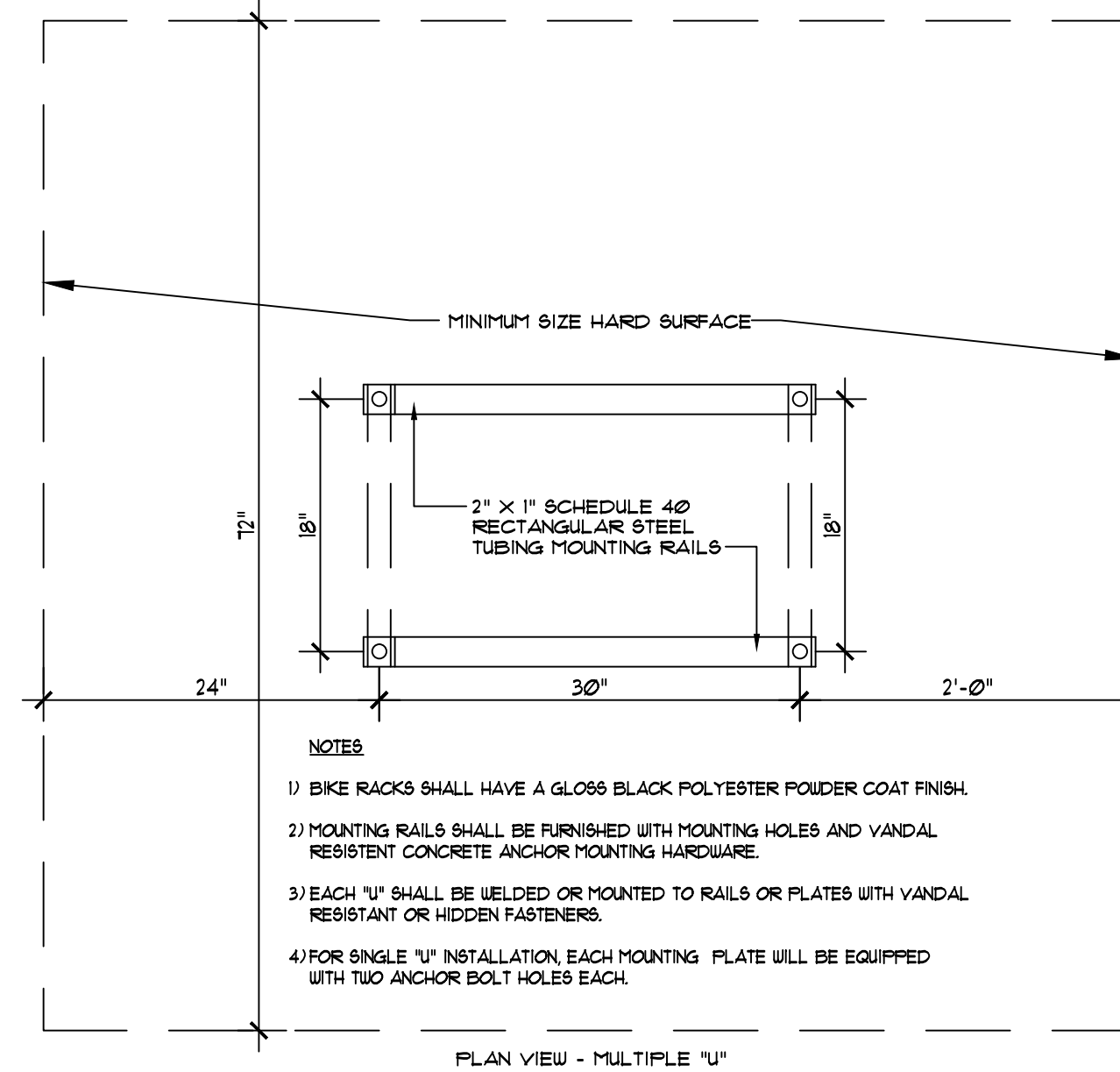
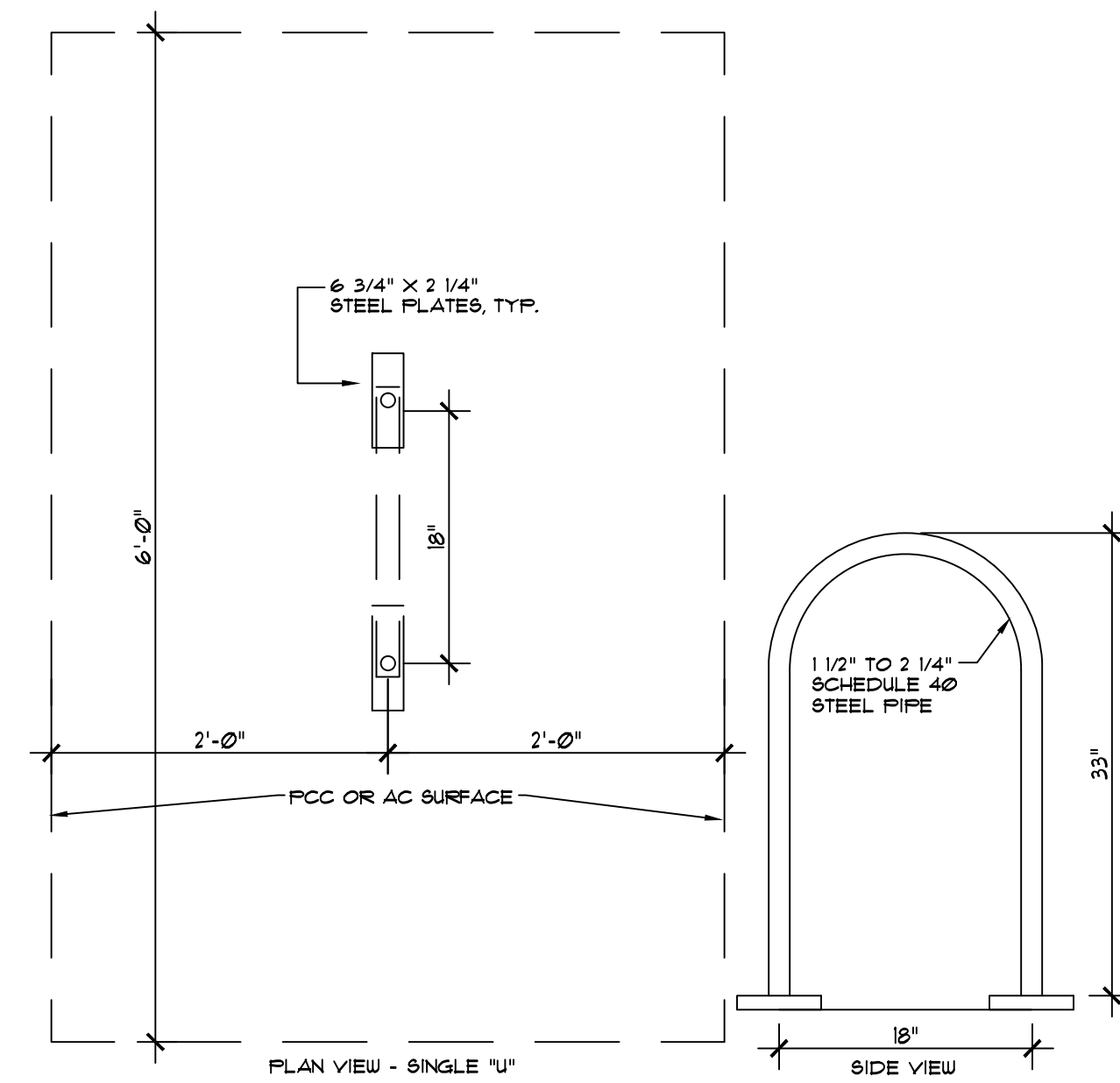
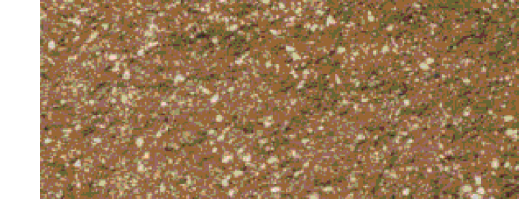
CMU TYPE 1: SPLIT FACE - CHARCOAL



CMU TYPE 2: SPLIT FACE - DRIFTWOOD

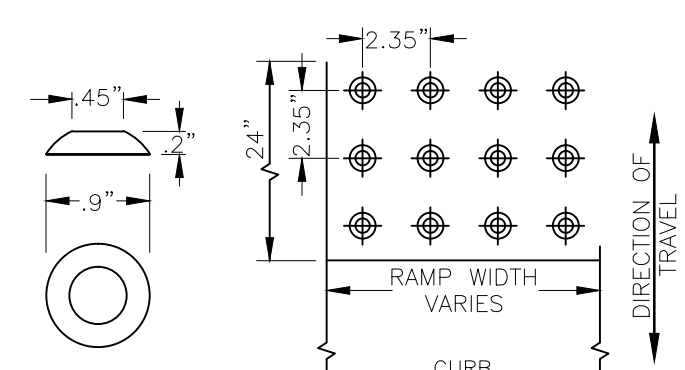


CMU TYPE 3: SPLIT FACE - KHAKI

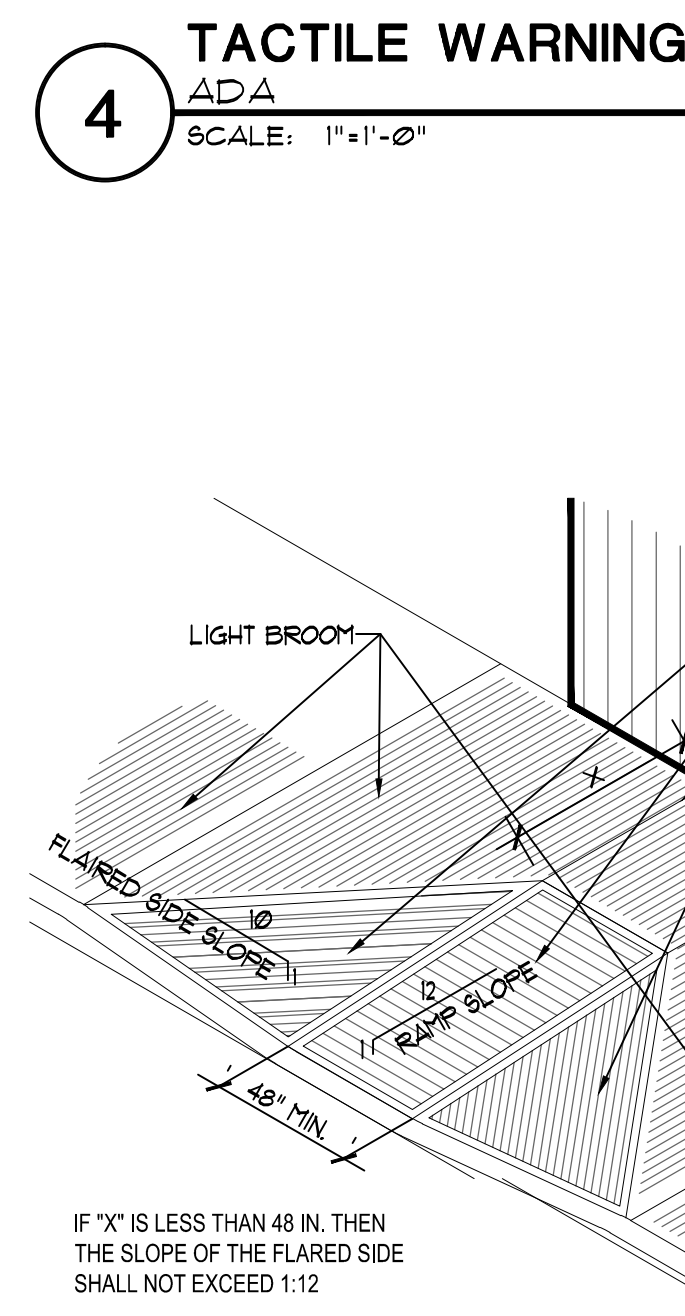


3 BICYCLE PARKING RACK DETAIL
SCALE: 1" = 1'-0"

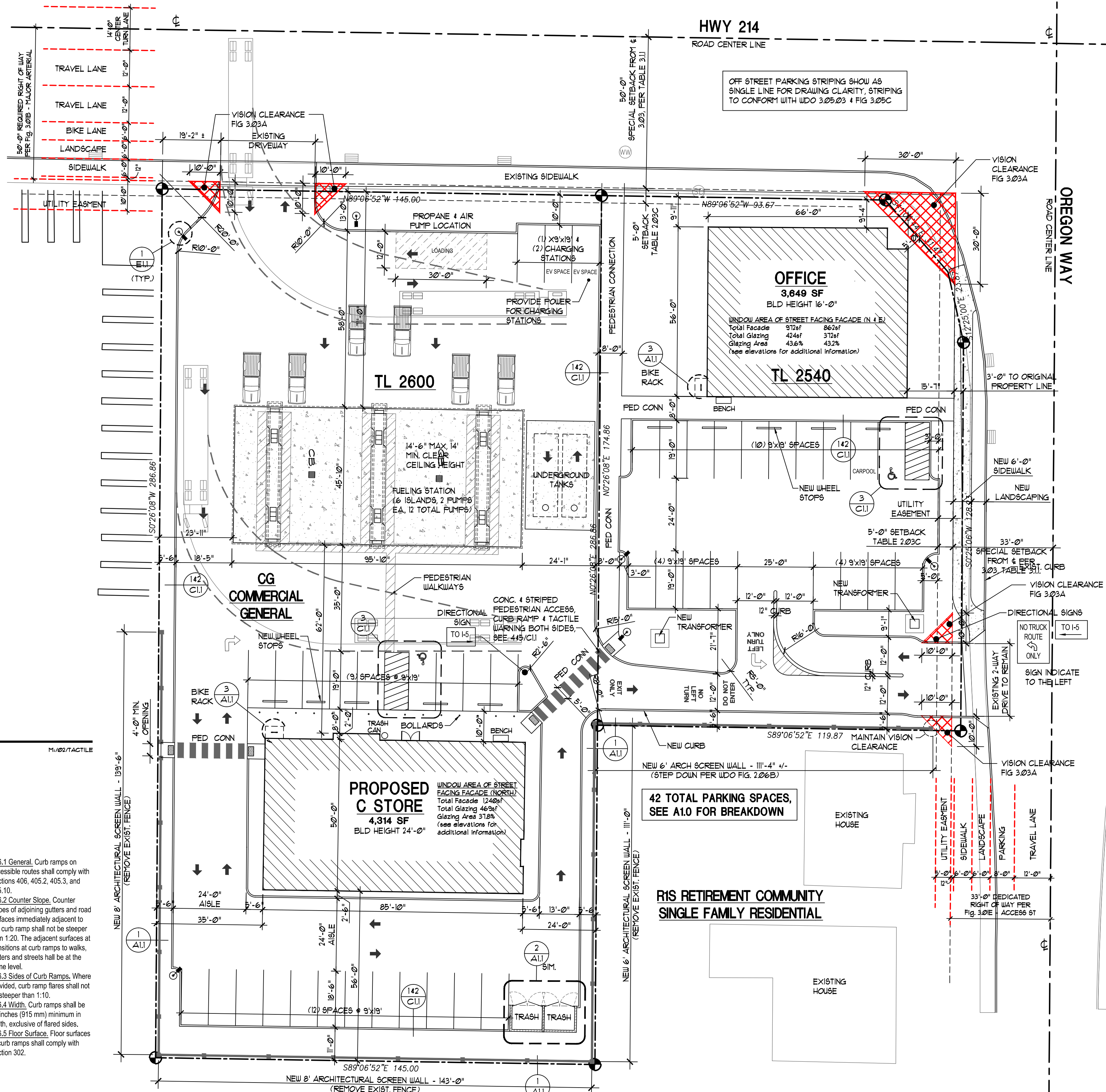
DETECTABLE WARNING SURFACE.
- 2'x4' MIN. DETECTABLE WARNING SURFACE.
- LOCATE IN THE LOWER 24" OF RAMP THROAT.
- ARRANGE DOMES USING IN-LINE PATTERN ONLY, AS SHOWN IN TRUNCATED DOME DETAIL.
- USE 2' x 2' TACTILE PANELS CENTERED IN RAMP.
- COLOR OF DETECTABLE SURFACE AREA TO BE RED.
- STANDARD BROOM FINISH ALL OTHER SIDEWALK AREAS.



4 TACTILE WARNING
ADA
SCALE: 1" = 1'-0"



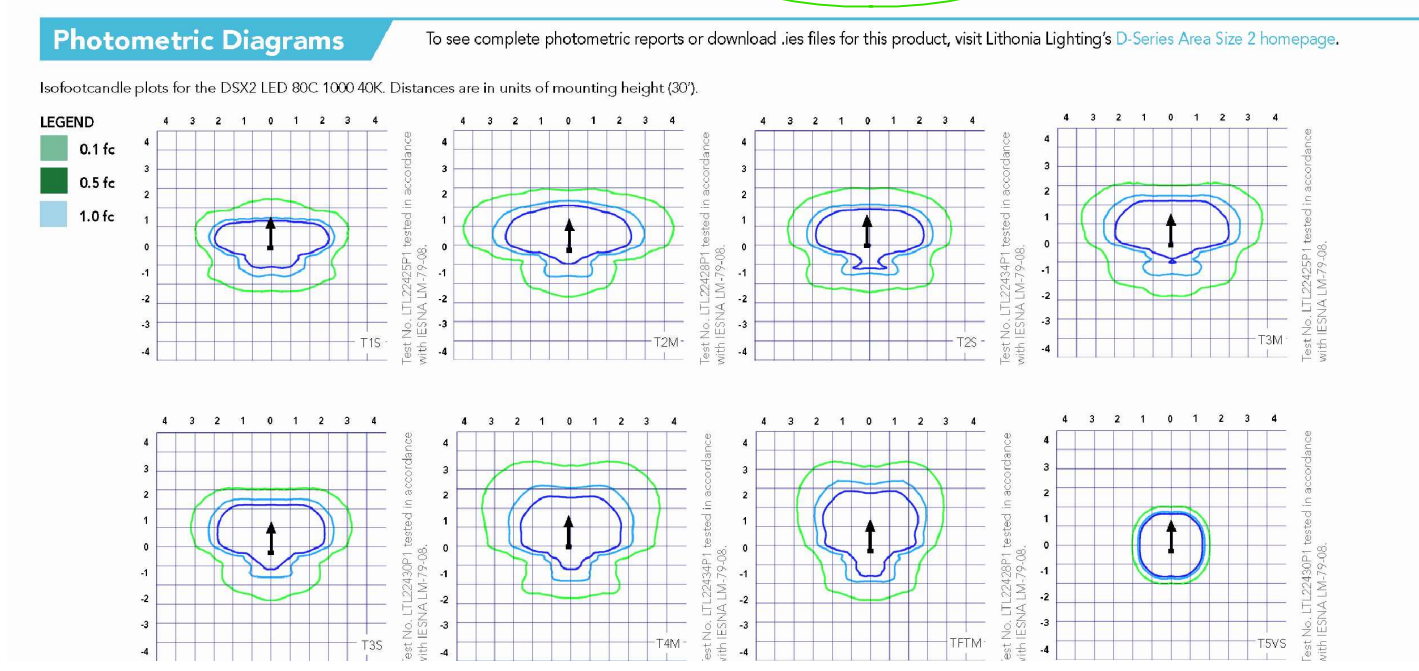
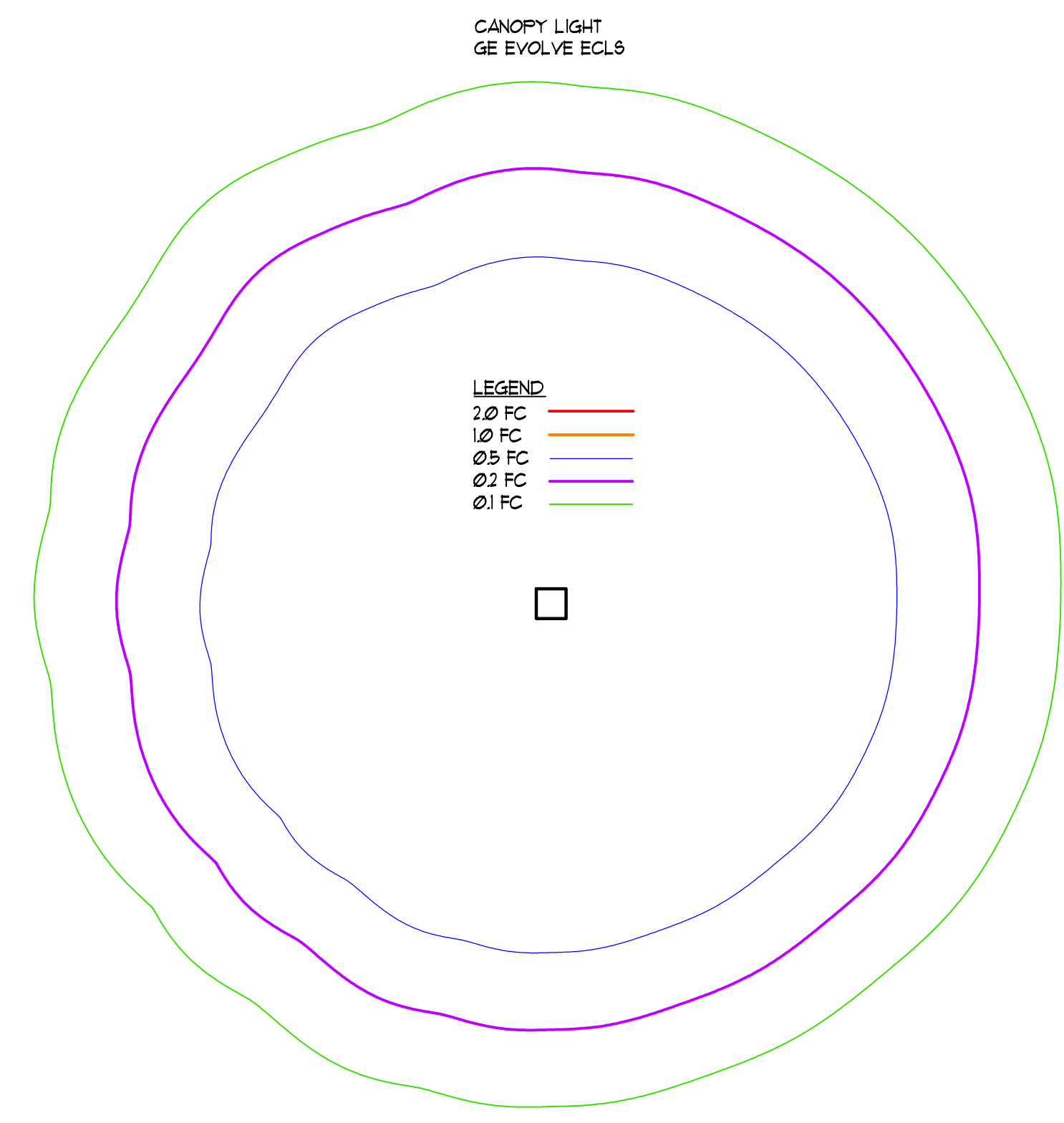
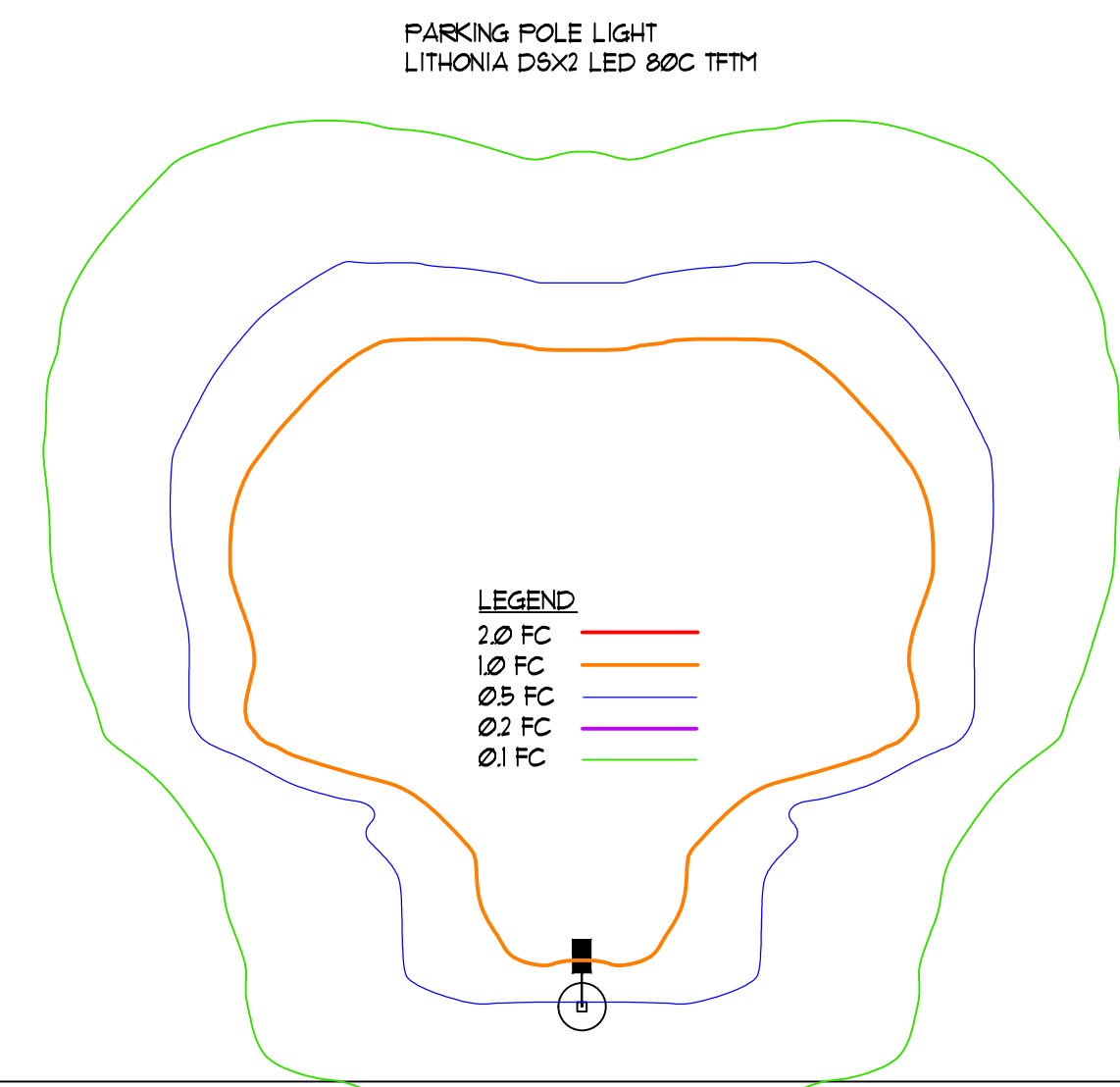
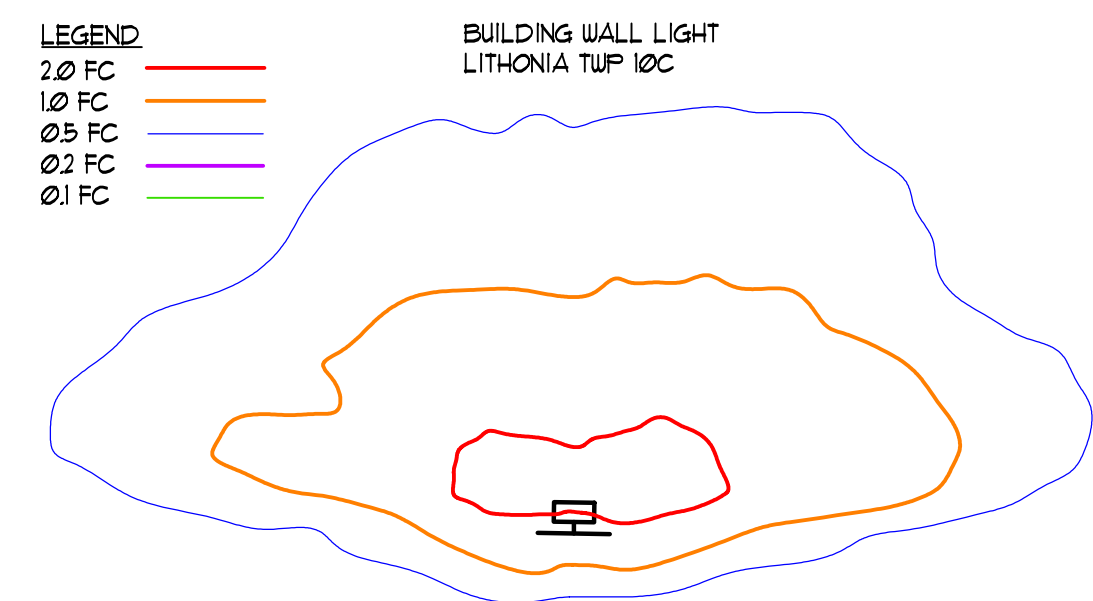
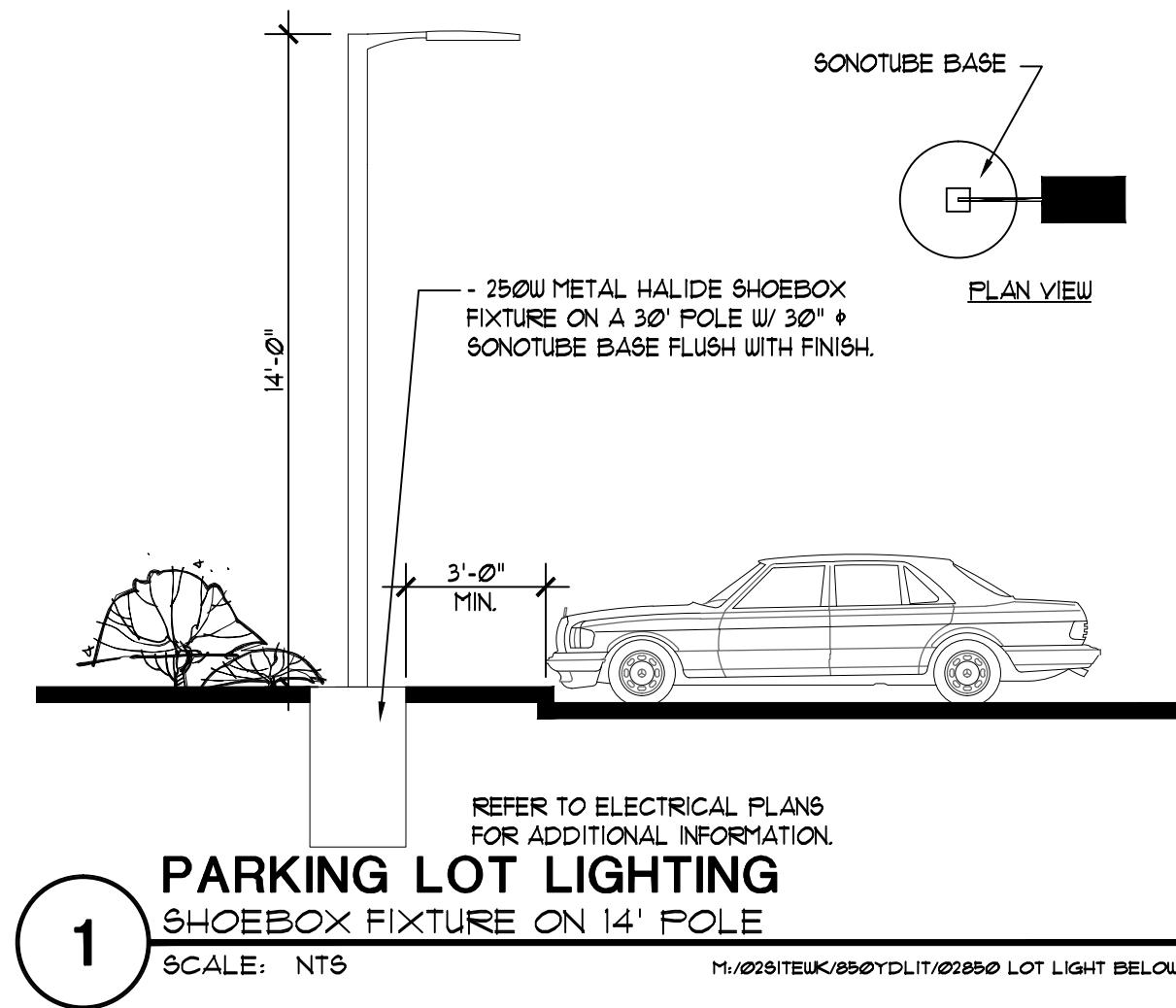
5 ACCESSIBLE RAMP
SCALE: 1/4" = 1'-0"



SITE PLAN
SCALE: 1" = 20'

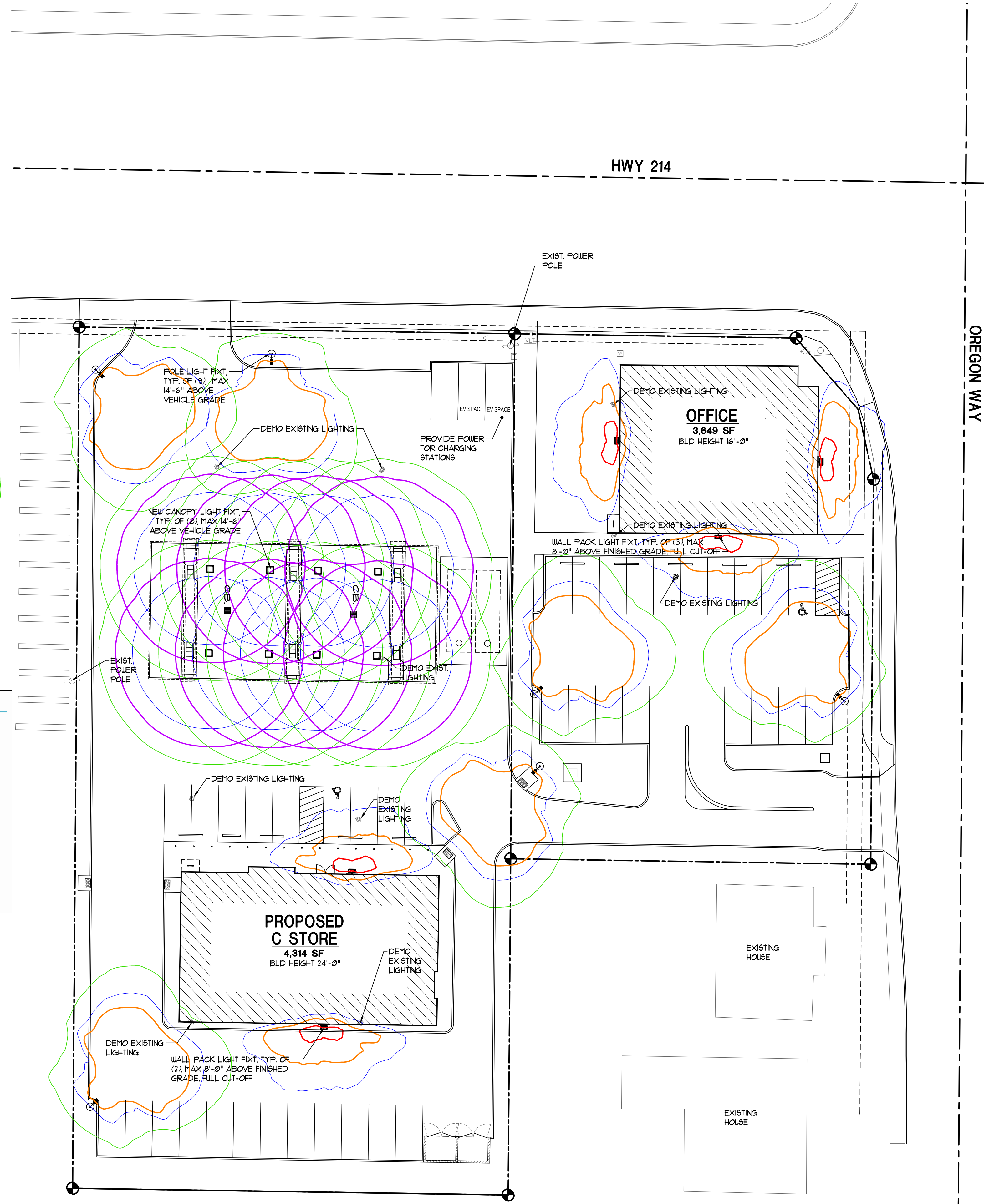
SITE REDESIGN SET 4/28/22

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PRINTED: Mon, 02 May 2022 - 10:40 am PRINTED BY: Kevin



LIGHTING SCHEDULE

- PARKING POLE LIGHT
LITHONIA DSX2 LED 80C TFM
- CANOPY LIGHT
LITHONIA CNY LED P0
- BUILDING WALL LIGHT
EATON Lumark WP WAL-PACK w/ FULL CUTOFF
- EXISTING PARKING POLE LIGHT



LIGHTING PLAN
 SCALE: 1" = 20'

SITE SUMMARY

PROPERTY SIZE	= 62,120 SF. (1.43 AC)
TOTAL BUILDING AREA	= 7,963 SF.
TOTAL PAVED AREA	= 47,118 SF.
TOTAL LANDSCAPE AREA	= 7,039 SF. (15%)

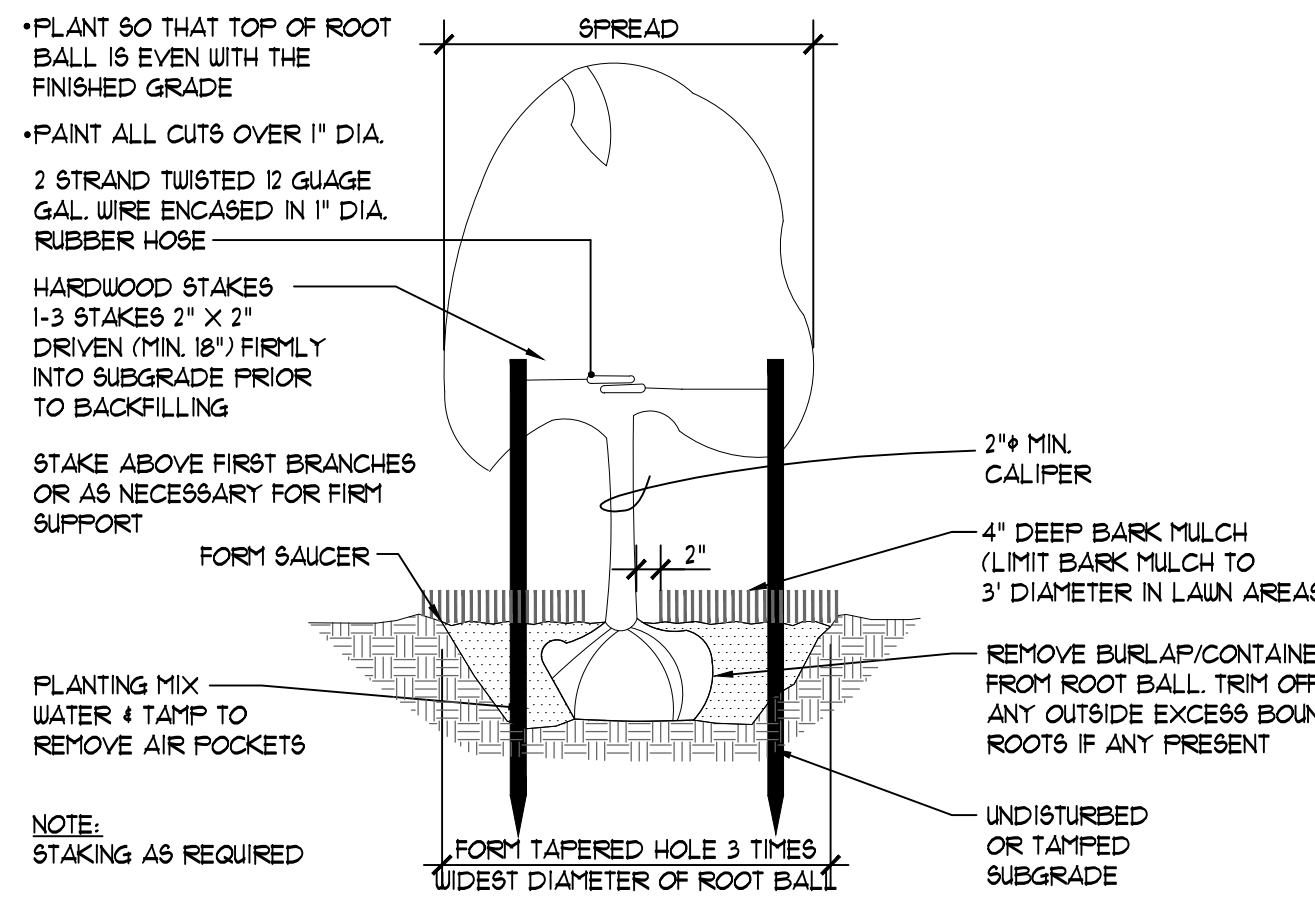
PLANT LIST				
STREET TREES	COMMON NAME/BOTANICAL NAME	SIZE	COMMENTS	COUNT
T-ASH	ASH, RAYWOOD FRAXINUS OXYCARPA 'RAYWOOD'	7'-8" LARGE	2" CALIPER 10 FU	
T-LIN	LINDEN TILIA CORDATA 'HALA'	7'-8" LARGE	2" CALIPER 10 FU	
T-MAP ARM	ARMSTRONGS MAPLE ACER RUBRUM 'ARMSTRONG'	7'-8" MEDIUM	2" CALIPER 10 FU	
T-MAP RED	ACER RUBRUM/RED MAPLE October Glory	7'-8" MEDIUM	2" CALIPER 10 FU	
T-DOUG FIR	DOUGLAS FIR / Pseudotsuga menziesii	LARGE	2" CALIPER 10 FU	
ORNAMENTAL TREES				
T-JAPO	CRYPTOMERIA JAPONICA 'ELEGANS'	7'-8"	2" MIN CALIPER 5 FU	
T-TAMA	CRYPTOMERIA JAPONICA (TAISHO TAMA / TAISHO TAMA JAPANESE CEDAR)	4'-6"	2" MIN CALIPER 5 FU	
T-BLA	CRYPTOMERIA JAPONICA /BLACK DRAGON	4'-6"	2" MIN CALIPER 5 FU	
T-MAP VINE	VINE MAPLE/ACER circinatum	7'-8"	2" MIN CALIPER 2 FU	
T-CRAB	CRABAPPLE/MALUS 'AMERICAN BEAUTY'	7'-8"	2" MIN CALIPER 2 FU	
T-CRY	CRYPTOMERIA JAPONICA /SEKKEN-SUGI	6'	2" MIN CALIPER 5 FU	
T-CUP	CUPRESSUS SEMPERVIRENS ITALIAN CYPRESS 'STRICTA'	6'	2" MIN CALIPER 5 FU	
T-CHA	CHAMAECYPARIS OBUSA HINOKI FALSE CYPRESS 'GRACILIS'	6'	2" MIN CALIPER 5 FU	

SIZE	SHRUBS	COMMON NAME/BOTANICAL NAME	COMMENTS
1 gal. 3 gal.	S-HYB.	HYDRANGEA/HYDRANGEA SYRIACA ROSE OF SHARON MINERVA 'AZURRI SATIN'	1 FU 1 gal / 2 FU 3 gal
	S-STRA.	DEUTZIA x HYDRANGEA 'STRAUBERRY FIELDS'	1 FU 1 gal / 2 FU 3 gal
	S-ABE.	ABELIA GRANDIFLORA 'EDWARD GOUCHER' (EVERGREEN)	1 FU 1 gal / 2 FU 3 gal
	S-VIBD.	VIBURNUM JAPONICUM (EVERGREEN)	1 FU 1 gal / 2 FU 3 gal
	S-PIE.	PIERIS JAPONICUM LILLY-OF-THE-VALLEY (EVERGREEN/SHADE)	1 FU 1 gal / 2 FU 3 gal
	S-AUC.	AUCUBA JAPONICA JAPANESE AUCUBA (EVERGREEN/SHADE)	1 FU 1 gal / 2 FU 3 gal
	S-VIB.	VIBURNUM ELLIPTICUM COMMON VIBURNUM	1 FU 1 gal / 2 FU 3 gal
	S-CURR.	RED-FLOWERING CURRANT/Ribes sanguinum	1 FU 1 gal / 2 FU 3 gal

GROUND COVER	BOTANICAL NAME/COMMON NAME	SIZE	COMMENTS
G-PHL.	PHLOX SUBLATA CREEPING PHLOX	1 gal.	24" SPACING 1 FU
G-VIN.	VINCA MAJOR PERIWINKLE	1 gal.	24" SPACING 1 FU

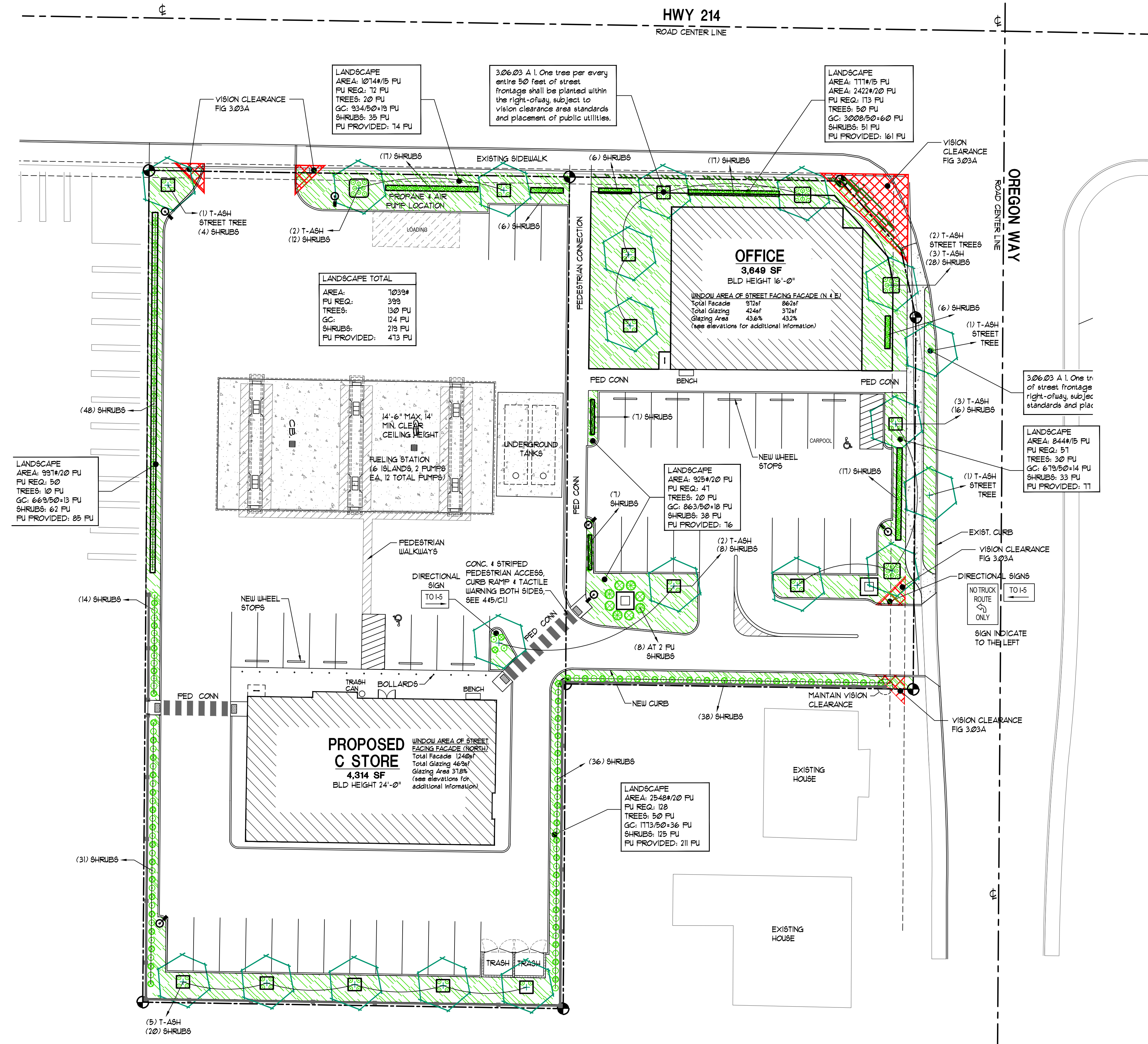
1 PLANT LIST

SCALE: N/A



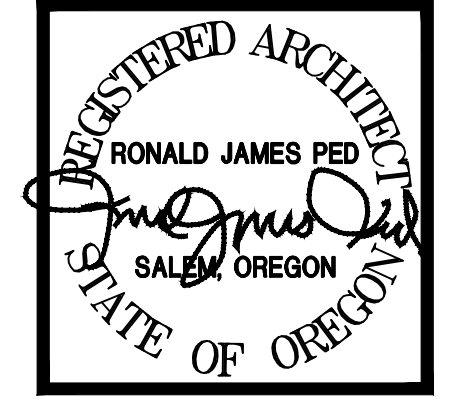
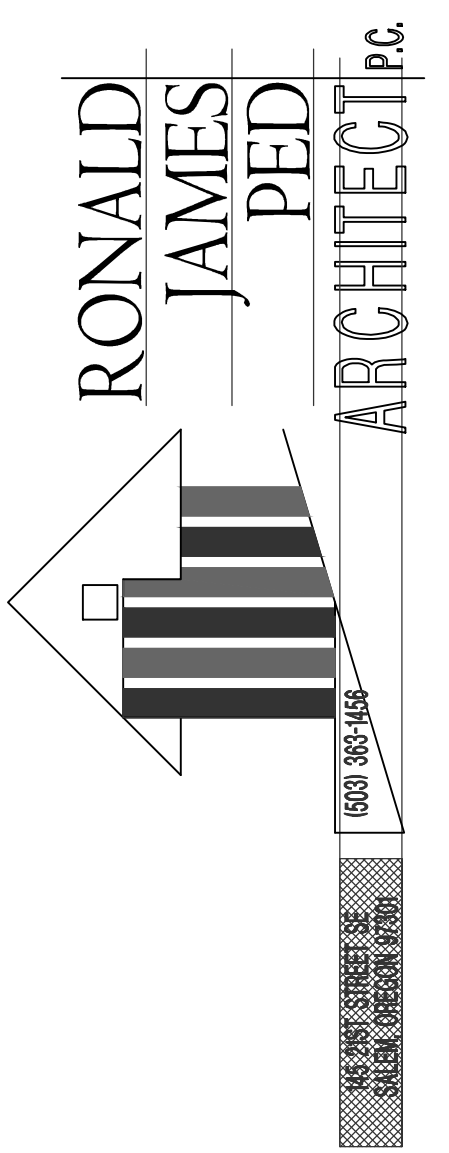
2 TREE PLANTING

SCALE: NTS



LANDSCAPE PLAN

SCALE: 1" = 20'



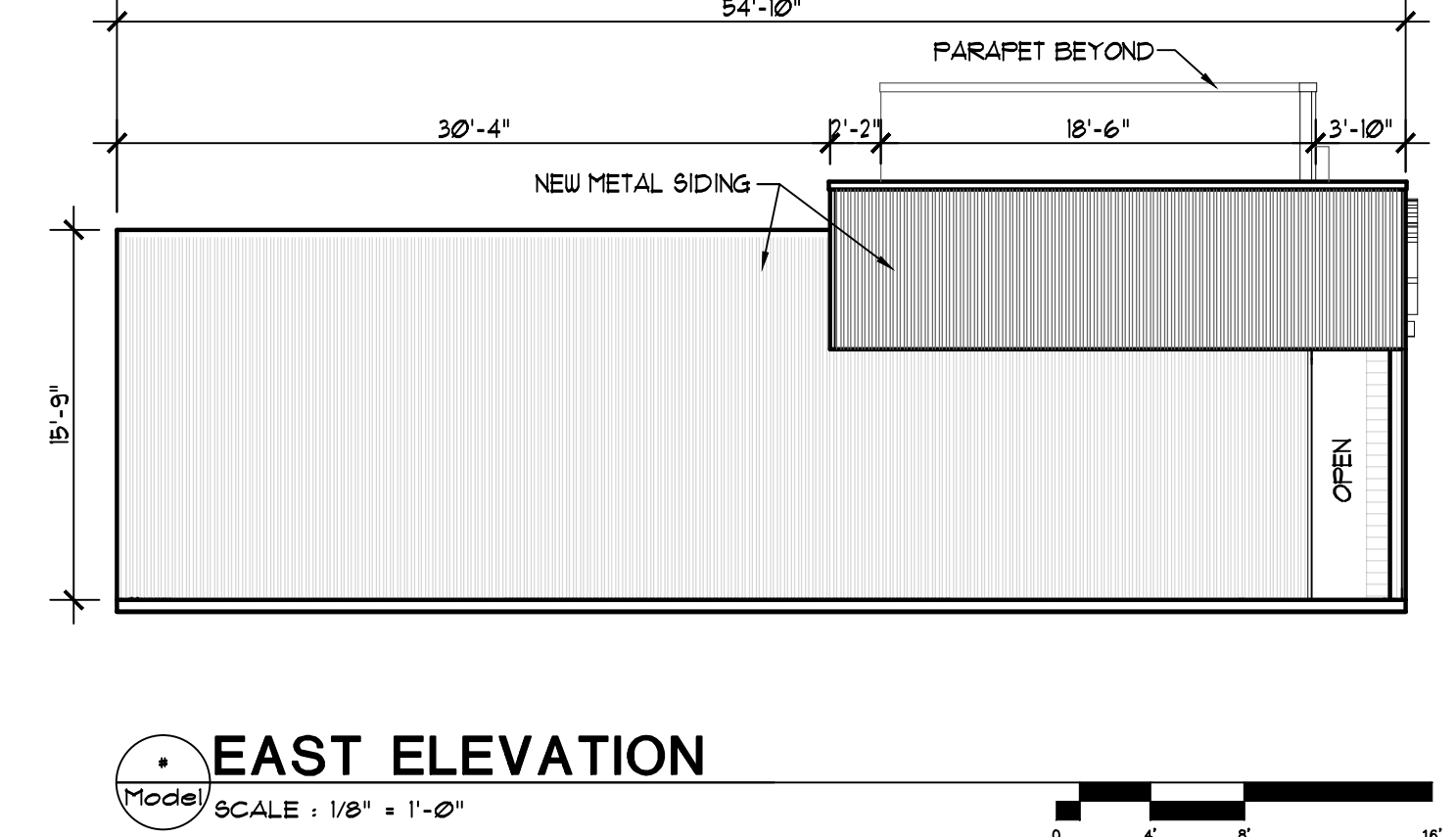
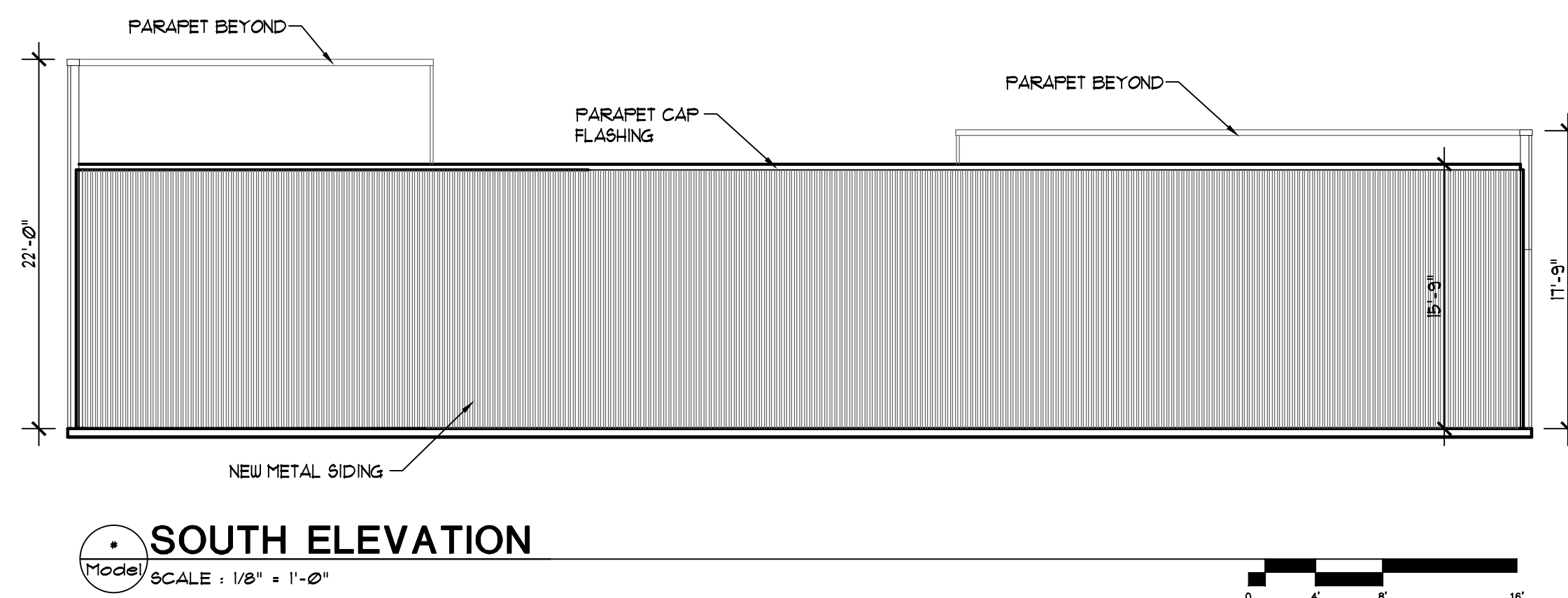
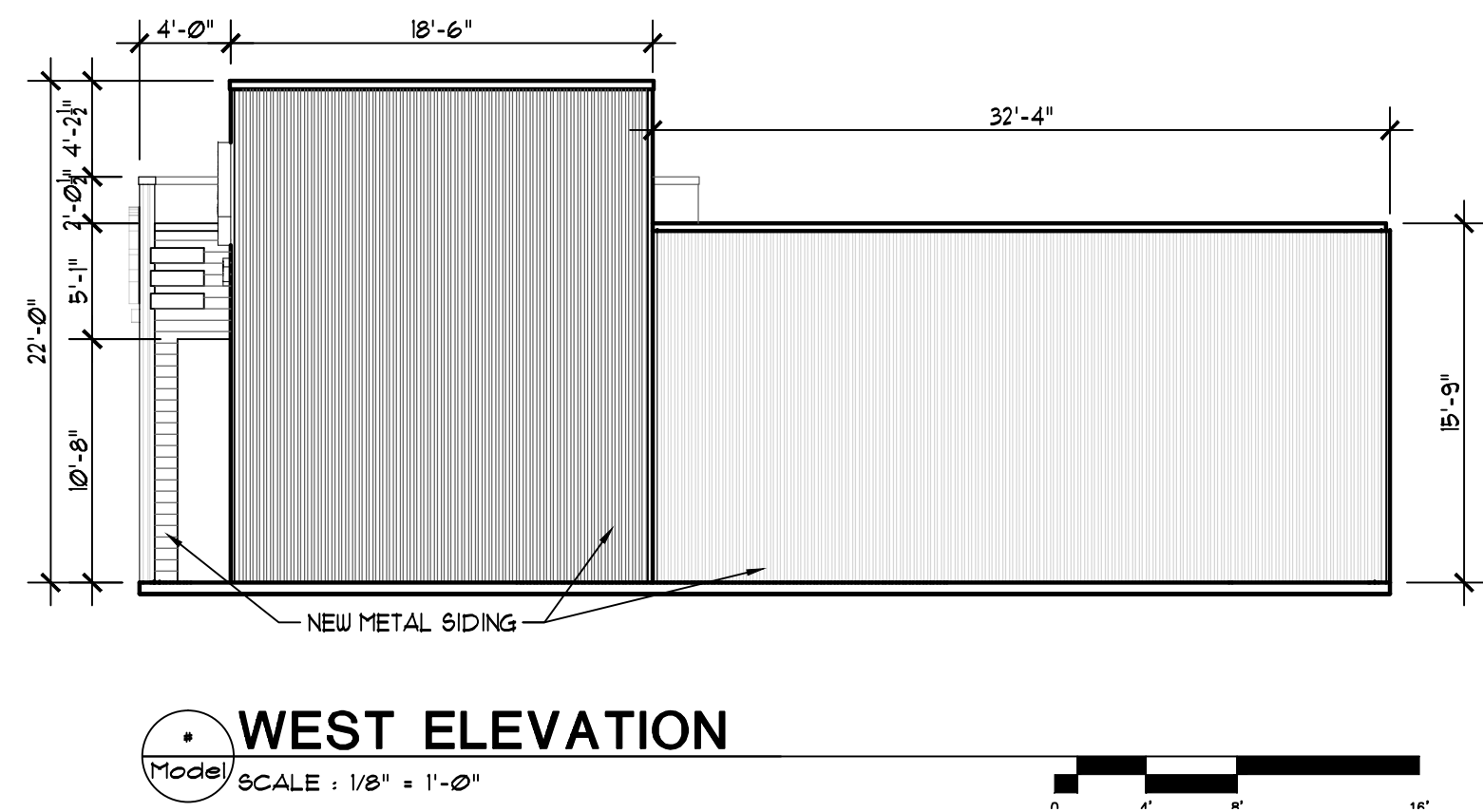
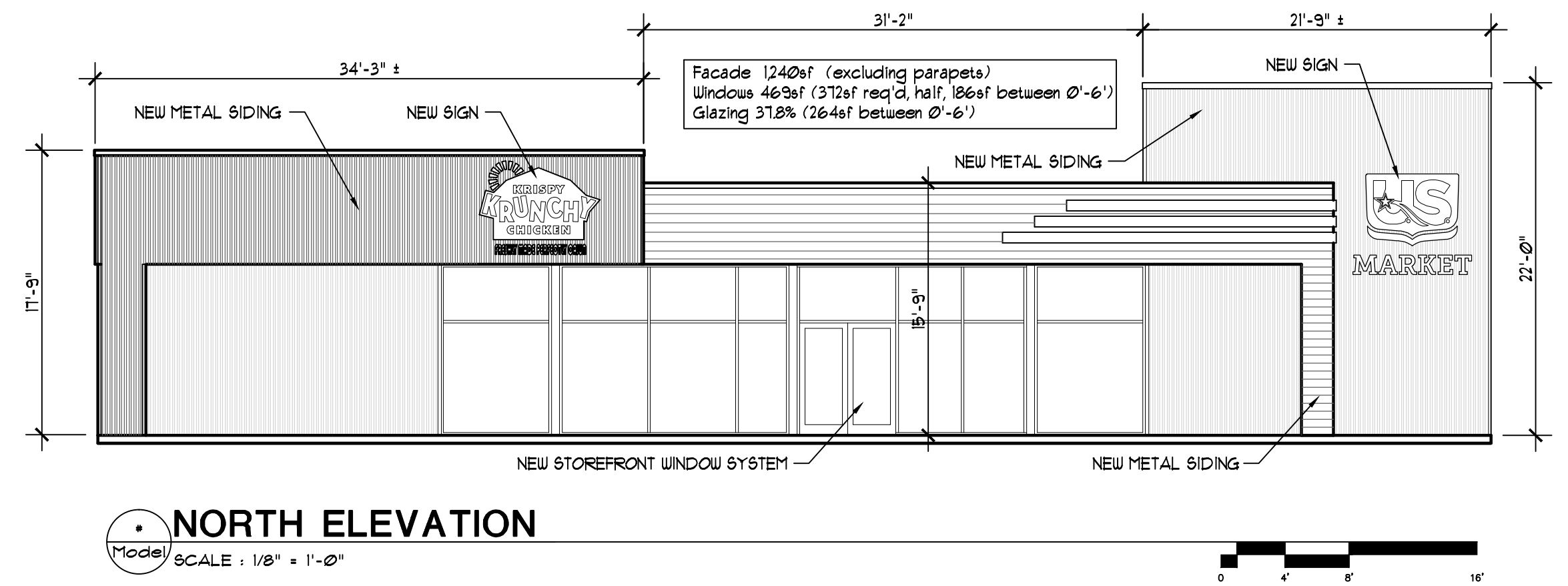
SITE REDESIGN SET 4/28/22

NEW OFFICE, RETAIL AND GAS STATION
US MARKET
2540 AND 2600 NEWBERG HIGHWAY WOODBURN OREGON

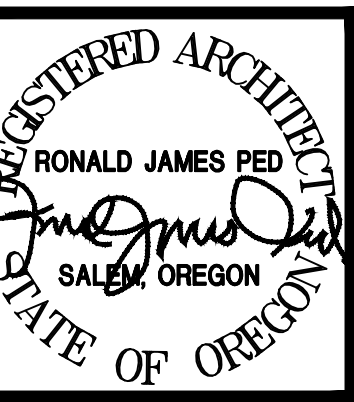
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JOB NO.: 1984

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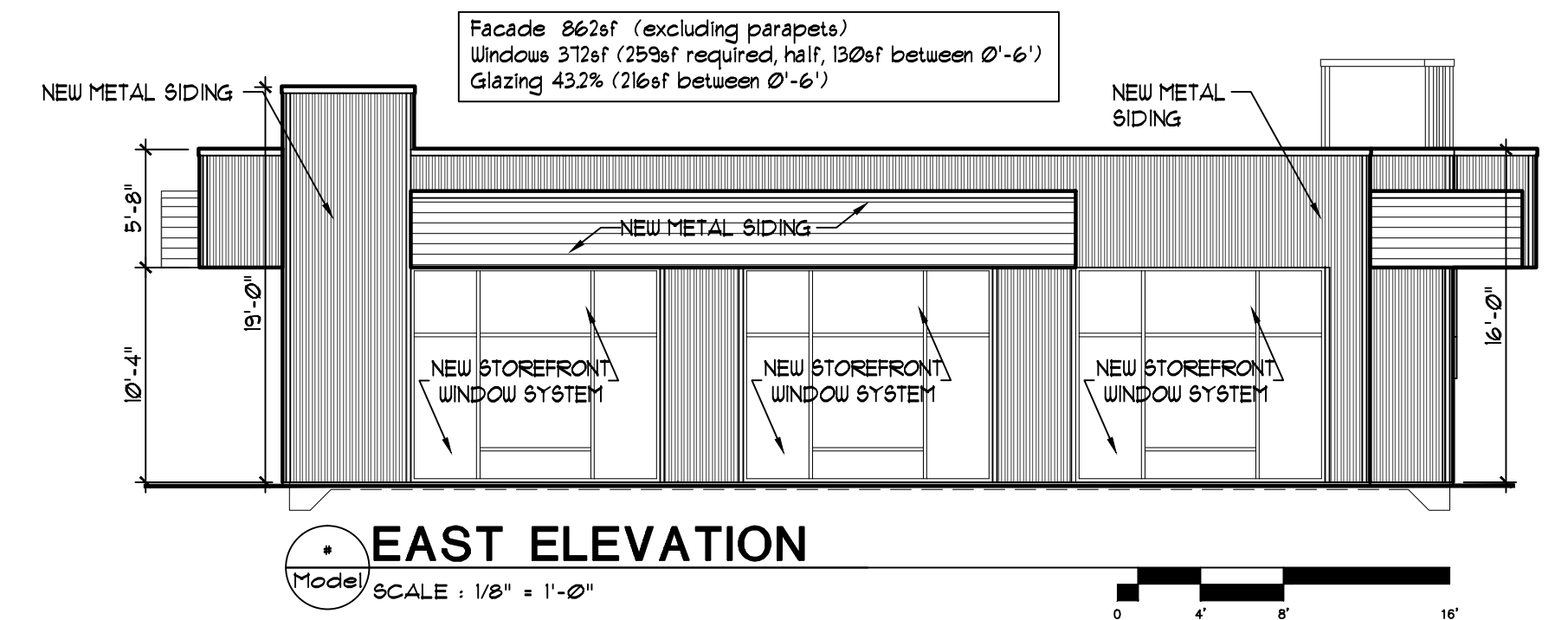
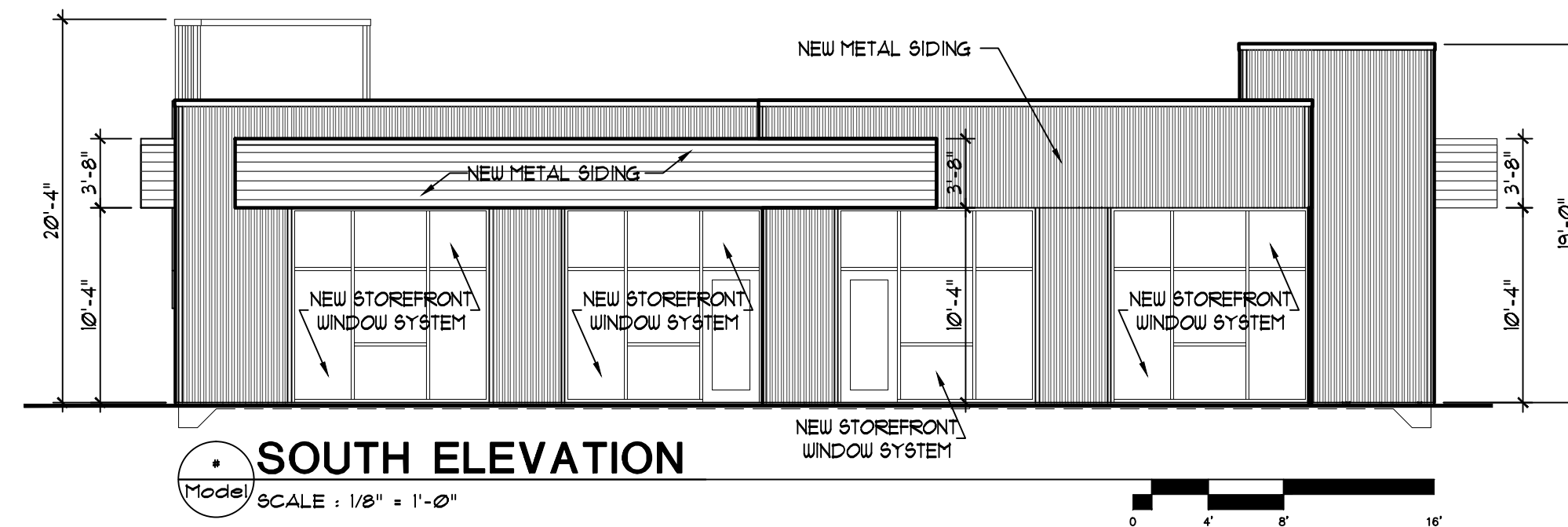
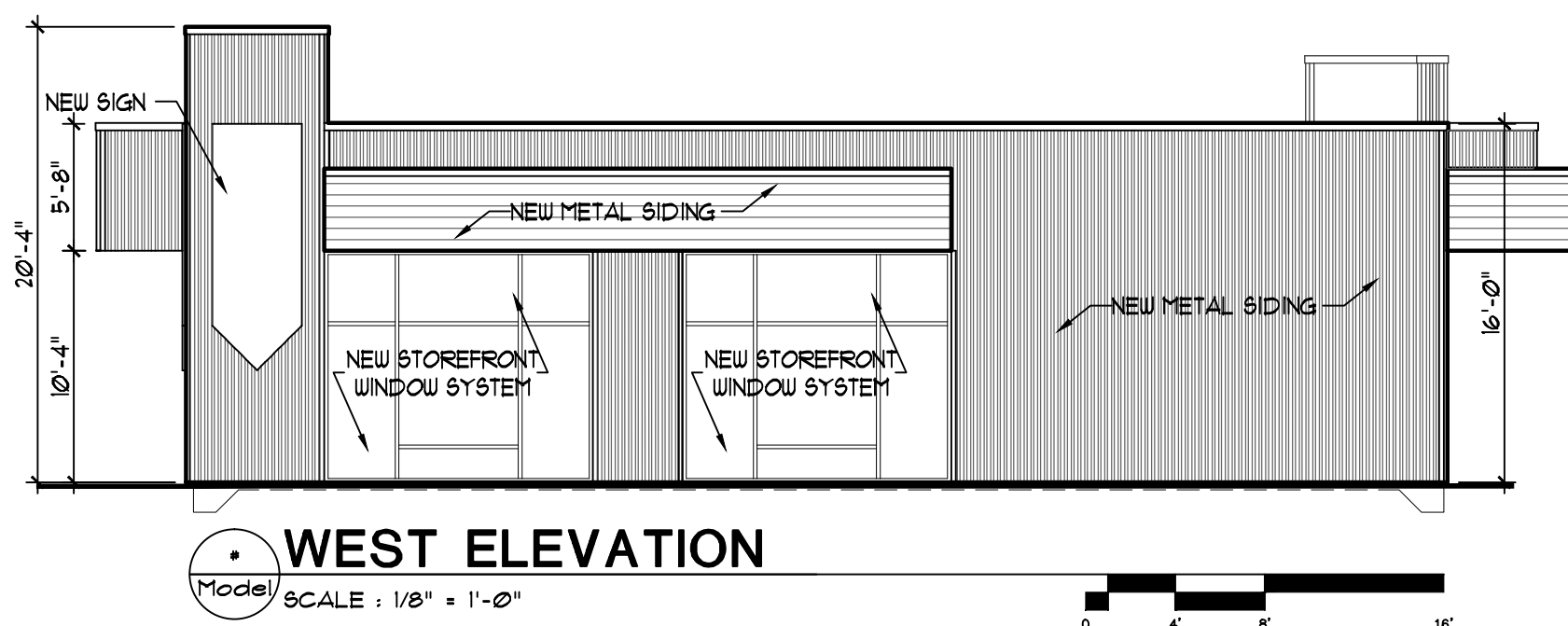
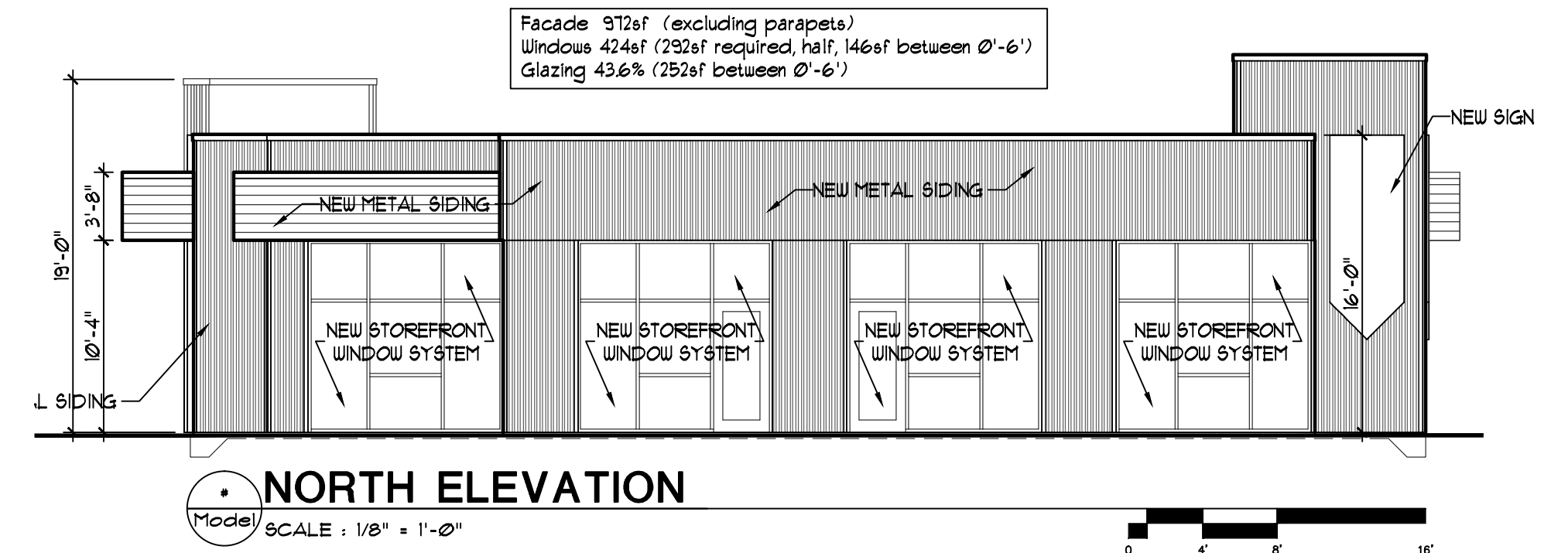
CONVENIENCE STORE



RONALD JAMES PEDERSEN ARCHITECT P.C.
1500 983-1458

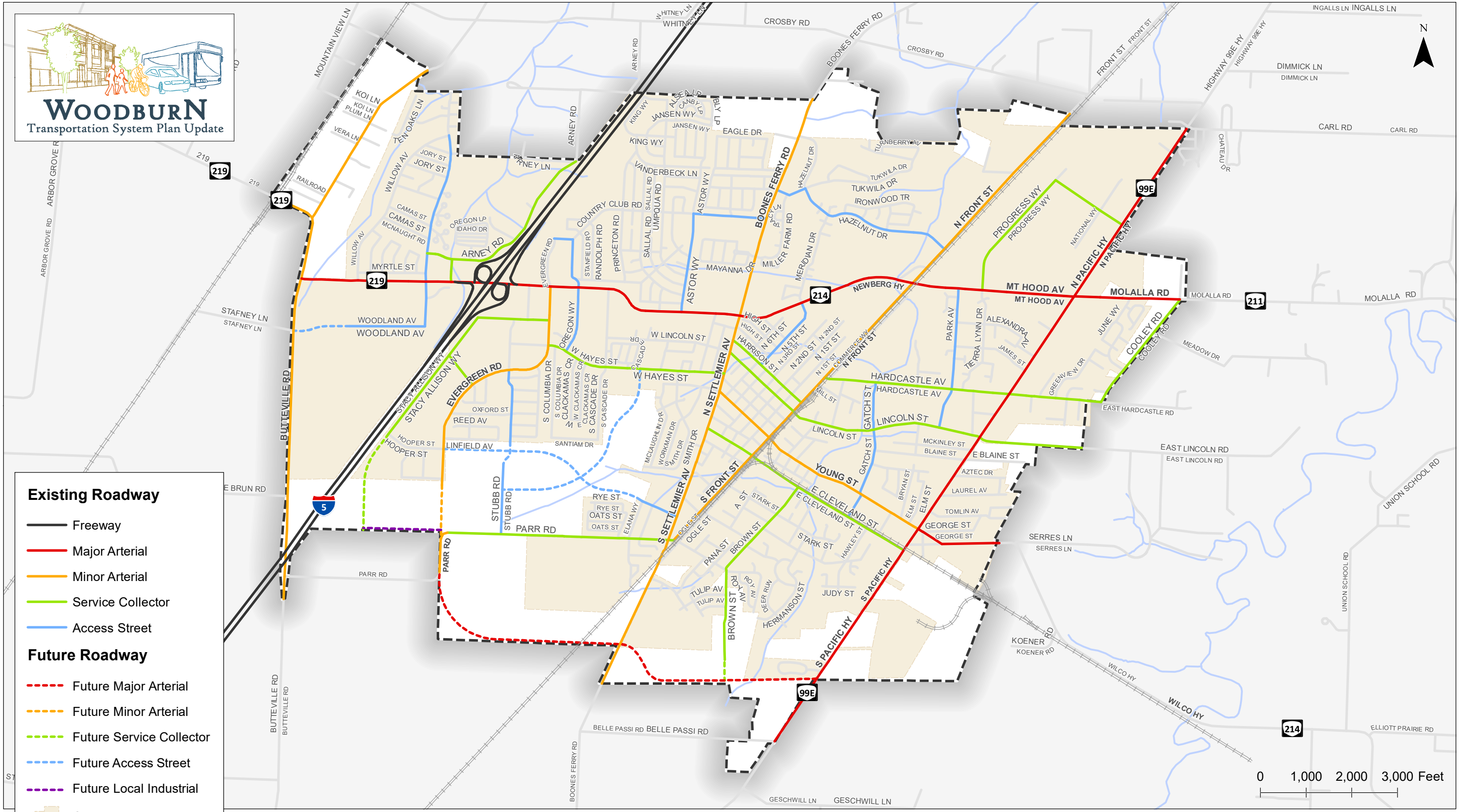


OFFICE BUILDING



NEW OFFICE, RETAIL AND GAS STATION
US MARKET
2540 AND 2600 NEWBERG HIGHWAY WOODBURN OREGON
DATE: DEC. 1, 2020
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JOB NO.: 1864
A3.1

SITE REDESIGN SET 4/28/22



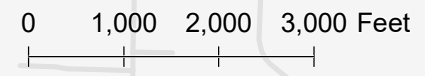
Existing Roadway

- Freeway
- Major Arterial
- Minor Arterial
- Service Collector
- Access Street

Future Roadway

- Future Major Arterial
- Future Minor Arterial
- Future Service Collector
- Future Access Street
- Future Local Industrial

- City Boundary
- Urban Growth Boundary



Functional Roadway Classification
Attachment 104 Woodburn, Oregon

Figure
2

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

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

CU 21-02 US Market Gas Station: Attachment 201: Dictionary & Glossary

This document defines and explains abbreviations, acronyms, phrases, and words particularly in the context of conditions of approval.

- “ADA” refers to the federal Americans with Disabilities Act of 1990.
- “AW” refers to Architectural Wall.
- “BFR” refers to Boones Ferry Road.
- “CAE” refers to cross access easement.
- “CDD” refers to the Community Development Department.
- “CEP” refers to civil engineering plan review, which is a review process independent of land use review led by the Community Development Department Planning Division and that is led by the Public Works Department Engineering Division through any application forms, fees, and review criteria as the Division might establish. A staff expectation is that CEP follows land use review and approval, that is, a final decision, and precedes either building permit application or issuance as PW determines.
- “County” refers to Marion County.
- “Director” refers to the Community Development Director.
- “exc.” means excluding.
- “GFA” refers to gross floor area.
- “ft” refers to feet.
- “highway” refers to Oregon Highway 214 / Newberg Highway.
- “max” means maximum.
- “min” means minimum.
- “Modal share” means the percentage of travelers using a particular type of transportation or number of trips using a type, as examples walking, cycling, riding transit, and driving.
- “Modal shift” means a change in modal share.
- “MUTCD” refers to *Manual on Uniform Traffic Control Devices* of the U.S. Department of Transportation (U.S. DOT) Federal Highway Administration (FHWA).
- “NE” means northeast.
- “NW” means northwest.
- “OAR” refers to Oregon Administrative Rules.
- “o.c.” refers to on-center spacing, such as of trees or shrubs.
- “ODOT” refers to the Oregon Department of Transportation.
- “OR 211” refers to Oregon Highway 211, which is Molalla Road.
- “OR 214” refers to Oregon Highway 214, which is Newberg Highway.
- “OR 99E” refers to Oregon Highway 99E, which is Pacific Highway.

- “ORS” refers to Oregon Revised Statutes.
- “PBPE” refers to a public bicycle/pedestrian easement that grants pedestrian and cyclist access along sidewalk that overlaps private property or along an off-street bicycle/pedestrian path on private property. It substitutes for a PUBPE. “PLA” refers to property line adjustment.
- “PU” refers to plant unit as WDO Table 3.06B describes.
- “PUBPE” refers to a PUE adapted to grant pedestrian and cyclist access along sidewalk that overlaps private property (“roadside” or “streetside” PUBPE) or along an off-street bicycle/pedestrian path on private property (“off-street” PUBPE). A PBPE may substitute.
- “PUE” refers to public utility easement, whether along and abutting public ROW (“streetside” PUE) or extending into or across the interior of private property (“off-street” PUE). In the context of property line adjustment, partition, or subdivision, the developer records through or with the plat. Absent this context, recordation is separate from land use review pursuant to a document template or templates established by PW. PW is the project manager for receiving, reviewing, accepting, obtaining City Council approval for, and recording legal instrument materials that a developer submits.
- “PW” refers to Public Works (the department) or on rare occasion public works (civil infrastructure) depending on context.
- “Root barrier” refers to that illustrated by PW SS&Ds, [Drawing No. 1 “Street Tree Planting New Construction”](#).
- “ROW” refers to right-of-way.
- “RPZ” refers to root protection zone in the context of tree preservation.
- “SE” means southeast.
- “SDA” refers to site development area, the entire territory that is the subject of the land use application package.
- “Shared rear lane” refers to what resembles and functions like an alley, but isn’t public ROW.
- “sq ft” refers to square feet.
- “SS&Ds” refers to PW [standard specifications and drawings](#).
- “Street trees” refer to trees that conform to the WDO, including 3.06.03A and Tables 3.06B & C, and that have root barriers where applicable per PW [Drawing No. 1 “Street Tree Planting New Construction”](#).
- “Substantial construction” means that per WDO 1.02 through Ordinance No. 2602 (LA 21-01).
- “SW” means southwest.
- “Tax Lot 3400” means 052W12DB03400, which is 943 Oregon Way.
- “Tax Lot 3600” means 052W12DB03600, which is 2600 Newberg Hwy.
- “Tax Lot 3700” means 052W12DB03700, which is 2540 Newberg Hwy.
- “Tax Lot 3700” means 052W12DB03700, which is 2540 Newberg Hwy.
- “Tax Lot 3500” means 052W12DB03500, which is 953 Oregon Way.

- “Tax Lot 90000” means 052W12DB90000, which is 950 Evergreen Rd.
- “TCE” refers to temporary construction easement.
- “Tot.” means total.
- “TPU” means the [Transit Plan Update](#) Approved Final Report dated November 8, 2010.
- “TDM” refers to transportation demand management, which means according to the TSP (p. 82), “a policy tool as well as a general term used to describe any action that removes single occupant vehicle trips from the roadway during peak travel demand periods”, and according to Wikipedia as of October 13, 2020, “the application of strategies and policies to reduce travel demand, or to redistribute this demand in space or in time.”
- “TSP” means the [Woodburn Transportation System Plan \(TSP\)](#).
- “UGB” means urban growth boundary.
- “WDO” refers to the [Woodburn Development Ordinance](#).
- “WFD” refers to the Woodburn Fire District.
- “WTS” refers to the Woodburn Transit System.
- “w/i” means within.
- “w/o” means without.
- “VCA” refers to vision clearance area as WDO 1.02 and 3.03.06 establish or as a specific condition establishes.

CU 21-02 US Market Gas Station:

Attachment 202: Civil Engineering Plan (CEP) Review Provisions

Refer to Condition G3 / Attachment 201 for a dictionary/glossary, including acronyms and shorthand text.

- A. Purpose: For other departments and divisions, to facilitate review of plans that following a land use final decision a developer submits to the PW Engineering Division for civil engineering plan (CEP) review. To be a means of implementing land use final decision conditions of approval affecting street improvements, both surface and underground, and extending into PUEs. To specify public improvement standards where there is no detailed specification in the WDO or the public works construction code.
- B. Administration: The process by which to receive, review, and approve drawings and other documents related to public improvements required by land use conditions of approval may be through CEP that is paired with or incorporated into building permit review, if the City Engineer in writing allows the latter.
- C. Application: For CEP, per what PW requires, and original / 1st submittal shall be due no later than final plat application to the Director.
- D. Cover letter: Upon submitting CEP application to PW, a developer shall simultaneously alert the Director through a cover letter to the attention of the Community Development Department Planning Division referencing the intended or, if known, actual submittal date as well as the project name, tax lot number(s), street address(es), and the land use final decision conditions of approval that require the public improvements that are the subject of the civil engineering plans. Referencing conditions may be by quotation or citing the identification numbers. The developer shall identify the specific sheet (by number) or document page number that illustrates or notes how each part of a condition is met.
- E. Contact information: The developer shall state the applicant's name, company, phone number, e-mail address, and desired date for City staff to respond with review comments. The cover letter to the Director may include these. The developer may submit to the attention of the Director a copy of the stamped CEP application form submitted to PW if the form includes this required information.
- F. Fees: The developer shall pay review fees per Attachment 203 and submit to the attention of the Director a copy of proof of payment, which should be bundled with other materials for the Director.

G. Site plans and other drawings: For any of CEP review by the Director:

1. Sizes/copies: From among the minimum number of copies submitted to PW, submit to the attention of the Director at least 4 plan size copies of plan sets, 2 plotted at native scale (minimum 22 by 34 inches, maximum 24 by 36) and 2 at ledger (11 by 17). Within the cover sheet title block(s), include the date or anticipated date of submittal and the phrase "Civil Engineering Plans" or "Civil Plans for CEP".

2. Folding/electronic: Fold the plan size sets if thin enough to do so. Submit also Adobe PDF copies using a fileshare service.

H. Developer's role: The developer is the project manager. Because the Engineering Division may establish that CEP applicants have a single point of contact termed the "engineer of record", the developer manages the engineer of record who handles the CEP and also interacts with the Community Development Director regarding DDP review. For the Director, the developer is the point of contact, namely whoever on the developer's team the developer tasks with being the project manager. The developer shall be responsible for integrating Director directions into CEP review that the engineer of record leads with the Engineering Division. If, when, and where conflicts arise between Director directions and Engineering Division directions, the developer shall be responsible for communicating with formal cover or transmittal letters messages from the conflicting division to the other division, and shall communicate such.

I. [Letter "I" skipped].

J. Approved plan set: There shall result an official version of a civil engineering plan set marked approved and issued by PW that shows all common area improvements and public improvements, including off-street public improvements, resulting from CEP, and where applicable resulting from DDP, that conforms to land use final decision conditions of approval. It shall come to be prior to building permit application, and CEP approved plan set approval and issuance shall be prohibited until the developer pays any CEP review fees per Attachment 203. The developer shall submit to the Director print and electronic copies of the plan set marked approved and issued by PW.

CEP approval shall precede any of (1) completion of recordation with the County, specifically no later than a City official signing a plat or re-plat Mylar per WDO 5.01.06C.1 and (2) building permit application, whichever is earlier.

**CU 21-02 US Market Gas Station:
Attachment 203: Conditioned Fees**

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

Refer to Condition G3 for a dictionary/glossary, including acronyms and shorthand text.

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 both (1) the same kind of charge or fee that is conditioned, (2) the amended charge or fee amount would exceed the amount conditioned, and (3) the increase takes effect before the conditioned fee is due, then the developer shall pay the greater amount.
2. Payments of conditioned fees due outside the context of assessment and payment through building permit 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 through Ordinance No. 2602 (LA 21-01), specifically, to pay across issuance of two or more structural building permits for the subject development.

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 CU 21-02 US Market gas station final decision.

For payment method citywide policy details, the developer is to contact the Finance Department at (503) 982-5222, option 1, for payment method policy details or view its [webpage](#).

Part B. Fee Table

<i>Table 203B. Conditioned Fees</i>						
<i>Condition Reference</i>	<i>Fee Type</i>		<i>Amount</i>	<i>Context</i>	<i>Timing</i>	<i>Staff Tracking:</i>
T-A	1. Transportation signal timing and crash safety study fee in-lieu		By year of assessment: 2022: \$16,890 2023: \$17,489 2024: \$18,014 or 2025 or later: \$18,555	Fee in lieu of investigation in coordination with ODOT of corridor signal timing and coordination adjustments. (TSP R11 adjusted for inflation from Sept. 2019 to Apr. 2022 as 2022 amount.)	Building permit issuance	
	2. City transportation consultant recoupment fee		\$4,760	To recoup the cost of its transportation consultant reviewing and advising upon the TIA	Building permit issuance	
	3. I-5 interchange with OR 214		\$1,000	To mitigate and to reduce vehicle crashes	Building permit issuance	
	4. OR 214 & Evergreen Rd		\$15,000	To reduce vehicle crashes	Building permit issuance	
	5. OR 99E & OR 211/214		\$21,000	To mitigate and to reduce vehicle crashes	Building permit issuance	
T-T	Bus shelter fee in-lieu		By year of assessment: 2022: \$13,214 2023: \$13,610 2024: \$14,018 or 2025 or later: \$14,439	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	

<i>Table 203B. Conditioned Fees</i>						
<i>Condition Reference</i>	<i>Fee Type</i>		<i>Amount</i>	<i>Context</i>	<i>Timing</i>	<i>Staff Tracking:</i>
		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	Fee in lieu of upgrading highway sidewalk to conform		\$78,705	A fee for sidewalk that EXCP 21-05 excepts from conformance/upgrade	Building permit issuance	
EX2	Fee in lieu of upgrading street to have on-street parallel parking per Fig. 3.01E		\$13,860	A fee for on-street parking that EXCP 21-05 excepts from conformance/upgrade	Building permit issuance	
G6 through this Attachment 203	City tree fund		\$2,850	Existing City tree fund (for new trees in City ROWs and in parks and on other City properties)	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 Public Works Dept. (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	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	

<i>Condition Reference</i>	<i>Fee Type</i>	<i>Amount</i>	<i>Context</i>	<i>Timing</i>	<i>Staff Tracking:</i>
			construction of street improvements beyond building permit issuance		
G4a & CU4	Fees in lieu per Ordinance No. 2602 through WDO 4.02.12.	Per Part A Fee Provisions above, City ordinance, resolution, or policy. *	WDO 4.02.12 *If by the time necessary to assess in order to issue building permit, the City would have not yet established the fee in lieu of electric power line burial/ undergrounding, then the fee would default to \$568 per lineal ft of line assessed at minimum 265 ft.	Per WDO 4.02.12A: Building permit issuance	