

Susan Claus
22211 SW Pacific Highway
Sherwood, OR 97140

July 4, 2022

SENT VIA EMAIL

July 5, 2022

City of Sherwood
Planning Department
22560 SW Pine St.
Sherwood, OR 97140

Re: LU 2022-012 SP, MM, CUP, LLA
Applicant: Langer Family, LLC

Dear Planning Commission Members:

Please reference the following attached documents that were submitted in support of the Jim Claus letter dated June 27, 2022, which I support. The attachments include:

1. A copy of the 2010 Amended and Restated Development Agreement, wherein the Applicant elected to apply the 1995 SZCDC to development of Phase 6 of the 1995 PUD (which includes the subject property for this application);
2. A copy of the 2012 Staff Report in SUB 12-02, the application by the Applicant to subdivide the property in Phase 6, where Staff notes that the Applicant proposes no land uses in SUB 12-02, only approval to divide Phase 6 into lots;

Additionally, please find attached with this letter for the record:

3. A copy of the notation from the 2012 SZCDC showing the repeal of Chapter 16.32 of the SZCDC, which included §16.32.020(H), the section allowing the Applicant to elect between development under the current code or the code in effect when the PUD was approved in 1995.
4. A copy of Sections 2.109 (General Commercial) and 2.110 (Light Industrial) of the 1995 SZCDC, showing a "motel or

hotel" as a conditional use in the GC zone and a prohibited use in the LI zone.

It is odd that the Applicant has chosen to apply ORS 92.040 to only the mini-storage portion of this Application, but after review of the 1995 SZCDC, the reasoning becomes apparent. The 1995 SZCDC does not allow a hotel/motel in the LI zone, and only authorizes a hotel/motel as a conditional use in the General Commercial zone. If the Applicant were relying on the 1995 SZCDC for approval of the hotel/motel, the Application would have to be denied, because the use was not allowed in the LI zone, and therefore cannot be allowed today.

Alternatively, if the Applicant is relying upon the 2010 Amended and Restated Development Agreement as the basis for approval of the hotel, Section (A)(2) of that Agreement specifically provides that the Applicant and the City agreed that only those uses allowed "under the LI base zone text at the time of final approval of the PUD." That determination was based upon the language of SZCDC §16.32.020(H) in effect at the time of the 2010 Amended and Restated Development Agreement and at the time of the City's approval of SUB 12-02, which has since been repealed. The 1995 SZCDC allowed the uses in the LI zone and the outright permitted uses in the GC zone, neither of which included hotels/motels. In other words, a hotel/motel was not allowed on the subject property in 1995 when the PUD was approved, or in 2012 when SUB 12-02 was approved. Consequently, the Applicant cannot rely upon ORS 92.040 to site the hotel, since it was not allowed at that time.

Instead, the Applicant has chosen a hybrid approach - apply ORS 92.040 to a portion of the application, but apply for the remaining portion under the existing SZCDC. We're now reaching into silly territory. There is nothing in ORS 92.040 that remotely suggests that an applicant can pick and choose between which portions of the currently applicable code it wishes to apply and which it wishes to ignore in favor of an earlier version. This kind of "pick and choose" zoning was not contemplated by the legislature when ORS 92.040 was adopted (see the discussion of legislative intent in *Athletic Club of Bend, Inc. v. City of Bend*, 239 Or App 89 (2010)).

In fact, neither the Applicant nor Staff has made clear what the applicable approval criteria are for the subject Application. Staff lists the review criteria in Section I(G) of the Staff Report, yet no mention is made of the 1995 SZCDC provisions that Applicant is apparently relying upon for approval of the mini-storage component of the Application. The Applicant's submittals do not make clear when it is relying upon the 1995 code, and when it is relying upon the current code. How is the Staff and public supposed to know? Do Staff and the Applicant get to pick and choose what they want to apply and what they can ignore?

ORS 197.797(3)(b) obligates the City to list the applicable approval criteria in its public notice of the submitted Application. In this case, the City notice is insufficient, as it does not specify which current SZCDC sections apply to the application, and which of the 1995 SZCDC sections apply. In addition, ORS 197.797(5)(a) requires the applicable criteria for approval or denial of the Application to be part of the statement read to the audience at the beginning of the hearing. The Commission did not do so in this case, because no one is sure exactly what the applicable criteria are. In any event, nothing in the legislative history, text, or context of ORS 92.040 suggests that an applicant can submit a land use application relying on ORS 92.040 for uses that currently are prohibited by the current land use regulations, while at the same time applying current land use regulations to uses that were prohibited by the zoning in effect at the time of the initial subdivision approval relied upon under the statute. Somehow, that's exactly what the Applicant tries to do here. The Commission should reject this interpretation.

Please enter this letter into the record.

Sincerely,

Susan Claus

Susan Claus

Note also part of this letter includes the 4 attachments detailed above included in the same email sent to staff on July 5, 2022 before 5 pm.

CURRENTLY IN-USE 5-4-11

AMENDED AND RESTATED DEVELOPMENT AGREEMENT

PARTIES

The Parties to this Amended and Restated Development Agreement ("Agreement") are the City of Sherwood, Oregon ("City") and Pamela and Clarence Langer, as to Phase 4, and the Langer Family, LLC, as to the remainder of the PUD (collectively, "Langer").

RECITALS

1. On April 26, 1995, the City approved a Preliminary Development Plan for a Planned Unit Development ("PUD") on property owned by Langer. The subject property is located generally southeast of Hwy 99W and south of the Tualatin-Sherwood Road, in the City.
2. The decision approved development of the property in eight (8) separate phases. The decision contemplated and assigned specific uses to each phase, including High Density Residential, Retail/Commercial, and Light Industrial (LI).
3. The portions of the PUD designated LI have not yet developed, except for a portion of Phase 4, which was developed as a mini-warehouse use under the General Retail Trade category of allowed uses in the LI zone. Since the approval of the PUD, the City has amended its list of permitted and conditional uses in the LI zone, subject to the City's Zoning and Community Development Code ("ZCDC") 16.32.020.H, which provides the following: "Approved PUDs may elect to establish uses which are permitted or conditionally permitted under the base zone text at the time of final approval of the PUD."
4. The PUD approval contained conditions of approval including: a requirement for a wetlands delineation prior to development of Phase 8; the construction of Adams Drive at the time of development of Phase 6; and the elimination of the then-proposed extension of Century Drive east of Adams Drive.
5. The Final Development Plan was approved August 3, 1995. Neither the Preliminary Development Plan nor the Final Development Plan approvals related to a site plan. Thus, site plan review is required for each phase as development is proposed for that phase.
6. Phases 1 through 3 and 5 have been developed, and a portion of Phase 4 was developed as above-described and is anticipated for future redevelopment. The purpose of this Agreement is to clarify and refine the intent of the Parties regarding the following issues (collectively, the "PUD Issues"):

- (a) The allowed uses of Phases 4, 6, 7 and 8 of the PUD, all of which are designated for LI uses;
 - (b) The timing of related improvements, including the construction of Adams Drive and Century Drive;
 - (c) The cost-sharing of public improvements, including the construction of Adams Drive and Century Drive; and
 - (d) Certain related matters.
7. The City and Langer previously set forth their respective commitments relative to the PUD Issues in that certain Development Agreement dated January 3, 2008 ("2008 Agreement"), which was a condition of approval to a companion Minor Change to the PUD approved contemporaneously by the City.
 8. Subsequent to entering into the 2008 Agreement, economic conditions have changed such that the Parties find it necessary to re-evaluate their respective commitments under the 2008 Agreement. The City and Langer now desire to amend and restate their commitments relative to the PUD Issues set forth below.
 9. This Agreement represents the only Agreement between the City and Langer with respect to the PUD Issues and does not preclude or require any conditions that may arise from a subsequent application for site plan review. It is the intent of the parties that the site plan review conditions should not be inconsistent with this Agreement.
 10. This Agreement is only between the City and Langer and does not affect any conditions or improvements that may be required by other jurisdictions.

AGREEMENT

A. PUD USES

1. Applicable Code. ZCDC 16.32.020.H, provides that "Approved PUDs may elect to establish uses which are permitted or conditionally permitted under the base zone text at the time of final approval of the PUD." The Langer PUD was approved and Phases 4, 6, 7 and 8 were assigned the Light Industrial ("LI") base zone designation on August 3, 1995.
2. Permitted and Conditional Uses. Accordingly, Langer elects to establish uses on the LI-designated phases of the PUD that were permitted or conditionally permitted under the LI base zone text applicable on August 3, 1995, including: "Uses permitted outright in the GC zone Section 2.109.02, except for adult entertainment businesses, which are prohibited." A copy of the uses permitted in the LI and GC zones on August 3, 1995 is set forth in Attachment A, attached hereto and incorporated herein by reference.

3. Election of Uses and Acceptance. The City acknowledges and accepts Langer's decision to elect to develop Phases 4, 6, 7 and 8 under ZCDC 16.32.020.H, including the ability to develop those phases for General Retail Trade under Section 2.109.02 of the 1995 ZCDC. Accordingly, the current provisions of ZCDC 16.32.030.K, which restrict retail uses in the LI zone to a maximum of 60,000 square feet, will not apply to site plan review of the PUD.

B. ADAMS DRIVE SOUTH EXTENSION

1. City Commitments. Except as otherwise provided in this section, as soon as reasonably practicable and in any event prior to Langer's construction of any portion of Adams Drive south of the PUD's southern boundary, the City, at the City's sole cost and expense, will take the following actions:
 - a. Acquire the necessary right-of-way and complete the design and engineering for construction of the extension of Adams Drive ("South Extension") south from its present terminus up to but not including the railroad crossing between the southern PUD boundary and Oregon Street ("Rail Crossing");
 - b. Obtain all necessary permits for the construction and operation of the South Extension, including without limitation, all permits associated with allowing impacts to wetlands;
 - c. Provide for the mitigation of any impacts to wetlands related to the alignment and construction of the South Extension; and
 - d. Pursuant to the City's standard timeline and procedure in such instances, accept Langer's dedication of that portion of the South Extension located within the boundaries of the PUD following final inspection approval and thereupon assume maintenance obligations for all of the South Extension.
2. Langer Commitments. Subsequent to the City's performance of its obligations set forth in Section B.1.a. to B.1.c. of this Agreement but prior to issuance of final occupancy permits for any structures included in Phases 6 or 7, Langer will substantially construct the South Extension, including the traffic circle and island at the intersection with Century Drive and the twelve-foot (12') wide multi-use path extending the length of the South Extension as identified in the City Transportation Systems Plan (the "Path"). The street will be aligned and constructed in a manner consistent with the "90-percent drawings" prepared by Hopper Dennis Jellison, PLLC dated April 2008 and on file with the City (the "South Extension Plans"). Upon completion of the construction of the South Extension, Langer will dedicate and record a public right-of-way easement to the City for Adams Drive south from its present terminus to the southern boundary of the PUD (the "South Extension Right-of-Way").

3. Alternative Commitments.
- a. Alternatively, in the event the City has completed the obligations set forth in Section B.1.a. to B.1.c. of this Agreement and the City receives or accrues funding equal to the cost estimate for the construction of the South Extension prior to the time Langer has substantially commenced the obligations set forth in Section B.2. of this Agreement, the City may, in its sole discretion, elect to construct the South Extension, including the traffic circle and island at the intersection with Century Drive, the Path, and if warranted, the traffic signal at Tualatin-Sherwood Road, at the City's sole expense. In the event the City undertakes construction of the South Extension, the City will deliver written notice ("Written Election") to Langer of the City's intent in accordance with Section I.7. of this Agreement prior to undertaking construction of the South Extension.
 - b. The City will issue a Notice to Proceed to the selected bidder(s) ("Contractor") for completion of the physical construction of the South Extension within ninety (90) days after delivery of the Written Election to Langer ("Commencement Date"). In the event the City fails to issue the Notice to Proceed by the Commencement Date and Langer has obtained final site plan approval for either Phases 6 and/or 7 by said date, the City will forfeit its right to undertake construction of the South Extension, and Langer will re-assume the obligation to substantially construct the South Extension in accordance with Section B.2. of this Agreement, unless Langer agrees in writing to extend the Commencement Date. If the City has not forfeited its right to undertake construction of the South Extension, the City will substantially complete the construction of the South Extension within fourteen (14) months after the Commencement Date ("Completion Date"), and in any event, prior to the issuance of an occupancy permit for any structure included in Phases 6 or 7.
 - c. To ensure the Completion Date is met, the City will include the required Completion Date and penalties for late completion in the contract ("Contract") the City enters with the Contractor. The penalties shall be an amount calculated to reimburse Langer for any losses incurred by Langer due to Contractor's failure to substantially complete construction by the Completion Date when such failure prevents the reasonable use of Phases 6 or 7 for retail commercial purposes, but in any event not less than \$10,000.00 per day Langer is unable to make reasonable use of Phases 6 or 7 for commercial retail purposes. The City shall take all necessary and appropriate action to enforce the penalty provision in the Contract and forward any amounts collected to Langer within 30 days of the date the City receives payment.
 - d. If the City elects to construct the South Extension under this Section B.3, the City will perform its construction activities in a manner that minimizes obstruction or interference with access to, from, or within the PUD and

Langer's construction, if any, and use of the subject property in accordance with the PUD. The City will mobilize, conduct, and maintain all construction activities, equipment and materials on and around the PUD in such manner to allow use of the South Extension and access between the PUD and the South Extension through all access driveways. The City's agreement to perform its construction activities consistent with this section is a material inducement for Langer to enter this Agreement as it will facilitate Langer's timely completion of the PUD in accordance with Langer's agreement with its end users of the PUD.

- e. If the City elects to construct the South Extension, Langer will take the following actions prior to the City's commencement of construction:

(A) Grant the South Extension Right-of-Way to the City, provided the City shall bear the expense of preparing the legal description for the South Extension Right-of-Way.

(B) Grant to the City reasonable temporary construction easement(s) to allow the City to complete its construction commitments, provided Langer's grant of an easement(s) may be conditioned to ensure that the City's use of the PUD property does not unreasonably interfere with Langer's use and development of the PUD.

(C) If Langer has not yet constructed the stormwater facility on Phase 8 as provided in Section F.1 of this Agreement ("Stormwater Facility"), allow temporary location of stormwater detention and treatment from the South Extension on Phase 8 in either a temporary facility ("Temporary Facility") or the existing stormwater facilities located on Phase 7 and Phase 8 ("Existing Facilities"). To the extent that the Temporary Facility or the Existing Facilities will require any expenses for engineering, construction, design, maintenance, or modification to existing land use approvals, the City will bear the expenses. If applicable, Langer and the City shall execute and record appropriate easement documents or amendments to the existing easement for the Existing Facilities to formalize the parties' respective obligations under this subsection (C).

(D) Use reasonable best efforts to avoid damaging the Path during construction and development of the PUD, provided that if Langer causes any such damage, Langer shall, at its sole expense, repair and replace the Path back to its original condition.

C. ADAMS DRIVE NORTH EXTENSION

1. City Commitments. Except as otherwise provided in this section, as soon as reasonably practicable and in any event prior to Langer's construction of any portion of Adams Drive north of the PUD's northern boundary, the City, at the City's sole cost and expense, will take the following actions:
 - a. Acquire the necessary right-of-way for and complete the surveying, design, and engineering for construction of an extension of Adams Drive ("North Extension") from the north side of the intersection with Tualatin-Sherwood Road, north to the existing stub road connecting to Highway 99W, with the alignment to curve east around the PGE substation and connect to the east end of the Home Depot stub road. The street will be aligned and constructed in a manner consistent with the "60-percent drawings" prepared by Harper Hoff Peterson Righellis Inc, dated February 2010 and on file with the City (the "North Extension Plans"). The right-of-way, design and engineering shall anticipate and include at least 43 p.m. peak-hour vehicle trips per acre from Phase 4 to accommodate redevelopment of Phase 4.

Any substantial changes to the alignment and cross-section shall require an amendment to this Agreement. Such amendment shall only relate to this section of the Agreement, and all other terms and conditions of this Agreement shall remain in full force and effect. A "substantial change" may include but is not limited to an increase in the number of lanes, an increase in the right-of-way width by 10 or more feet, requiring additional landscaping, medians, or pedestrian paths, shifting the alignment east or west by fifty (50) or more feet, and/or any other changes that will substantially increase the cost of construction.
 - b. Obtain all necessary permits for the construction and operation of the North Extension, including without limitation, all permits associated with impacts to wetlands, all approach and/or signal permits required by the Oregon Department of Transportation for the intersection of Highway 99W and the existing stub road, and all approach permits required by Washington County for the connection of the North Extension and Tualatin-Sherwood Road.
 - c. Provide for the mitigation of any impacts to wetlands associated with the alignment and construction of the North Extension.
 - d. Otherwise remove any legal or planning constraints to the construction of the North Extension.
 - e. Pay any extraordinary labor costs associated with Langer's performance of its obligations under Section C.2., where "extraordinary labor costs" means any

costs required by law to exceed an arms-length privately negotiated rate solely due to the nature of the improvement.

- f. Pay any extraordinary construction costs associated with Langer's performance of its obligations under Section C.2. that are attributable to extraordinary environmental or geographic conditions.
- g. Pursuant to the City's standard timeline and procedure in such instances, assume maintenance obligations for all of the North Extension following the City's final inspection approval of the North Extension.
- h. Permit Langer to assume, for purposes of completing the required traffic study, that the North Extension has been planned and funded for construction prior to development of Phases 6 and 7 pursuant to Langer's alternative commitments to construct the North Extension or make a payment in lieu thereof pursuant to Section C.2. below.
- i. Permit Langer to assume, for purposes of completing the required traffic study, that the North Extension has been planned and funded for construction prior to the redevelopment of Phases 4 pursuant to Langer's alternative commitments to construct the North Extension or make a payment in lieu thereof pursuant to Section C.2. below.
- j. The City will not require the closure of any residential access to Phase 4 from Tualatin-Sherwood Road until redevelopment of Phase 4. The City will reimburse Langer for the cost of relocating and rebuilding any access to and from the existing commercial uses on Phase 4 resulting from the closure of any access due to the construction of the North Extension, including any necessary relocation of administrative facilities associated with the commercial use.
- k. In the event Langer pays a fee in lieu of construction as described in Section C.2. below, the City will:
 - (A) Place the payment into an existing or newly-created interest-bearing City Trust and Agency Fund;
 - (B) Grant credits for transportation System Development Charges ("SDC's") otherwise payable by Langer as if Langer had constructed the North Extension; and
 - (C) Use the payment-in-lieu exclusively for the construction of the North Extension. However, if the City has not entered into a contract for the construction of the North Extension or any portion thereof within five (5) years after Langer deposits the fee with the City, the City shall return the fee-in lieu, together with any interest thereon to Langer, Langer's successor or a

person designated by Langer's successor, minus any amount provided as a credit against transportation SDC's under paragraph (B) above. This Agreement does not constitute a "contract for construction of the North Extension" for purposes of this subsection.

2. Langer Commitments. Langer agrees to take the following actions with respect to the North Extension:
 - a. Subsequent to the City's performance of its obligations set forth in Section C.1. of this Agreement but prior to issuance of the final occupancy permit for any structure included in the development of Phase 6, Langer will substantially construct the North Extension consistent with the alignment and cross-section described in Section C.1.a. of this Agreement. However, in the event the City exercises its option to construct the South Extension under Section B.3. of this Agreement, Langer will substantially construct the North Extension prior to issuance of the final occupancy permit for any structure included in the development of Phases 6 or 7.
 - b. Alternatively, in the event the City has not substantially performed the obligations set forth in Section C. 1.a. to C.1.d. of this Agreement by a date that is sixty (60) days after Langer submits construction drawings for public improvements associated with the development of Phase 6 to the City, Langer shall submit a fee in lieu of construction in an amount equal to the cost estimate for the construction of the North Extension prior to the issuance of an occupancy permit for any structure included in the development of Phase 6. Langer's timely deposit of a fee in lieu under this paragraph shall fully satisfy Langer's obligations under Section C.2.a. of this Agreement and shall trigger the City's performance of its commitments under Section C.1.k. of this Agreement. In the event the City exercises its option to construct the South Extension under Section B.3. of this Agreement, the references to "Phase 6" in this subparagraph b. shall be replaced with "Phases 6 or 7."
 - c. In the event the City refunds the fee-in-lieu as described in Section C.1.k(C) of this Agreement prior to the redevelopment of Phase 4, and subsequent to the performance of the City's other obligations under Section C.1., Langer will substantially construct the North Extension consistent with the alignment and cross-section provided by the City prior to the issuance of an occupancy permit for any structure included in the redevelopment of Phase 4. In the event the City is still in possession of the fee-in-lieu at the time Phase 4 redevelops, the City will refund the fee to Langer, including any interest thereon, or will not require the construction of the North Extension as a condition of redevelopment.

D. RAIL CROSSING

1. City Commitments. As soon as reasonably practicable, the City, at the City's sole cost and expense, will take the following actions with respect to the Rail Crossing:
 - a. Acquire the necessary right-of-way for the Rail Crossing;
 - b. Obtain all required crossing or other permits from ODOT Rail and any other applicable agencies associated with the Rail Crossing;
 - c. Complete the design, engineering, and construction of the Rail Crossing; and
 - d. Use all reasonable best efforts to complete these actions and connect the South Extension to Oregon Street via the Rail Crossing no later than the date of issuance of occupancy permits for the development of Phases 6 and 7; provided, however, the failure to complete these actions by such date shall not be grounds to deny the issuance of such occupancy permits.
2. Langer Commitments. None.

E. CENTURY DRIVE

1. Langer Commitments. Langer agrees to take the following actions with respect to Century Drive:
 - a. Prior to issuance of final occupancy permits for any structure located in Phase 6 or Phase 7, design and substantially construct a reasonably direct vehicular connection between the existing terminus of Century Drive on the western boundary of the PUD and existing City right-of-way at the eastern boundary of the PUD ("Century Drive Connection"). The Century Drive Connection shall be constructed to the adjusted street standard described in Section E.2.a. below.
 - b. Following construction, dedicate a right-of-way easement to the City for the Century Drive Connection.
 - c. Provide the City with copies of receipts of eligible expenses where "eligible expenses" is defined to include all hard and soft costs of labor and materials associated with all aspects of the design, engineering, and construction, including applicable consultant fees, of the Century Drive Connection that exceed the cost of designing and constructing the Century Drive Connection as a standard parking lot drive aisle ("Eligible Expenses").

2. City Commitments. The City agrees to take the following actions with respect to Century Drive:
 - a. To work with Langer to achieve an adjustment to the relevant City street standards so that the nature, location, and design of the Century Drive Connection requires the minimum necessary right-of-way to provide a vehicular connection and includes traffic calming measures such as restrictions on through traffic for trucks.
 - b. Reimburse Langer for all undisputed Eligible Expenses within thirty (30) days after the City receives the receipts described in Section E.1.c.. City will immediately contact Langer regarding any disputed expenses and attempt to resolve the dispute within 90 days of the date the receipt containing the expense is received by the City. Any disputed expense that remains unresolved after 90 days shall be submitted to mediation as provided in Section I.12. of this Agreement; and
 - c. Pursuant to the City's standard timeline and procedure in such instances, accept Langer's dedication of the Century Drive Connection following final inspection approval and thereafter assume maintenance obligations for same.

F. STORMWATER FACILITY

1. Langer Commitments.
 - a. Prior to issuance of a final occupancy permit for the first structures located in Phases 6 or 7, Langer will design and substantially construct the "Stormwater Facility on Phase 8 (including any necessary portions of Phase 6), to accommodate existing stormwater detention and treatment for the PUD (including development of Phases 6, 7 and 8), and any detention and treatment associated with the South Extension and the Century Drive Connection. In conjunction with this construction, Langer retains the right to terminate use of the Existing Facilities and any Temporary Facility constructed pursuant to Section B.3.c. of this Agreement, provided the stormwater detention and treatment functions of the Existing Facilities and any Temporary Facility are incorporated into the Stormwater Facility and subject to any written agreements relating to the Existing Facilities. Langer retains the right to expand the Stormwater Facility to serve other public rights-of-way and uses outside the PUD in Langer's sole discretion, provided such expansion otherwise complies with City standards, including without limitation, awarding credits for SDC's.
 - b. Following construction, Langer will dedicate the Stormwater Facility to the public for use as a stormwater detention and treatment facility.

2. City Commitments.
 - a. The City agrees to work with Langer, to the extent allowed by law, to issue any land use approvals related to termination of the Existing Facilities through an administrative process, to facilitate any related process for the vacation of any prior public dedications associated with the Existing Facilities, and to modify the existing recorded easement document among Langer and the City relating to the Existing Facilities.
 - b. The City agrees to accept the dedication of the Stormwater Facility following final inspection approval and thereafter assume the maintenance obligations for same.

G. RENAMING OF ADAMS DRIVE

1. Langer Commitments. Prior to Langer's dedication of any portion of Adams Drive as described in this Agreement, Langer will submit a petition to the City to rename the completed portion of Adams Drive in accordance with the street name standards of ZCDC 16.108.010.4.A-C. Langer agrees to select a single name for Adams Drive from the southern end of the South Extension to the northern end of the North Extension.
2. City Commitments.
 - a. Provided the petition is submitted in the manner described in ZCDC 16.108.010.3, the City will support a petition received from Langer to rename the completed portion of Adams Drive.
 - b. If the petition is approved by the City Council, the City shall install standard City street signage identifying Adams Drive by its new name.

H. TRANSPORTATION CHARGES, FEES, AND CREDITS

1. Transportation Development Tax. The calculation and assessment of any Transportation Development Tax ("TDT"), including any TDT credits, will be made according to the Washington County TDT ordinance. Improvements to Tualatin-Sherwood Road will be creditable towards Washington County TDT's as allowed in Washington County's ordinance. It is the parties' mutual understanding that this ordinance provides full TDT credits for turn lanes and 50% or 66.67% for traffic signals for a four- and three-leg intersection, respectively. The City's commitment to this provision is a material inducement for Langer's agreement to complete the various public improvements set forth in this Agreement.

For the purpose of determining the number of weekday trips generated by all commercial land uses in Phases 4, 6, 7, and 8 of the PUD, the land use

category "Shopping Center" from ITE Trip Generation, 7th Edition, shall be applied to the Washington County TDT Ordinance for the calculations of the Washington County TDT.

2. Transportation SDC's.

The City shall calculate and assess the Project with SDC's and credits for SDC's, pursuant to the City's Municipal Code, as it may be amended from time to time, and subject to any resolutions adopted by the City implementing same.

For the purpose of determining the number of weekday trips generated by all commercial land uses in Phases 4, 6, 7, and 8 of the PUD, the land use category "Shopping Center" from ITE Trip Generation, 7th Edition, shall be applied to the City's SDC ordinance for the calculations of the City's SDC's.

3. Credits.

- a. Langer shall be entitled to seek SDC credits from the City and TDT credits from Washington County for all qualifying improvements and right-of-way dedications made by Langer, subject to the then applicable provisions of Oregon law and applicable ordinances. To the extent allowed by law, the City shall apportion SDC and TDT charges in the manner that maximizes the beneficial use of any resulting credits for Langer. In the event the City amends its SDC ordinance to eliminate the Transportation SDC prior to Langer's redemption of otherwise valid SDC credits, the City shall exercise good faith and best efforts to provide Langer a financial benefit in an amount equal to the value of any unredeemed credits in a manner consistent with applicable law, provided the City is not obligated to ensure such benefit or other return on the unredeemed credits.
 - b. The City hereby determines that, for purposes of qualifying for and administering SDC and TDT credits, Langer's construction of public improvements and dedication of right-of-way to the City pursuant to this Agreement are existing condition(s) of approval of the PUD, as it has been modified by the Minor Change approved in 2007.
4. Highway 99W Capacity Allocation Program. For purposes of calculating whether the trips associated with the regulated activities in Phases 6, 7, and 8 of the PUD exceed the trip limit of ZCDC 6.306.D.4, the City shall aggregate the trips and acreage of all such phases. As a result, the trips associated with the regulated activities of a single phase may exceed the trip limit that would otherwise apply if that phase were calculated individually, provided that the trips associated with all regulated activities for Phases 6, 7, and 8 do not exceed the trip limit in the aggregate. At each phase of development of the PUD, the number of reserve trips for the remaining phases will be identified in the applicable Trip Allocation Certificate.

I. TERMS AND CONDITIONS

1. Further Assurances. Each party shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder in good faith, to carry out the intent of the parties hereto.
2. Modification of Amendment. No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by the parties hereto.
3. Relationship. Nothing herein shall be construed to create an agency relationship or a partnership or joint venture between the parties.
4. Waiver of Default or Condition. In the event a party defaults in the performance of one or more of its obligations under this Agreement or in the event of the failure of a condition precedent to be satisfied under this Agreement, the nondefaulting party or beneficiary of the condition may, in its discretion, waive, as applicable, the default or satisfaction of condition hereunder and rescind any consequence of such default or failure of a condition, and in case of any such waiver or rescission, the parties shall be restored to their former positions and rights hereunder respectively, but no such waiver or rescission shall extend to or affect any subsequent or other default or condition precedent, or impair any right consequent thereon. No such waiver or rescission shall be in effect unless the same is in writing and signed by the nondefaulting party.
5. Burden and Benefit; Assignment. The covenants and agreements contained herein shall be binding upon and inure to the benefit of the parties and their successors and assigns and shall run with the land. Neither party may assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed.
6. Applicable Law. This Agreement shall be interpreted under the laws of the State of Oregon.
7. Notices. All notices, demands, consents, approvals and other communications which are required or desired to be given by either party to the other hereunder shall be in writing and shall be faxed, hand delivered, or sent by overnight courier or United States mail at its address set forth below, or at such other address as such party shall have last designated by notice to the other. Notices, demands, consents, approvals, and other communications shall be deemed given when delivered, three days after mailing by United States Mail or upon receipt if sent by courier; provided, however, that if any such notice or other communication shall also be sent by telecopy or fax machines,

such notice shall be deemed given at the time and on the date of machine transmittal.

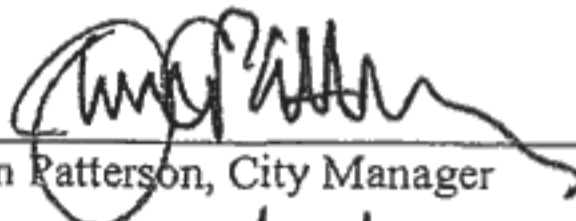
8. Merger. This Agreement contains the entire agreement among the parties hereto with respect to the subject matter hereof and cannot be amended or supplemented except by a written agreement signed by all parties.
9. Rights Cumulative. All rights, remedies, powers and privileges conferred under this Agreement on the parties shall be cumulative of and in addition to, but not restrictive of or in lien of, those conferred by law.
10. No Third Party Beneficiaries. None of the duties and obligations of any party under this Agreement shall in any way or in any manner be deemed to create any rights in, any person or entity other than the parties hereto.
11. Force Majeure. The parties shall use reasonable diligence to accomplish the purpose of this Agreement but shall not be liable to each other, or their successors or assigns, for damages, costs, attorneys' fees (including costs or attorneys' fees on appeal) for breach of contract, or otherwise for failure, suspension, diminution, or other variations of services occasioned by any cause beyond the control and without the fault of the parties. Such causes may include but shall not be limited to acts of God, acts of terrorism or the public enemy, acts of other governments (including regulatory entities or courts) in their sovereign or contractual capacity, fires, floods, epidemics, quarantines, restrictions, strikes, or failure or breakdown of transmission or other facilities ("Force Majeure"). If any party is delayed, hindered, or prevented in or from performing its respective obligations under this Agreement by any occurrence or event of Force Majeure, then the period for such performance shall be extended for that period that such performance is delayed, hindered, or prevented.
12. Mediation. Should the parties arrive at an impasse regarding any of the provisions of this Agreement, the parties agree to submit to the dispute to mediation prior to the commencement of litigation. The mediator shall be an individual mutually acceptable to both parties, but in the absence of agreement, either party may apply to the Presiding Judge, Washington County Circuit for appointment of a mediator. Each party shall share equally in the fees and costs of the mediator. Each party shall be responsible for its own attorneys fees and other expert fees. Mediation shall be at Portland, Oregon unless the parties agree otherwise. Both parties agree to exercise their best effort in good faith to resolve all disputes in mediation. Participation in mediation is a mandatory requirement of both the City and Langer and failure to comply with this requirement is a material breach of this Agreement. The schedule and time allowed for mediation will be mutually acceptable. If the dispute is not resolved by mediation, either party may file a lawsuit to resolve the dispute in a court with proper jurisdiction located in Washington County,

Oregon. Any trial shall be to the court without a jury. In the event of any such mediation or litigation, each party shall bear its own attorneys' fees and costs.

13. Conditions Precedent to Langer's Performance. Langer's commitments set forth in this Agreement are conditioned entirely upon the City's performance of all of its commitments that are precedent to the City's commitments under and in accordance with this Agreement, and the City's timely issuance of a PUD modification for the subject property.
14. Conditions Precedent to City's Performance. City's commitments set forth in this Agreement are conditioned entirely upon Langer's performance of all of its commitments that are precedent to the City's commitments under and in accordance with this Agreement.
15. Nature of Agreement. The City hereby confirms that it has approved and executed this Agreement pursuant to its governing charter and not pursuant to ORS 94.504 *et seq.*, and does further confirm that this Agreement does not constitute or concern the adoption, amendment, or application of the Statewide Planning Goals, a comprehensive plan provision, or a land use regulation, the City and Langer acknowledging and agreeing that any and all land use approvals required for the PUD are to be obtained (or have been obtained) in due course on another date in accordance with all applicable laws and regulations.
16. Amendment and Restatement. The Parties intend that this Agreement acts as a full and amended restatement of the original 2008 Agreement. Upon this Amended and Restated Agreement taking effect, the original 2008 Agreement shall no further force or effect.
17. Duration. This Agreement expires not later than January 1, 2015; provided, however, the expiration date of this Agreement shall be automatically extended to January 1, 2017 in the event that on January 1, 2015, Langer is not in material default of any provisions of this Agreement, has substantially built out Phase 7, and has obtained a certificate of occupancy for at least one (1) structure in Phase 6.

IN WITNESS WHEREOF,

For the City of Sherwood:

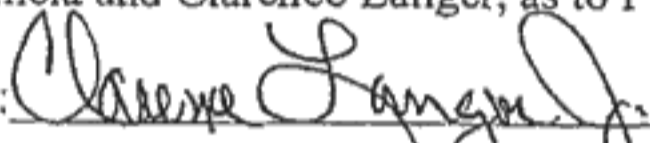

Jim Patterson, City Manager

James A. Patterson
City Manager
Sherwood, Oregon 97140

Date: 8/7/2010

For Langer:

Pamela and Clarence Langer, as to Phase 4:

By: 

Print Name: CLARENCE LANGER JR.

Date: 8-6-10

By: 

Print Name: Pamela A. Langer

Date: August 6, 2010

Langer Family, LLC, as to remainder of PUD:

By: 

Print Name: CLARENCE LANGER JR.

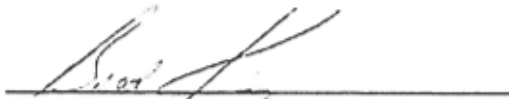
Title: Manager

Date: 8-6-10

**CITY OF SHERWOOD
Staff Report & Notice of Decision**

**Date: June 21, 2012
File No: SUB 12-02
Langer Farms Subdivision**

Pre-App. Meeting: December 12, 2011
App. Submitted: March 30, 2012
App. Complete: April 27, 2012
120-Day Deadline: September 1, 2012



Brad Kilby, Senior Planner

Proposal: The applicant has requested preliminary subdivision approval to divide \pm 55.09 acres into five individual lots and two tracts for future development consistent with the Sherwood Village Planned Unit Development, File No. PUD 95-1. The Planned Unit Development was approved in 1995 without a preliminary plat.

I. BACKGROUND

A. Applicant/Owner:

Langer Family, LLC
14958 SW Tualatin-Sherwood Road
Sherwood, OR 97140

Applicant's Representative:

AKS Engineering & Forestry
13910 SW Galbreath Drive
Suite 100
Sherwood, OR 97140

B. Location: The property is located on the south side of SW Langer Farms Parkway, West of Tualatin-Sherwood Road, and east of SW Oregon Street. The property is identified as tax lot 300 on Washington County Assessor Map 2S129D.

C. Parcel Size: The subject property is approximately 55.09 acres in size.

D. Existing Development and Site Characteristics:

The existing use of the site is agriculture. The current crop appears to be a grass or grain crop. The property is generally rectangular in site, and includes a gently rolling landscape. There is a delineated natural resource and buffer area in the southeast portion of the site. The buffer and resources includes some trees and riparian landscape materials. This specific proposal does not include any physical impacts into the resource area.

Bonneville Power Administration (BPA) and Portland General Electric (PGE) have power lines and associated easements through the northeast corner of the site. The subject property has frontage onto SW Tualatin-Sherwood Road, and SW Langer Farms Parkway. SW Century Blvd. stubs into the property from the east and west. Finally, the property contains two existing storm water ponds. One of the ponds is located in the north east portion of the site, and the other is located in the south and west portion of the site. The existing ponds serve off-site developments.

- E. Site History: The site has been owned and farmed by the Langer family since the late 1800's. This particular piece of property is made up of phases 6, 7, and 8 of the Sherwood Village PUD that was approved by the Sherwood City Council in 1995. All future development is subject to the conditions of the approved Planned Unit Development and any subsequent amendments.
- F. Zoning Classification and Comprehensive Plan Designation: The property is zoned PUD-LI. Although the property carries a Light Industrial zoning designation, the City Council, at the request of the property owner, approved a modification to the PUD in File number PUD 07-01. That decision confirmed that the PUD could elect pursuant to Section 16.32.020.H. of the Sherwood Zoning and Community Development Code (SZCDC), to develop Phases 4, 6, 7, and 8 with uses that would have been allowed under the Light Industrial (LI) base zone text applicable on August 3, 1995 (when the City approved the PUD Final Development Plan). At that time, Retail Commercial (RC) uses were also allowed in the Light Industrial zone. Although no specific land uses are proposed with this subdivision request, the applicant has attended two pre-application conferences with the City about developing the property with commercial uses.
- G. Adjacent Zoning and Land Use: The subject site is currently being farmed. Properties to the south and east of the site include lands that are zoned Light Industrial. Billet manufacturing is located directly south of the site, and there are two light industrial uses adjacent to the northeast property line. The remaining properties to the east of the site are zoned LI and are not currently developed. Properties located to the west of the property, on the west side of SW Langer Farms Parkway, include lands developed with commercial, residential and public and institutional uses. Some of the commercial and residentially developed properties to the west were developed in earlier phases of the Langer PUD.
- H. Review Type: According to section 16.72.010.2.i, subdivisions between 4-10 lots require a Type II review with a decision made by City Staff after consideration of public comments. An appeal would be heard by the City of Sherwood Planning Commission so long as the person appealing had provided comments during the 14-day public comment period, and it is filed within (14) days after the decision has been mailed.
- I. Public Notice and Hearing: Notice of the application was mailed to property owners within 1000 feet, posted on the property and in five locations throughout the City on April 25, 2012 in accordance with the notice provisions of Section 16.72.020 of the SZCDC.
- J. Review Criteria: Sherwood Zoning and Community Development Code, 16.40(Planned Unit Development), 16.58.010 (Clear Vision), 16.70 (Administrative Procedures), Division VI - 16.104-16.118 (Public Infrastructure), Division VII 16.120 (Subdivisions), 16.128 (Land Division Design Standards), and Division VIII 16.144 (Wetland, Habitat and Natural Areas).

II. PUBLIC COMMENTS

Public notice was mailed, posted on the property and in five locations throughout the City on April 25, 2012. Staff has received the following comments.

R. James Claus of 22211 SW Pacific Highway submitted comments opposing the subdivision proposal. Mr. Claus alleges that the proposed subdivision violates the PUD Code requirements. Specifically, he maintains that the City can only allow changes in the plan that are necessary with the terms of the preliminary approvals, that the code requires that the preliminary subdivision be processed concurrently with the PUD, that the time has passed to allow them to submit a subdivision proposal, that the traffic survey used to gain approval did not contemplate the traffic that could result from future commercial development of the site, that the City has modified the original PUD without citizen input, and that a staff level review is not the correct process for processing the proposed subdivision. A copy of Mr. Claus' full comments is incorporated into the record.

Staff Response: Staff will address each one of the items raised in Mr. Claus' below:

- *The City can only allow changes in the plan that are necessary with the terms of the preliminary approvals...*

Staff Response: Mr. Claus is referring to Code section 2.202.02(E) which is now Section 16.40.020(E), which states, "Approval of the Preliminary Development Plan shall not constitute final acceptance of the PUD. Approval shall, however, be binding upon the City for the purpose of preparation of the Final Development Plan, and the City may require only such changes in the plan as are necessary for compliance with the terms of preliminary approvals." This provision is titled the Effect of Decision under the overall heading for Preliminary Development Plan. First, the City is not requiring the proposed subdivision, and the Final Development Plan was approved in 1995. It is unclear why Mr. Claus feels that this is relevant to the proposed development.

- *The code requires that the preliminary subdivision be processed concurrently with the PUD*
- *The time has passed to allow them to submit a subdivision proposal*
- *Staff Level review is not the correct process for processing the proposed subdivision*

Staff Response: This proposal does not constitute a substantial change to the PUD, rather, it is a subdivision of land which routinely happens in commercial and industrial developments. The subdivision was not filed at the same time that the PUD was processed in 1995, but that should not preclude a property owner from dividing their property if it meets the standards the community puts into place. Had there been a subdivision requested at the time the PUD was being considered in 1995, the City would have requested that it be reviewed concurrently.

According to the City Attorney's office, "A PUD decision under 16.40 is a separate and distinct decision from a subdivision decision under 16.120. Section 16.40.020.B.5 states, "If the PUD involves the subdivision of land ..." Apparently, this particular PUD did not when it was approved in 1995 – it was a straight PUD that did not include a subdivision. The code section goes on to say that when the PUD also involves a subdivision, the two decisions shall be processed concurrently. This affirms the interpretation that they are separate decisions, albeit when they are proposed concurrently, they need to be processed concurrently. In fact, the City has reviewed other subdivisions within this same PUD since the final development plan was approved.

Furthermore, the PUD approval is an overlay zone that is applied to a property. In this instance, the boundaries of the PUD are not changing, the applicant is not asking for any land use that

would be inconsistent with the prior approvals, and the prior approvals did not identify which land was devoted to a specific use. There is not an increase in density because it is not a residential development. Therefore, this does not constitute a modification to the PUD. It is simply a subdivision of land. According to 16.120.030.1.a, "A subdivision application for 4-10 lots will follow a Type II process." Subdivisions are processed in accordance with the administrative provisions spelled out in Section 16.72.

Therefore, this application does not constitute a major or minor modification to the approved PUD, and the subdivision can be reviewed as a Type II staff level subdivision.

The traffic survey used to gain approval did not contemplate the traffic that could result from future commercial development of the site

Staff Response: All newly proposed developments within the boundaries of the PUD have been required to provide a traffic study, and there is no reason that the City would not require a traffic study for any future proposed developments. This subdivision, in and of itself, does not generate any new traffic. Certainly, future development will be required to provide a traffic study at the time of application consistent with the developers' agreement. Given the pace of growth in the Portland Metro area over the past 20 years, it is highly unlikely that the information provided within the original PUD could still be relied upon.

The City has modified the original PUD without citizen input

Staff Response: The only modification that staff is aware of to this application is file number PUD 07-01. That decision confirmed that commercial uses would be allowed, and spelled out the community's expectations for future improvements associated with the PUD. That application was processed in accordance with the development code Section 16.40.040.B.2 which specifies that minor changes to a Final Development Plan may be approved by the Council **without further public hearing or Commission review**, provided that such changes do not increase densities, change boundaries or uses, or change the location or amount of land devoted to specific uses. It is not clear to staff how this is germane to the proposal at hand which is in fact, being made after a public comment period in which one public comment was received on this matter.

III. AGENCY COMMENTS

Staff sent e-notice to affected agencies on April 25, 2012. The following is a summary of the comments received. Copies of full comments are included in the record unless otherwise noted.

SHERWOOD ENGINEERING DEPARTMENT:

Engineering staff has reviewed the information provided for the above cited project. Further review will occur with individual land-use applications for the subdivided lots. The project(s) will need to meet the standards established in the City of Sherwood Engineering Design and Standard Details Manual and Clean Water Services (CWS) Design & Construction Standards Manual, in addition to requirements established by other jurisdictional agencies providing land-use comments. City Engineering Department comments are as follows:

Transportation

There are no improvements proposed with the subdivision, although the subdivided lots must have the ability to access public rights-of-way per the development code of the applicable agency prior to recording of the final subdivision plat map. Individual traffic studies will be

required with each subsequent development land-use application. All traffic impact analyses shall address the City of Sherwood Capacity Allocation Program (COS Ordinance 2000-1104 codified by SMC 16.107.070) while considering the Development Agreement as amended and restated by Sherwood Resolution 2010-033. Development Agreement term H.4 (Highway 99W Capacity Allocation Program) states:

For purposes of calculating whether the trips associated with the regulated activities in Phases 6, 7, and 8 of the PUD exceed the trip limit of ZCDC 6.306.D.4 (renumbered as ZCDC 16.107.070), the City shall aggregate the trips and acreage of all such phases. As a result, the trips associated with the regulated activities of a single phase may exceed the trip limit that would otherwise apply if that phase were calculated individually, provided that the trips associated with all regulated activities for Phases 6, 7, and 8 do not exceed the trip limit in the aggregate. At each phase of development of the PUD, the number of reserve trips for the remaining phases will be identified in the applicable Trip Allocation Certificate.

Prior to City approval of the subdivision, the applicant shall submit a plan identifying the separate acreages of PUD Phases 6, 7 and 8, less the 100-year floodplain and the SW Century Drive right-of-way. City staff will use the information shown on the plan to aggregate the CAP trip limit for comparison during future site plan reviews.

It is suggested that the applicant evaluate the intent of and any discrepancies between the original and amended PUD decisions, amended & restated Development Agreement, and the City Transportation System Plan, particularly: the location of public streets, site access points, vehicular and pedestrian circulation, traffic study areas, if subsequent traffic studies for Phases 6/7/8 consider whether the North Extension has been planned or funded prior to development or redevelopment, and editions of the ITE Trip Generation manual.

A public right-of-way and eight foot wide public utility easements shall be shown on the preliminary and final recorded subdivision plat map for the extension of SW Century Drive.

See comments from Washington County DLUT on right-of-way dedications, improvements and access to/from SW Tualatin-Sherwood Road.

Staff Response: Planning staff discussed these comments with Engineering staff, the discrepancy lies in the issue that the approved Final PUD Plan showed three access points from SW Langer Farms Parkway into the site. This proposal shows three access locations, and the extension of SW Century Blvd. The Engineering Division is not opposed to the access locations, but felt that it should be pointed out that there are realistically four accesses into the site. Certainly, the applicant was not aware that the extension of SW Century Blvd was going to be placed into the Transportation System Plan, and there were no specific discussions in any of the staff reports or decisions for the preliminary or final PUD approvals discussing the limitations of the access points along SW Langer Farms Parkway.

Furthermore, there is plenty of language within the PUD file to suggest that many of the decisions related to traffic would be deferred to review of individual development proposals as they were submitted to the City. Since the applicant could not have anticipated the reintroduction of the extension of SW Century Blvd. into the Transportation System Plan (TSP), it is completely understandable that there would be at least three accesses from SW Langer Farms Parkway into the site.

Sanitary Sewer

There are no sanitary improvements being proposed with the subdivision application, although the subdivided lots must have the ability to connect (by gravity) to the public sanitary system when development occurs. All public conveyance easements, if required for gravity service, shall be shown or referenced on the subdivision plat map. Prior to recordation of the final plat map, the applicant shall submit detailed plans that clearly label each lot number's connection to the public system and elevations that show gravity service is achievable.

If retaining walls or slopes are necessary to support the public sanitary system, then wall and/or slope easements shall be granted to the City with actual site development, not with the subdivision plat map.

Staff Response: Sewer service has been stubbed to the parent parcel, so it is available. The developer will be required to determine how to best serve the site with sewer, loop and/or extend the system as necessary as proposals for future development on the site evolve.

Water

There are no water improvements being proposed with the subdivision, although the subdivided lots must have the ability to connect to the public water system when development occurs. The applicant shall submit detailed plans that clearly label each lot number and how it will connect to the public system prior to recordation of the final plat map.

If retaining walls or slopes are necessary to support the public water system, then wall and/or slope easements shall be granted to the City with actual site development, not with the subdivision plat map. Public water easements must be established around water meter and fire flow vaults during site development.

Staff Response: Water service has been stubbed to the parent parcel with the recent completion of SW Langer Farms Parkway, so it is available. The developer will be required to determine how to best serve the site with water, loop and/or extend the system as necessary as proposals for future development on the site evolve.

Storm Sewer

There are no storm improvements being proposed with the subdivision, although the subdivided lots must have the ability to connect to the public storm system (by gravity) when development occurs on any subdivided lot. The preliminary subdivision plat map shows a 15' wide public storm drainage easement over Tract 'A' and Lot 4 for the benefit of existing and future upstream development. The preliminary subdivision plat also shows a 15' wide public storm drainage easement over Lot 1 and a small portion of Lot 2, but has a note 'to be dedicated with development of Lots 1-3'. Development Agreement term F.1.a (Stormwater Facility – Langer Commitments) states:

Prior to issuance of a final occupancy permit for the first structures located in Phases 6 or 7, Langer will design and substantially construct the "Stormwater Facility" on Phase 8 (including any necessary portions of Phase 6), to accommodate existing stormwater detention and treatment for the PUD (including development of Phases 6, 7, and 8), and any detention and treatment associated with the South Extension and Century Drive Connection. In conjunction with this construction, Langer retains the right to terminate use of the Existing Facilities and any Temporary Facility constructed...

In addition, City infrastructure mapping indicates the storm drainage easement shown over Lot 1 and Lot 2 is intended to convey flows from existing upstream development and public rights-of-way.

Based on the materials submitted by the applicant, the Development Agreement, and City infrastructure mapping, the regional storm facility will treat runoff from all of the subdivided lots, proposed rights-of-way, as well as existing upstream development and public rights-of-way. Although construction can be deferred until future site development, all of the tracts, public storm drainage and access easements shown on the preliminary plat map must be dedicated to the City with the subdivision plat.

If retaining walls or slopes are necessary to support the public storm system, then wall and/or slope easements shall be granted to the City with actual site development, not with the subdivision plat map.

Grading and Erosion Control:

No early grading is proposed with this subdivision. Site grading will exceed 5 acres of disturbed area for all phases of development. Therefore, a 1200-C permit is required. The 1200-C permitting process can be initiated through the City of Sherwood Engineering Department. It is likely DEQ (via CWS) will require that all phases of development on and around tax lot 300 be authorized under the same 1200-C permit.

The memorandum from CWS dated May 8, 2012 indicates that a CWS Storm Water Connection Permit (SWCP) must be obtained prior to plat approval and recordation. CWS typically requires a 1200-C permit prior to issuing a SWCP. Contact CWS to obtain a SWCP.

Other Engineering Issues:

The subdivision includes new property lines within Bonneville Power Administration (BPA) and/or Portland General Electric (PGE) transmission line easements. The applicant must coordinate with those entities to determine when they will issue a land use agreement to the developer, prior to final plat approval and recordation or with individual site plan review, or both.

The applicant may be required to install infrastructure for Sherwood Broadband as noted in City Ordinances 2005-17 and 2005-74 during future phases of development, but not with the subdivision plat.

Per CWS requirements, tracts or easements shall be established over wetlands and vegetated corridors with the subdivision plat. See conditions of the CWS Service Provider Letter (SPL) and land-use comments memo dated May 8, 2012.

WASHINGTON COUNTY:

1. **The applicant is not proposing access to SW Tualatin-Sherwood Road. To implement the County's access-spacing standards, the applicant will be required to record a motor vehicle access restriction along the subject site's entire frontage of SW Tualatin-Sherwood Road for the purposes of implementing the access spacing standards.**
2. Consistent with statewide pedestrian circulation/linkage goals of the Transportation Planning Rule and the County's R&O 86-95 (road safety requirements), the County normally requires sidewalk installation as a minimum road safety improvement along site frontage of all County-maintained roads. Sidewalks further establish future street profiles, demarcate County or City right-of-way, and address drainage issues. Sidewalk

requirements are not generally waived, even when sidewalk is not currently present on neighboring properties. Rather, even non-contiguous sidewalk is considered to provide some measure of pedestrian refuge and ideally, makes possible eventual connection of sidewalks (as surrounding development takes place and is likewise conditioned to provide sidewalk). Additionally, the Washington County Road Design and Construction Standards require provision of adequate drainage along a site's frontage of a county road.

The applicant is required to construct a half-street improvement, including illumination, to an A-2 County standard along the subject site's frontage of SW Tualatin-Sherwood Road OR pay a fee-in-lieu (Contact Dan Erpenbach at 503-846-7877).

***Note:** For half street improvements, an applicant shall provide street lighting consistent with County engineering standards and procedures and the requirements of the electrical utility company providing service to the area. The applicant shall ensure the construction, maintenance and power costs of street light facilities through the annexation and petition for service to an existing County service district for lighting or other funding method approved by the County Engineer.*

- 3 The statewide Transportation Planning Rule requires provision for adequate transportation facilities in order for development to occur. Accordingly, the County has classified roads and road segments within the County system based upon their function. The current Transportation Plan (regularly updated) contains adequate right-of-way, road width and lane provision standards based upon each roadway's classification. Subject right of way is considered deficient if half-width of the existing right of way does not meet that determined necessary within the County's current transportation plan.

The applicant is required to dedicate additional right-of-way to provide 49 feet from centerline of SW Tualatin-Sherwood Road, including adequate corner radius at the intersection.

Staff Response: The comments from Washington County have been considered, and to the extent that they are applicable to the proposed development, the conditions of approval have been incorporated into this report. The request for a non-access easement along the property's frontage with Tualatin-Sherwood Road, according to Naomi Voegel, Associate Planner with Washington County Operations, is not intended to prevent the existing access location that is used to maintain the water quality facility on the northeast corner of the site. Because that location is provided with a mountable curb, Washington County does not view that as a formal access to the site.

CLEAN WATER SERVICES (CWS):

CWS provided comments that essentially require that a Storm Water Connection Permit Authorization be obtained. The District also requires that the application comply with the requirements of the Amended service provider letter 12-000162.

Staff Response: The CWS conditions of approval have been incorporated into this report where appropriate.

TUALATIN VALLEY FIRE AND RESCUE (TVFR):

TVFR provided comments that do not specifically identify any deficiencies within the proposal, but rather outline the districts expectations for access, the provision of hydrants, and

infrastructure that would aid the district in providing services to the site. The comments are attached to this decision, and to the extent that they apply, the applicant will be required to satisfy the standards of TVFR in final design and construction of the subdivision.

Kinder Morgan Energy, ODOT, Pride Disposal, the Tualatin Valley Water District, NW Natural Gas, and Portland General Electric were all provided an opportunity to comment on this proposal, but did not provide comments. It is incumbent upon the applicant to coordinate the final design of the subdivision with any of the above affected agencies.

IV. APPLICABLE CODE STANDARDS

Chapter 16.32 Light Industrial (LI)

A. 16.32.020 Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Division VIII. Incidental retail sales, limited to 10% of the total floor area of a business, may be permitted as a secondary function of a permitted or conditional use, subject to the review and approval of the Hearing Authority.

STAFF ANALYSIS: The property is currently in agricultural use, and the subdivision does not include a proposal to use the land any differently. It should be noted, that staff has been in contact with the applicant, and they have indicated that they do intend to submit an application in the near future for commercial uses on the site. Section 16.32.020.H states, "PUDs, new and existing, subject to the provisions of Chapter 16.40. New PUDs may mix uses which are permitted within the boundaries of the PUD. Approved PUDs may elect to establish uses which are permitted or conditionally permitted under the base zone text applicable at the time of final approval of the PUD."

FINDING: At the time that the PUD was approved, general retail uses were permitted within the Light Industrial district, so there would be no reason that the applicant couldn't propose commercial development on the site in the future. Since the subdivision does not include proposals for any new uses on the subject site, the development complies with this section.

B. 16.32.050 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.84.

A. Lot Dimensions

Except as otherwise provided, required minimum lot areas and dimensions shall be:

- 1. Lot area: 10,000 sq ft**

2. **Lot width at front property line: 100 feet**
3. **Lot width at building line: 100 feet**

STAFF ANALYSIS: The proposed subdivision creates five lots and two tracts. The tracts, Tract A and Tract B, are for the purposes of protecting the natural resource on site, and to establish an area for a regional water quality facility, and are not buildable lots. Lot 1 is 13.99 acres in size, and has frontage onto three public streets. There are several front lot lines with the proposed lot, but the longest one is approximately 444.21 feet in length. Lot 2 is approximately 3.65 acres and has more than 1,050 feet of frontage onto two public streets. Lot 3 is approximately 2.35 acres in size and has more than 700 feet of frontage onto two public streets. Lot 4 is 21.97 acres in size and has more than 2,000 feet of frontage onto two public streets. Lot 5 is 6.93 acres in size and is provided access through a 40-foot wide access easement. The lot width at the front property line is more than 500 feet.

FINDING: It is feasible that, given the size of the lots, that the lot width at the building lines can be satisfied with future development on every one of the lots. Compliance with setbacks and heights will be verified at the time the properties are developed. The dimensional standards are satisfied to the extent that they apply to this subdivision.

C. 16.32.060 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Divisions V, VIII and IX.

STAFF ANALYSIS: The applicable standards that are listed in the Community Design section are addressed elsewhere in this narrative. As proposed, it is feasible that future development on the proposed lots would be able to satisfy the standards, and any proposed development will be evaluated against those standards that are found to be applicable.

Chapter 16.40 Planned Unit Development

STAFF ANALYSIS: The subject property has an approved PUD overlay. Initially approved in 1995, development on the property is subject to the provisions of that approval, any approved modifications, and the associated Developers Agreement. There are no approval criteria within Chapter 16.40 that can be directly attributed to this proposal. The standards of this chapter are only applicable to review and approval of the Preliminary Development Plan, the Final Development Plan, and any modifications. In this instance, the property is being subdivided outside of the PUD process, and does not preclude the applicant from satisfying the intent of the PUD, nor relieve them of their commitments to make the public improvements called for in that approval. This constitutes a development action on Phases 6, 7, and 8 of the proposed development. Consistency with the applicable requirements of the approved 2010 Development Agreement is discussed throughout this report. Consistency with the approved development standards and design guidelines apply to proposals for actual physical development of the property, and will be evaluated at such time that those applications are filed.

Chapter 16.58 Clear Vision and Fence Standards

16.58.010 Clear Vision Areas

- A. A clear vision area shall be maintained on the corners of all property at the intersection of two (2) streets, intersection of a street with a railroad, or intersection of a street with an alley or private driveway.
- B. A clear vision area shall consist of a triangular area, two (2) sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation; or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection, and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two (2) sides.
- C. A clear vision area shall contain no planting, sight obscuring fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half (2 1/2) feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to the height of seven (7) feet above the ground on the sidewalk side and ten (10) feet on the street side.

The following requirements shall govern clear vision areas:

- 1. In all zones, the minimum distance shall be twenty (20) feet.
- 2. In all zones, the minimum distance from corner curb to any driveway shall be twenty-five(25) feet.
- 3. Where no setbacks are required, buildings may be constructed within the clear vision area.

STAFF ANALYSIS: The proposed subdivision does not include any physical improvements that would preclude future development on each of the lots from complying with the provisions of this Chapter.

FINDING: It is feasible that the development can comply with the clear vision standards stated above. Compliance with the provisions of this chapter will be evaluated with future development proposals associated with the property.

Chapter 16.70 General Provisions**16.70.010 Pre-Application Conference**

Pre-application conferences are encouraged and shall be scheduled to provide applicants with the informational and procedural requirements of this Code; to exchange information regarding applicable policies, goals and standards of the Comprehensive Plan; to provide technical and design assistance; and to identify opportunities and constraints for a proposed land use action. An applicant may apply at one time for all permits or zone changes needed for a development project as determined in the pre-application conference.

STAFF ANALYSIS: Although not a requirement, the applicant requested and attended a pre-application conference with City staff on December 12, 2011 to discuss partitioning, subdividing, and developing the property.

16.70.020 Neighborhood Meeting

A. The purpose of the neighborhood meeting is to solicit input and exchange information about the proposed development.

B. Applicants of Type III, IV and V applications are required to hold a meeting, at a public location for with adjacent property owners and recognized neighborhood organizations that are within 1,000 feet of the subject application, prior to submitting their application to the City. Affidavits of mailing, sign-in sheets and a summary of the meeting notes shall be included with the application when submitted. Applicants for Type II land use action are encouraged, but not required to hold a neighborhood meeting.

STAFF ANALYSIS: The applicant held a neighborhood meeting on February 8, 2012 at St. Francis Church to discuss the overall development of the PUD site including a partition, a subdivision, and potential development of the site. Approximately 25 people attended. Twenty one of the attendees signed the attendance roster, and the applicant has provided a summary of the meeting and the items raised by the public. Concerns included added truck traffic on Langer Farms Parkway, speeding on Langer Farms Parkway, access to Tualatin-Sherwood Road from the extension of Century Drive, a desire for future development to attract store brands that appeal to teenagers, concerns about competition with existing businesses as a result of any commercial development on the property, the amount of existing vacant commercial space in Sherwood, a desire for additional transit service, disruption of wildlife, and disruption of existing views. To the extent that the development code addresses any of the concerns, staff has taken them into consideration in this decision.

It should be noted that SW Langer Farms Parkway is a collector intended to provide another route into Sherwood. Traffic laws on the right-of-way are enforced by the Sherwood Police Department, and currently the right-of-way does not restrict truck traffic. Future development proposals on the site include individual traffic impact reports that will better inform the decision makers on the impacts associated with those specific proposals. If the traffic in some way deteriorates the acceptable functionality of the street systems, then the Engineering Division may impose mitigation measures to help offset those impacts. The property is approved for commercial and light industrial type developments, and will most likely be developed in that manner.

All future development proposals will be required to meet the dimensional requirements including heights, setbacks, and to the extent they apply, the design guidelines that were approved with the Final PUD approval. There are no protected scenic corridors within the City's Comprehensive Plan, so it is likely that any development on the subject site will affect the existing views of those who live adjacent to the site, and have become accustomed to the views the existing farmland provides, but that land is within the City limits and is set aside for development.

FINDING: Although not required to host a neighborhood meeting by code, the applicant did in fact hold a neighborhood meeting on February 8, 2012 and provided the materials along with

this application that demonstrate that they complied with the requirements for neighborhood meetings.

Division VI. Public Infrastructure

16.104 General Provisions

To ensure the health, safety, and the economic stability of the community, and to establish a quality system of public improvements, the City shall require any buildings or other development for which public facilities and public rights-of-way are not fully provided or improved to current City standards, to install said improvements. Except as otherwise provided or authorized, private improvements serving substantially the same function as equivalent public facilities shall generally be provided and improved to the standards established by this Code and other City regulations.

STAFF ANALYSIS: As agreed to within the approved development agreement, the applicant is required to provide the right-of-way and ultimately construct the extension of SW Century Blvd. from its eastern terminus at the roundabout in SW Langer Farms Parkway to the western terminus at the west property line. The applicant is also required to dedicate the vegetated corridor and Natural Resource in Tract A, and to dedicate and construct the regional storm water facility located in Tract B. As proposed, the applicant is proposing to dedicate all three of these areas, and to defer construction of the improvements until such time that they are constructing improvements with future development.

16.104.020 Future Improvements

The location of future public improvements including water, sanitary sewer, storm water, streets, bicycle and pedestrian paths, and other public facilities and rights-of-way, as depicted in the Transportation System Plan (TSP) Chapters 4, 5, 6 and 7 of the Community Development Plan are intended as general locations only. The precise alignment and location of a public improvement shall be established during the land use process and shall be depicted on public improvement plans submitted and approved pursuant to § 16.108 and other applicable sections of this Code. (Ord. No. 2011-011, § 1, 10-4-2011)

16.104.030 Improvement Procedures

Except as otherwise provided, all public improvements shall conform to City standards and specifications found in the Engineering Design Manual and installed in accordance with Chapter 16.108. The Council may establish additional specifications to supplement the standards of this Code and other applicable ordinances. Except for public projects constructed consistent with an existing facility plan, a public improvements shall not be undertaken until land use approval has been granted, a public improvement plan review fee has been paid, all improvement plans have been approved by the City, and an improvement permit has been issued.

STAFF ANALYSIS: The City of Sherwood completed the extension of SW Langer Farms Parkway in 2012 funded primarily by Washington County Major Streets Transportation Improvement Program (MSTIP). As part of that construction, sewer, water, and access from SW Langer Farms Parkway were stubbed to the property. In accordance with the approved development agreement for the PUD, the right-of-way for the future extension of SW Century

Boulevard will be dedicated to the City with this application. When it is constructed, utilities will be extended through the site to accommodate future development on this site, and the adjacent properties. The specific locations of where and how the utilities will be provided onto the property will be evaluated and approved at such time that proposals for actual development of the lots are submitted and reviewed.

FINDING: The applicant has either proposed, or has been conditioned through prior approvals to provide needed public infrastructure with proposed development of the site. Adequate water, sewer and access are available to the property. Stormwater for all future development on site will be captured and treated in a new regional stormwater facility that the applicant will construct as part of any future development proposal for the site. The applicant will also be responsible for future construction of SW Century Blvd to City standards under the requirements of the approved Developers Agreement. This criterion is satisfied.

16.106 Transportation Facilities

16.106.020 Required Improvements

A. Generally

Except as otherwise provided, all developments containing or abutting an existing or proposed street, that is either unimproved or substandard in right-of-way width or improvement, shall dedicate the necessary right-of-way prior to the issuance of building permits and/or complete acceptable improvements prior to issuance of occupancy permits.

STAFF ANALYSIS: There are no physical improvements being proposed with the subdivision. The proposed subdivision is adjacent to two existing streets, SW Tualatin-Sherwood Road, and SW Langer Farms Parkway. The extension of a third public street, SW Century Blvd is required with future development as a condition of the approved development agreement that is binding upon the PUD. The right-of-way for that street will be dedicated with the subdivision.

FINDING: Since SW Langer Farms Parkway was only recently constructed, it is found to be constructed to standard. The developer will dedicate the right-of-way necessary for the future extension of SW Century Blvd. Improvements to the overall system may be warranted with future development. The development agreement requires the property owner to provide an individual traffic study for each development application. The City Engineer has determined that no improvements to the adjacent City streets are warranted by this proposal.

Tualatin-Sherwood Road is a County facility and therefore subject to restrictions imposed by county regulations. The county recognizes that the applicant is not proposing any access to SW Tualatin-Sherwood Road, but has requested the following conditions to ensure that the County's access-spacing standards, and the Transportation Planning Rule as it applies, through the county's regulations, to developments that front County rights-of-way are enforced.

It should be noted that the first condition would potentially restrict access to an existing driveway used to access a storm water quality facility in the northeast corner of the site. For this reason, the condition that the county has requested be imposed has been modified by City staff in a manner that allows the applicant to discuss the issue with County staff.

Conditions:

1. Prior to final plat approval, the applicant shall dedicate the necessary right-of-way needed to construct SW Century Drive.
2. Prior to final plat approval, the applicant shall establish the public right-of-way and 8' public utility easement for and adjacent to SW Century Drive on the face of the plat.
3. Prior to final plat approval, the following shall be represented on the plat and recorded with Washington County:
 - a. Dedication of additional right-of-way to provide 49 feet from centerline of SW Tualatin-Sherwood Road.
 - b. Dedication of additional right-of-way to provide adequate corner radius at the intersection of SW Tualatin-Sherwood Road.
 - c. Provision of a non-access reservation along SW Tualatin-Sherwood Road frontage, except at the existing access point(s) approved in conjunction with this land use application.

16.106.030 Location

A. Generally

The location, width and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, and proposed land uses. The proposed street system shall provide adequate, convenient and safe traffic and pedestrian circulation, and intersection angles, grades, tangents, and curves shall be adequate for expected traffic volumes. Street alignments shall be consistent with solar access requirements as per Chapter 16.156, and topographical considerations.

B. Street Connectivity and Future Street Systems

1. Future Street Systems. The arrangement of public streets shall provide for the continuation and establishment of future street systems as shown on the Local Street Connectivity Map contained in the adopted Transportation System Plan (Figure 8-8).

STAFF ANALYSIS: Figure 8-8 of the Sherwood Transportation System Plan (TSP) illustrates the future extension of Century Blvd. The approved Developer's Agreement associated with the original PUD calls for the dedication and ultimate construction of Century Blvd. The applicant has proposed to dedicate the right-of-way for Century Drive, and defer final construction plans, financial assurance, permits and construction of the street until such time that specific development proposals are provided for the property. The applicant has provided a preliminary plan and profile, and has demonstrated on Sheet 6, that it is feasible for the construction to occur within the right of way area given that the end points for SW Century Drive are already established by prior construction.

FINDING: The City has evaluated the proposal and agrees that the actual construction of the street can be deferred until such time that physical development of the property occurs given that the right-of-way area is already established, and is agreeable to the applicant's dedication of the right-of-way on the face of the plat.

2. Connectivity Map Required. New residential, commercial, and mixed use development involving the construction of new streets shall be submitted with a site plan that implements, responds to and expands on the Local Street

Connectivity map contained in the TSP.

- a. **A project is deemed to be consistent with the Local Street Connectivity map when it provides a street connection in the general vicinity of the connection(s) shown on the map, or where such connection is not practicable due to topography or other physical constraints; it shall provide an alternate connection approved by the decision-maker.**
- b. **Where a developer does not control all of the land that is necessary to complete a planned street connection, the development shall provide for as much of the designated connection as practicable and not prevent the street from continuing in the future.**
- c. **Where a development is disproportionately impacted by a required street connection, or it provides more than its proportionate share of street improvements along property line (i.e., by building more than 3/4 width street), the developer shall be entitled to System Development charge credits, as determined by the City Engineer.**

STAFF ANALYSIS: The applicant is only proposing to subdivide the property at this point in time. As mentioned previously in this decision, the applicant is proposing to dedicate the right-of-way for SW Century Boulevard. The applicant has provided a Conceptual Circulation Plan that generally demonstrates compliance with the Local Street Connectivity Map in the Sherwood TSP. It will be incumbent upon future development proposals to demonstrate compliance with this section as it applies to future development of proposed lot 4, because the TSP shows a north-south local connection.

FINDING: As proposed, the subdivision would not preclude the owner's ability to provide a connection consistent with the TSP local connectivity map; however, the applicant is not requesting approval of any development within the area of the site that calls for the connection discussed above. It is feasible for future development on the property to satisfy this condition.

3. **Block Length.** For new streets except arterials, block length shall not exceed 530 feet. The length of blocks adjacent to arterials shall not exceed 1,800 feet.
4. **Where streets must cross water features identified in Title 3 of the Urban Growth Management Functional Plan (UGMFP), provide crossings at an average spacing of 800 to 1,200 feet, unless habitat quality or length of crossing prevents a full street connection.**
5. **Where full street connections over water features identified in Title 3 of the UGMFP cannot be constructed in centers, main streets and station communities (including direct connections from adjacent neighborhoods), or spacing of full street crossings exceeds 1,200 feet, provide bicycle and pedestrian crossings at an average spacing of 530 feet, unless exceptional habitat quality or length of crossing prevents a connection.**
6. **Pedestrian and Bicycle Connectivity.** Paved bike and pedestrian accessways consistent with cross section standards in Figure 8-6 of the TSP shall be provided on public easements or right-of-way when full street connections are not possible, with spacing between connections of no more than 300 feet. Multi-use paths shall be built according to the Pedestrian and Bike Master Plans in the adopted TSP.
7. **Exceptions.** Streets, bike, and pedestrian connections need not be constructed when any of the following conditions exists:
 - a. **Physical or topographic conditions make a street or accessway connection**

- impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided.
- b. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or
 - c. Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.

STAFF ANALYSIS: This proposal does not include the creation of any new streets not already accounted for by the TSP. There is no identified bicycle or pedestrian connections in the TSP that are not already provided for within the existing right-of-way. It should be noted that the site is limited by the presence of the wetlands in Tract A, a major arterial to the north, a collector to the west, and existing industrial development directly south of the site.

FINDING: Existing site conditions and pre-existing development on adjacent properties may deter full street connectivity on a portion of the site. A conceptual circulation plan is provided with the preliminary plans to illustrate how the site can conceptually meet the standards, however, the site is zoned for light industrial and commercial uses, so it is unlikely that a full street connection would be necessary beyond what is called for in the TSP. It will be incumbent upon the property owner to demonstrate that the existing conditions preclude full connectivity, and if so, how pedestrian or bicycle connections can be made for future proposals for development. These criteria are not applicable to the proposed subdivision.

16.106.040 Design

Standard cross sections showing street design and pavement dimensions are located in the City of Sherwood Transportation System Plan, and City of Sherwood's Engineering Design Manual.

16.106.040.C. Future Extension

Where necessary to access or permit future subdivision or development of adjoining land, streets shall extend to the boundary of the proposed development and provide the required roadway width. Dead-end streets less than 100' in length shall comply with the Engineering Design Manual.

A durable sign shall be installed at the applicant's expense. The sign shall notify the public of the intent to construct future streets. The sign shall read as follows: "This road will be extended with future development. For more information contact the City of Sherwood at 503-625-4202."

STAFF ANALYSIS: As discussed previously in this report, the applicant has proposed to dedicate right-of-way that would allow for the construction of a public street that extends from the east terminus of SW Century Drive to the west terminus. Once constructed, this Century Blvd. will be complete.

FINDING: Because the applicant has proposed to dedicate the right-of-way with this application, and the signs called for in the standard above are already in place, this standard is satisfied.

16.106.040 .J. Transit Facilities

Development along an existing or proposed transit route, as illustrated in Figure 7-2 in the TSP, is required to provide areas and facilities for bus turnouts, shelters, and other transit-related facilities to Tri-Met specifications. Transit facilities shall also meet the following requirements:

1. Locate buildings within 20 feet of or provide a pedestrian plaza at major transit stops.
2. Provide reasonably direct pedestrian connections between the transit stop and building entrances on the site.
3. Provide a transit passenger landing pad accessible to disabled persons (if not already existing to transit agency standards).
4. Provide an easement or dedication for a passenger shelter and underground utility connection from the new development to the transit amenity if requested by the public transit provider.
5. Provide lighting at a transit stop (if not already existing to transit agency standards).

STAFF ANALYSIS: There are no existing or proposed transit routes adjacent to or near this site. Tri-Met has indicated that due to costs, some of the existing Sherwood transit service will be cut.

FINDING: Transit facilities are not necessary at this site at this time, as there would be no service available. This criterion is not applicable to the proposed subdivision.

16.110 - Sanitary Sewers**16.110.010 Required Improvements**

Sanitary sewers shall be installed to serve all new developments and shall connect to existing sanitary sewer mains. Sanitary Sewers shall be constructed, located, sized and installed at standards consistent 16.110.

STAFF ANALYSIS: There is sanitary sewer service in the adjacent street and available to the subdivision. It will be incumbent upon future development proposals to illustrate how service is provided for each new development proposal.

FINDING: no public sanitary easements are required with the subdivision plat as the service is already stubbed to the lots. When it becomes necessary to provide service to an individual lot or convey existing flows from upstream development the applicant will be required to provide easements to accommodate the construction and maintenance of the line. This criterion is satisfied.

16.112- Water Supply**16.112.010 Required Improvements**

Water lines and fire hydrants conforming to City and Fire District standards shall be installed to serve all building sites in a proposed development in compliance with 16.112.

STAFF ANALYSIS: There is water service in the adjacent street and available to the subdivision. It will be incumbent upon future development proposals to illustrate how service is provided for each new development proposal.

FINDING: Because the public water is stubbed to the property line for future development, there is no need to extend the water or provide easements with the subdivision plat. When it becomes necessary to provide service to an individual lot the applicant will be required to provide easements to accommodate the construction and maintenance of the line. This criterion is satisfied.

16.114 - Storm Water

16.114.010 Required Improvements

Storm water facilities, including appropriate source control and conveyance facilities, shall be installed in new developments and shall connect to the existing downstream drainage system consistent with the Comprehensive Plan, the requirements of the Clean Water Services water quality regulations and section 16.114.

STAFF ANALYSIS: The Preliminary Subdivision Plat map shows a 15' wide public storm drainage easement over Tract 'A' and Lot 4 for the benefit of existing and future upstream development. The Preliminary Subdivision Plat also shows a 15' wide public storm drainage easement over Lot 1 and a small portion of Lot 2, but has a note 'to be dedicated with development of Lots 1-3'. City infrastructure mapping indicates this easement will convey flows from existing upstream development and public rights-of-way, therefore both portions of the 15' public storm easement will be required with the subdivision plat. If public storm easements are required and retaining walls or slopes are necessary to support and the storm infrastructure, then separate wall or slope easements shall be established with the public storm easements, unless approved otherwise by the City Engineer.

Construction of a regional storm water treatment facility is required under the development agreement, and proposed by the applicant during the development of Phase 6, 7 or 8. Construction can be deferred until future site development. The Preliminary Subdivision Plat shows a 'Regional Stormwater Facility' at the east corner of Lot 5 located in Tract 'B', a '20' Wide Storm Drainage and Access Easement' over Lot 5, and '26' Wide Storm Drainage and Access Easement' over Lot 4.

FINDING: Since construction of the regional facility will be required for any development upon Phase 6, 7 or 8, particularly to convey and treat upstream flows from and across Lot 4, Lot 1, Lot 2 and existing public rights-of-way, Tract 'B', the 20' and 26' wide storm and access easements should be included with the subdivision plat.

Individual Storm Water Connection Permits (CWS) will be required with subsequent development, not with the subdivision plat.

16.116 Fire Protection

16.116.020 Standards

A. Capacity

All fire protection facilities shall be approved by and meet the specifications of the Fire District, and shall be sized, constructed, located, and installed consistent with this Code, Chapter 7 of the Community Development Plan, and other applicable City

standards, in order to adequately protect life and property in the proposed development.

B. Fire Flow

Standards published by the Insurance Services Office, entitled "Guide for Determination of Required Fire Flows" shall determine the capacity of facilities required to furnish an adequate fire flow. Fire protection facilities shall be adequate to convey quantities of water, as determined by ISO standards, to any outlet in the system, at no less than twenty (20) pounds per square inch residual pressure. Water supply for fire protection purposes shall be restricted to that available from the City water system. The location of hydrants shall be taken into account in determining whether an adequate water supply exists.

C. Access to Facilities

Whenever any hydrant or other appurtenance for use by the Fire District is required by this Chapter, adequate ingress and egress shall be provided. Access shall be in the form of an improved, permanently maintained roadway or open paved area, or any combination thereof, designed, constructed, and at all times maintained, to be clear and unobstructed. Widths, height clearances, ingress and egress shall be adequate for District firefighting equipment. The Fire District, may further prohibit vehicular parking along private accessways in order to keep them clear and unobstructed, and cause notice to that effect to be posted.

D. Hydrants

Hydrants located along private, accessways shall either have curbs painted yellow or otherwise marked prohibiting parking for a distance of at least fifteen (15) feet in either direction, or where curbs do not exist, markings shall be painted on the pavement, or signs erected, or both, given notice that parking is prohibited for at least fifteen (15) feet in either direction.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3; Ord. 86-851, § 3)

STAFF ANALYSIS: As indicated earlier in this decision, water service and hydrants were provided with the construction of SW Langer Farms Parkway. The land is not proposed to be developed at this time, and there are no structures on the existing site at this time.

FINDING: The fire district comments do not indicate that any additional services need to be provided with this proposal. Their comments are incorporated into this decision for reference. It will be incumbent upon applicants to demonstrate compliance with this section with future development proposals. These criteria are satisfied.

16.118. – Public and Private Utilities

16.118.020 Standards

- A. Installation of utilities shall be provided in public utility easements and shall be sized, constructed, located and installed consistent with this Code, Chapter 7 of the Community Development Code, and applicable utility company and City standards.**

- B. Public utility easements shall be a minimum of eight feet in width unless a reduced width is specifically exempted by the City Engineer.
- C. Where necessary, in the judgment of the City Manager or his designee, to provide for orderly development of adjacent properties, public and franchise utilities shall be extended through the site to the edge of adjacent property (ies).
- D. Franchise utility conduits shall be installed per the utility design and specification standards of the utility agency.
- E. Public Telecommunication conduits and appurtenances shall be installed per the City of Sherwood telecommunication design standards.
- F. Exceptions: Installation shall not be required if the development does not require any other street improvements. In those instances, the developer shall pay a fee in lieu that will finance installation when street or utility improvements in that location occur.

STAFF ANALYSIS: There is no physical development proposed with this subdivision. There are utilities around the entire site that are readily available for future development of the site. Public utility easements will be provided where required to ensure that there is adequate room for franchise utilities.

FINDING: No new utility extensions are necessary with this request. The applicant is showing an 8-foot public utility easement around the lots as required. Utilities are available to the property and will be extended as future development is proposed on the site.

16.118.030 Underground Facilities

Except as otherwise provided, all utility facilities, including but not limited to, electric power, telephone, natural gas, lighting, cable television, and telecommunication cable, shall be placed underground, unless specifically authorized for above ground installation, because the points of connection to existing utilities make underground installation impractical, or for other reasons deemed acceptable by the City.

STAFF ANALYSIS: As indicated previously, there is no need for new utilities with this subdivision proposal. All existing and adjacent utilities were placed underground when the SW Langer Farms Parkway was constructed in 2011. There are above ground PGE or BPA powerlines along SW Tualatin-Sherwood Road, that cannot be undergrounded because of the load they carry. If the opportunity arises in the future to underground the facilities, it is likely that those providers will do it themselves.

FINDING: There are overhead utilities on the property, but they carry an electrical load that is not conducive to undergrounding. Future proposals for new development will be required to provide underground facilities when extending utilities where applicable. This criterion is satisfied.

16.120 Subdivisions

16.120.040 Approval Criteria: Preliminary Plat

No preliminary plat shall be approved unless:

- A. Streets and roads conform to plats approved for adjoining properties as to widths, alignments, grades, and other standards, unless the City determines that the public interest is served by modifying streets or road patterns.

STAFF ANALYSIS: SW Century Drive is conditioned to be constructed through the PUD and the approved Development Agreement. As proposed, the right-of-way for SW Century Drive will be dedicated to the public for future construction. The design and construction of that right-of-way will be consistent with this section to the extent that the provided right-of-way will not preclude the construction of that future street from complying with this standard.

FINDING: Because the right-of-way for SW Century Drive is being dedicated with the plat, SW Langer Farms was recently constructed, and the County has agreed to allow the applicant to either construct improvements or pay a fee in lieu of improvements to Tualatin-Sherwood Road, this criterion can feasibly be satisfied as provided the applicant meets the conditions of this decision.

B. Streets and roads held for private use are clearly indicated on the plat and all reservations or restrictions relating to such private roads and streets are set forth thereon.

STAFF ANALYSIS: As proposed or conditioned, all existing easements are indicated on the preliminary plat as required, and will be checked and verified again prior to the City's approval of the final plat.

FINDING: The plat illustrates all of the existing reservations or restrictions for access to the extent that they are existing. New ones may be established with future development, but for now, this criterion is satisfied.

C. The plat complies with applicable zoning district standards and design standards in Division II, and all provisions of Divisions IV, VI, VIII and IX. The subdivision complies with Chapter 16.128 (Land Division Design Standards).

STAFF ANALYSIS: Compliance with these standards have been discussed throughout this decision.

FINDING: As conditioned, the proposed subdivision can comply with the standards including Chapter 16.128, the Land Division Design Standards. It should be noted that this proposal does not include an application for physical development, so some of the standards listed above are not applicable to this proposal, and will need to be satisfied with future proposals for development on the individual lots.

D. Adequate water, sanitary sewer, and other public facilities exist to support the use of land proposed in the plat.

STAFF ANALYSIS: Compliance with these standards have been discussed throughout this decision.

FINDING: As discussed earlier in this decision, all public utilities and facilities are available to the site. This criterion is satisfied by the proposed subdivision.

E. Development of additional, contiguous property under the same ownership can be accomplished in accordance with this Code.

STAFF ANALYSIS: Approval of this subdivision as proposed, does not preclude any of the adjacent properties from being developed.

FINDING: There are no contiguous properties adjacent to the subject site that are under the same ownership. This criterion is not applicable to the proposed subdivision.

F. Adjoining land can either be developed independently or is provided access that will allow development in accordance with this Code.

STAFF ANALYSIS: Approval of this subdivision as proposed, does not preclude any of the adjacent properties from being developed.

FINDING: The proposed subdivision does not affect adjoining land from being provided with access. There are no landlocked parcels of land adjacent to this site. Future construction of SW Century Drive will improve access to the adjacent properties, but they currently have access to a public street. This criterion is satisfied.

G. Tree and woodland inventories have been submitted and approved as per Section 16.142.060.

STAFF ANALYSIS: A tree and woodland inventory has not been submitted for this proposal because there is no physical development proposed. It will be incumbent upon the property owner to demonstrate compliance with these standards with future proposals for development on the property.

FINDING: Because there is no physical development associated with this request, this criterion is not applicable.

H. The plat clearly shows the proposed lot numbers, setbacks, dedications and easements.

STAFF ANALYSIS: The proposed preliminary plat illustrates the proposed lot numbers, dedications and easements as required.

FINDING: Because there is no physical development associated with the plat, setbacks are not required to be shown, and will be verified in future proposals for development. To the extent that this criteria applies to the proposal, it is satisfied. Because of the size of the lots, it is feasible for the setbacks to be met with future development.

I. A minimum of five percent (5%) open space has been provided per § 16.44.B.8 (Townhome- Standards) or §16.142.020 (Parks, Open Spaces and Trees-Single-Family Residential Subdivisions), if applicable. (Ord. No. 2011-011, § 1, 10-4-2011)

STAFF ANALYSIS: Because this property is associated with an existing Planned Unit Development, and is not associated with residential development, this standard is not applicable to the proposed development.

FINDING: This standard is not applicable to the proposed development.

16.128 – Land Division Design Standards
16.128.010 - Blocks

A. Connectivity**1. Block Size**

The length, width, and shape of blocks shall be designed to provide adequate building sites for the uses proposed, and for convenient access, circulation, traffic control and safety.

2. Block Length

Block length standards shall be in accordance with Section 16.108.040. Generally, blocks shall not exceed five-hundred thirty (530) feet in length, except blocks adjacent to principal arterial, which shall not exceed one thousand eight hundred (1,800) feet. The extension of streets and the formation of blocks shall conform to the Local Street Network map contained in the Transportation System Plan.

- 3. Pedestrian and Bicycle Connectivity.** Paved bike and pedestrian accessways shall be provided on public easements or right-of-way consistent with Figure 7.401.

STAFF ANALYSIS: This proposal does not include the creation of any new streets not already accounted for by the TSP. There is no identified bicycle or pedestrian connections in the TSP that are not already provided for within the existing right-of-way. It should be noted that the site is limited by the presence of the wetlands in Tract A, a major arterial to the north, a collector to the west, and existing industrial development directly south of the site.

FINDING: Existing site conditions and pre-existing development on adjacent properties may deter full street connectivity on a portion of the site. A conceptual circulation plan is provided with the preliminary plans to illustrate how the site can conceptually meet the standards, however, the site is zoned for light industrial and commercial uses, so it is unlikely that a full street connection would be necessary beyond what is called for in the TSP. It will be incumbent upon the property owner to demonstrate that the existing conditions preclude full connectivity, and if so, how pedestrian or bicycle connections can be made for future proposals for development. These criteria are not applicable to the proposed subdivision.

B. Utilities Easements for sewers, drainage, water mains, electric lines, or other utilities shall be dedicated or provided for by deed. Easements shall be a minimum of ten (10) feet in width and centered on rear or side lot lines; except for tie-back easements, which shall be six (6) feet wide by twenty (20) feet long on side lot lines at the change of direction.

STAFF ANALYSIS: The proposed subdivision shows the location of all existing utility easements associated with the site. An 8-foot public utility easement was dedicated along the front and side lot lines with document No. 2011-030292, and is illustrated on the plat.

FINDING: The Engineering division has indicated that the easement is of adequate width to accommodate utilities. As new proposals for development come in on the lots, it will be incumbent upon the applicant to ensure that adequate easements are provided to allow access and maintenance to future public utilities. This criterion is satisfied by the proposed subdivision.

C. Drainages

Where a subdivision is traversed by a watercourse, drainage way, channel or street, drainage easements or rights-of-way shall be provided conforming substantially to

the alignment and size of the drainage.

STAFF ANALYSIS: The proposed subdivision is traversed by a drainage way; therefore, this criterion is applicable. As proposed, the subdivision includes two tracts. Tract A identifies the location of the drainage way and associated corridor, and Tract B identifies the location for a future regional stormwater treatment facility.

FINDING: The applicant has proposed to dedicate the facilities as is conditioned in the Original PUD and associated Development Agreement. This criterion is satisfied by the proposal.

16.128.020 - Pedestrian and Bicycle Ways

Pedestrian or bicycle ways may be required to connect cul-de-sacs, divide through an unusually long or oddly shaped block, or to otherwise provide adequate circulation.

STAFF ANALYSIS: There are no cul-de-sacs proposed with this subdivision, and as proposed, it is untimely to evaluate the circulation given that the sizes of the lots are so large. It will be incumbent upon future applications to demonstrate compliance with this standard.

FINDING: As indicated previously in this decision, the site is not subject to this standard until such time that physical development is being proposed on the site.

16.128.030 - Lots

A. Size and Shape

Lot size, width, shape, and orientation shall be appropriate for the location and topography of the subdivision or partition, and shall comply with applicable zoning district requirements, with the following exception:

- 1. Lots in areas not served by public sewer or water supply shall conform to any special County Health Department standards.**

STAFF ANALYSIS: As previously discussed, the proposed lots meet or exceeds the applicable dimensional standards for lots within the Light Industrial zoning district.

FINDING: The approved PUD did not place any additional lot restrictions on the property. This site is served by public sewer and water. This criterion is satisfied.

B. Access

All lots in a subdivision shall abut a public street, except as allowed for infill development under Chapter 16.68.

STAFF ANALYSIS: Lots 1-4 directly abut one of the three adjacent public rights-of-way (SW Century Drive will be dedicated with this plat and constructed with future development). Lot 5 has direct public access through a private 40-foot wide access and utility easement as allowed in Chapter 16.68.

FINDING: Because the lots abut a public street, or are served by an easement to a public street, this criterion is satisfied.

D. Side Lot Lines Side lot lines shall, as far as practicable, run at right angles to the street upon which the lots face, except that on curved streets side lot lines shall be radial to the curve of the street.

STAFF ANALYSIS: With the exception of Lots 4 and 5, the side lot lines of each lot run perpendicular to SW Langer Farms Parkway. Lots 4 and 5 are not able to be perpendicular because of the onsite drainage way.

FINDING: To the extent that it is practical, the side lot lines run at right angles to SW Langer Farms Parkway. The proposal has satisfied this criterion.

E. Grading

Grading of building sites shall conform to the following standards, except when topography of physical conditions warrants special exceptions:

1. Cut slopes shall not exceed one (1) and one-half (1 1/2) feet horizontally to one (1) foot vertically.
2. Fill slopes shall not exceed two (2) feet horizontally to one (1) foot vertically.

STAFF ANALYSIS: No on-site grading is proposed with this subdivision.

FINDING: Because no grading is associated with the proposed subdivision, it will be incumbent upon future development proposals on the site to comply with this standard. It should be noted that the site is fairly flat, so it is very likely that the amount of future grading on this property will be minimal, and that it is entirely feasible for the standards listed above to be met given the topography. This criterion is not applicable to this proposal.

Division VIII – Environmental Resources

16.142 – Parks and Open Space

STAFF ANALYSIS: The proposed subdivision is on land that is zoned Light Industrial (L-I) with a Planned Unit Development (PUD) overlay. The PUD required the provision of open space that has already occurred for those properties developed with residential uses. The vegetated corridor is being set aside in a tract to be dedicated to the public to meet a condition of the original PUD as it pertains to open space. The following criteria are the only provisions that are applicable in this Chapter to this request.

16.142.030.A Visual Corridors

A. Corridors Required

New developments with frontage on Highway 99W, or arterial or collector streets designated on the Transportation Plan Map, attached as Appendix C, or in Section 5 of the Community Development Plan Part 2, shall be required to establish a landscaped visual corridor according to the following standards:

	Category	Width
1.	Highway 99W	25 feet
2.	Arterial	15 feet

3.	Collector	10 feet
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In residential developments where fences are typically desired adjoining the above described major street the corridor may be placed in the road right-of-way between the property line and the sidewalk. (Ord. 2006-021)

B. Landscape Materials

The required visual corridor areas shall be planted as specified by the review authority to provide a continuous visual and/or acoustical buffer between major streets and developed uses. Except as provided for above, fences and walls shall not be substituted for landscaping within the visual corridor. Uniformly planted, drought resistant street trees and ground cover, as specified in Section 16.142.050, shall be planted in the corridor by the developer. The improvements shall be included in the subdivision compliance agreement. (Ord. 2006-021)

C. Establishment and Maintenance

Designated visual corridors shall be established as a portion of landscaping requirements pursuant to Chapter 16.92. To assure continuous maintenance of the visual corridors, the review authority may require that the development rights to the corridor areas be dedicated to the City or that restrictive covenants be recorded prior to the issuance of a building permit. (Ord. 2006-021)

D. Required Yard

Visual corridors may be established in required yards, except that where the required visual corridor width exceeds the required yard width, the visual corridor requirement shall take precedence. In no case shall buildings be sited or trees be removed from within the required visual corridor, with the exception of front porches on townhomes, as permitted in Section 16.44.010(E)(4)(c). (Ord. 2006-021)

STAFF ANALYSIS: The proposed subdivision does not include any physical development that would mandate the need for a visual corridor. Future development of the lots will be required to comply with the visual corridor standards along it's frontage with SW Langer Farms Parkway, a collector, and SW Tualatin-Sherwood Road, an arterial.

FINDING: Because the applicant is not proposing any physical development of the property at this time, and the City will have the opportunity to impose this requirement on future development proposals, this criterion is not applicable to the proposed subdivision.

16.142.060. Street Trees

A. Installation of Street Trees on New or Redeveloped Property.

Trees are required to be planted to the following specifications along public streets abutting or within any new development or re-development. Planting of such trees shall be a condition of development approval. The City shall be subject to the same standards for any developments involving City-owned property, or when constructing or reconstructing City streets. After installing street trees, the property owner shall be responsible for maintaining the street trees on the owner's property or within the right-of-way adjacent to the owner's property.

1. **Location:** Trees shall be planted within the planter strip along a newly created or improved streets. In the event that a planter strip is not required or available, the trees shall be planted on private property within the front yard setback area or within public street right-of-way between front property lines and street curb lines or as required by the City.
2. **Size:** Trees shall have a minimum trunk diameter of two (2) inches DBH and minimum height of six (6) feet. Diameter at breast height (DBH) shall be

- measured as defined by the International Society of Arboriculture.
3. **Types:** Developments shall include a variety of street trees. The trees planted shall be chosen from those listed in 16.142.080 of this Code.
 4. **Required Street Trees and Spacing:**
 - a. The minimum spacing is based on the maximum canopy spread identified in the recommended street tree list in section 16.142.080 with the intent of providing a continuous canopy without openings between the trees. For example, if a tree has a canopy of forty (40) feet, the spacing between trees is forty (40) feet. If the tree is not on the list, the mature canopy width must be provided to the planning department by a certified arborist.
 - b. All new developments shall provide adequate tree planting along all public streets. The number and spacing of trees shall be determined based on the type of tree and the spacing standards described in a. above and considering driveways, street light locations and utility connections. Unless exempt per c. below, trees shall not be spaced more than forty (40) feet apart in any development.
 - c. A new development may exceed the forty-foot spacing requirement under section b. above, under the following circumstances:
 - (1) Installing the tree would interfere with existing utility lines and no substitute tree is appropriate for the site; or
 - (2) There is not adequate space in which to plant a street tree due to driveway or street light locations, vision clearance or utility connections, provided the driveways, street light or utilities could not be reasonably located elsewhere so as to accommodate adequate room for street trees; and
 - (3) The street trees are spaced as close as possible given the site limitations in (1) and (2) above.
 - (4) The location of street trees in an ODOT or Washington County right-of-way may require approval, respectively, by ODOT or Washington County and are subject to the relevant state or county standards.
 - (5) For arterial and collector streets, the City may require planted medians in lieu of paved twelve-foot wide center turning lanes, planted with trees to the specifications of this subsection.

FINDING: No new street trees are required for this proposal until such time that physical improvements of SW Century Blvd and improvements along SW Tualatin-Sherwood Road are constructed. The applicant has proposed to dedicate the rights-of-way and defer improvements until future development occurs. The County has requested that the applicant either make the improvements or pay a fee in-lieu of the improvements prior to final plat. This condition has been incorporated into this decision. Street trees were provided along the sites frontage with SW Langer Farms Parkway with that recent improvement. This criterion is not applicable to the proposed subdivision, but will be required with future development of any of the lots that require the construction or reconstruction of new public streets.

16.142.060 - Trees on Property Subject to Certain Land Use Applications

All site developments subject to Section 16.92.020 shall be required to preserve trees or woodlands to the maximum extent feasible within the context of the proposed land

use plan and relative to other policies and standards of the City Comprehensive Plan, as determined by the City. Review and mitigation shall be consistent with 16.142.060 A, B, C and D.

FINDING: This application is for a proposed subdivision, no physical improvements are proposed. This land has been farmed, and the majority of trees on site are located within Tract A. Future development proposals on the lots will be required to satisfy the requirements of this chapter. Because the property is zoned for commercial or light industrial uses, future development will be subject to site development review, and a more detailed analysis of how trees will be affected. This criterion is not applicable to the proposed subdivision.

Chapter 16.144 Wetland, Habitat, and Natural Areas

16.144.020 Standards

A. The applicant shall identify and describe the significance and functional value of wetlands on the site and protect those wetlands from adverse effects of the development. A facility complies with this standard if it complies with the criteria of subsections A.1.a and A.1.b, below:

1. The facility will not reduce the area of wetlands on the site, and development will be separated from such wetlands by an area determined by the Clean Water Services Design and Construction Standards R&O 00-7 or its replacement provided Section 16.140.090 does not require more than the requested setback.

a. A natural condition such as topography, soil, vegetation or other feature isolates the area of development from the wetland.

b. Impact mitigation measures will be designed, implemented, and monitored to provide effective protection against harm to the wetland from sedimentation, erosion, loss of surface or ground water supply, or physical trespass.

c. A lesser setback complies with federal and state permits, or standards that will apply to state and federal permits, if required.

2. If existing wetlands are proposed to be eliminated by the facility, the applicant shall demonstrate that the project can, and will develop or enhance an area of wetland on the site or in the same drainage basin that is at least equal to the area and functional value of wetlands eliminated.

B. The applicant shall provide appropriate plans and text that identify and describe the significance and functional value of natural features on the site (if identified in the Community Development Plan, Part 2) and protect those features from impacts of the development or mitigate adverse effects that will occur. A facility complies with this standard if:

1. The site does not contain an endangered or threatened plant or animal species or a critical habitat for such species identified by Federal or State government (and does not contain significant natural features identified in the Community Development Plan, Part 2, Natural Resources and Recreation Plan).

2. The facility will comply with applicable requirements of the zone.
3. The applicant will excavate and store topsoil separate from subsurface soil, and shall replace the topsoil over disturbed areas of the site not covered by buildings or pavement or provide other appropriate medium for re-vegetation of those areas, such as yard debris compost.
4. The applicant will retain significant vegetation in areas that will not be covered by buildings or pavement or disturbed by excavation for the facility; will replant areas disturbed by the development and not covered by buildings or pavement with native species vegetation unless other vegetation is needed to buffer the facility; will protect disturbed areas and adjoining habitat from potential erosion until replanted vegetation is established; and will provide a plan or plans identifying each area and its proposed use.
5. Development associated with the facility will be set back from the edge of a significant natural area by an area determined by the Clean Water Services Design and Construction standards R&O 00-7 or its replacement, provided Section 16.140.090A does not require more than the requested setback. Lack of adverse effect can be demonstrated by showing the same sort of evidence as in subsection A.1 above.

C. When the Regionally Significant Fish and Wildlife Habitat map indicates there are resources on the site or within 50 feet of the site, the applicant shall provide plans that show the location of resources on the property. If resources are determined to be located on the property, the plans shall show the value of environmentally sensitive areas using the methodologies described in Sections 1 and 2 below.

The Metro Regionally Significant Fish and Wildlife Habitat map shall be the basis for determining the location and value of environmentally sensitive habitat areas. In order to specify the exact locations on site, the following methodology shall be used to determine the appropriate boundaries and habitat values:

FINDING: The applicant has identified the wetlands on site, and has provided staff with a CWS service Provider Letter that spells out all of the requirements for protection as required in the Tualatin River Basin approved HCA. According to the applicant, and as verified by the Service Provider Letter, the area has been delineated in accordance with the requirements of CWS R&O 00-7. Clean Water Services has provided comments in addition to the Service Provider Letter that have been incorporated into this report. The following Condition is warranted to ensure that the applicant continues to comply with the conditions of Service Provider Letter No. 12-000162. It will be incumbent upon future development proposals on proposed Lots 4 and 5 to ensure that their impacts to the protected resources in Tract A meet the requirements of CWS.

CONDITION: Prior to any site work or final plat approval, the applicant shall provide the City with evidence that Clean Water Services has reviewed and approved the final plat, and met the applicable conditions imposed on the letter dated May 8, 2012 from Jackie Sue Humphreys at Clean Water Services.

RECOMMENDATION

Based upon review of the applicant's submittal information, review of the code, agency comments and consideration of the applicant's revised submittal, staff finds that the proposed subdivision does not fully comply with the standards but can be conditioned to comply, approves the subdivision request subject to compliance with the following conditions of approval.

VI. CONDITIONS OF APPROVAL

A. General Conditions

1. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
2. Development and construction on the site shall conform substantially to the preliminary plat development plans submitted by AKS Engineering and Forestry, dated April 11, 2012 except as modified in the conditions below, (and shall conform specifically to final construction plans reviewed and approved by the City Engineer, the Building Official, Clean Water Services, Tualatin Valley Fire and Rescue, Tualatin Valley Water District and Washington County). All plans shall comply with the applicable building, planning, engineering and fire protection codes of the City of Sherwood.
3. The developer is responsible for all costs associated with any remaining public facility improvements and shall assure the construction of all public streets and utilities within and adjacent to the plat as required by these conditions of approval, to the plans, standards, and specifications of the City of Sherwood. The developer shall also provide to the City financial guarantees for construction of all public streets and utilities within and adjacent to the plat, as required by the engineering compliance agreement.
4. **This approval is valid for a period of two (2) years from the date of the decision notice.** Extensions may be granted by the City as afforded by the Sherwood Zoning and Community Development Code.
5. The continual operation of the property shall comply with the applicable requirements of the Sherwood Zoning and Community Development Code and Municipal Code.
6. This approval does not negate the need to obtain permits, as appropriate from other local, state or federal agencies, even if not specifically required by this decision.

B. Prior to approval of the public improvement plans:

1. All public easement dedication documents must be submitted to the City for review, signed by the City and the applicant, and recorded by the applicant with the original or a certified copy of the recorded easements on file at the City prior to release of the public improvement plans.
2. Submit the final plat for review to the Planning Department.

C. Prior to Approval of the Final Plat:

1. The submittal by the applicant for final plat review and approval shall include but not be limited to the following: a final plat application; final plat review fee; narrative identifying how the required conditions of approval have or will be met; three copies of the final plat; and any other materials required to demonstrate compliance with the conditions of approval. In addition, the following specific conditions shall be met prior to approval of the final plat:
2. Prior to final plat approval, the applicant shall dedicate the necessary right-of-way needed to construct SW Century Drive.
3. Prior to final plat approval, the applicant shall establish the public right-of-way and 8' public utility easement for and adjacent to SW Century Drive.
4. Prior to final plat approval, the following shall be represented on the plat and recorded with Washington County:
 - a. Dedication of additional right-of-way to provide 49 feet from centerline of SW Tualatin-Sherwood Road.
 - b. Dedication of additional right-of-way to provide adequate corner radius at the intersection of SW Tualatin-Sherwood Road.
 - c. Provision of a non-access reservation along SW Tualatin-Sherwood Road frontage, except at the existing access point(s) approved in conjunction with this land use application.
5. Prior to any site work or final plat approval, the applicant shall provide the City with evidence that Clean Water Services has reviewed and approved the final plat, and met the applicable conditions imposed on the letter dated May 8, 2012 from Jackie Sue Humphreys at Clean Water Services.
6. Approval of the public improvement plans by the Engineering Department, and signature of a compliance agreement must be complete prior to release of the plat to the County for review. In addition, prior to final plat approval, either all on-site work must be complete or the improvements bonded or guaranteed with a cash deposit.
7. The final plat shall show the following:
 - a. The Community Development Director as the City's approving authority within the signature block of the final plat.
 - b. A 15-foot wide public utility easement for any areas where a single public utility line is located outside a public right-of-way with an increase of five (5) feet for each additional utility line.
 - c. Private access easements, utility easements and/or special use easements as required for the development of the site. A plat note shall reference an easement and maintenance agreement or similar document, to be recorded with the plat, for the joint maintenance of any common private utility lines, common driveway improvements, or other common amenity or perimeter fencing. The language of such plat note and associated document shall be reviewed and approved by the Planning Department.

VII. Exhibits

- A. Applicant's submittal with narrative and supporting documents dated
- B. Public testimony from R. James Claus dated May 11, 2012
- C. Letter from TVF&R dated May 9, 2012
- D. Letter from CWS dated May 8, 2012
- E. Engineering comments dated May 11, 2012
- F. Comments from Washington County DLUT dated May 15, 2012

STATE OF OREGON)
)
Washington County)

I, Brad Kilby, Senior Planner for the Planning Department, City of Sherwood, State of Oregon, in Washington County, do hereby certify that the Notice of Decision on Case File No. SUB 12-02 Langer Farms Subdivision was placed in a U.S. Postal receptacle on June 21, 2012.



City of Sherwood

Exhibit A

The applicant's submitted materials are available to be viewed at City Hall 22560 SW
Pine Street, Sherwood, Oregon 97140

or

on the City's website at <http://www.sherwoodoregon.gov/langer-farms-subdivision>

Chapter 16.32 - RESERVED

FOOTNOTE(S):

⁽²⁶⁾ Editor's note— Ord. No. 2012-011, § 2, adopted August 7, 2012, amended the Code by repealing former Ch. 16.32, §§ 16.32.010—16.32.070, in its entirety. Former Ch. 16.32 pertained to the Light Industrial district, and derived from Ord. No. 86-851; Ord. No. 87-867; Ord. No. 88-979; Ord. No. 91-922; Ord. No. 93-964; Ord. No. 97-1019; Ord. No. 98-1051; Ord. No. 2000-1092; Ord. No. 2001-1119; Ord. No. 2002-1136; Ord. No. 2009-009, adopted July 21, 2009; and Ord. No. 2010-05, adopted April 6, 2010.

2.109 GENERAL COMMERCIAL (GC)**2.109.01 Purpose**

The GC zoning district provides for wholesale and commercial uses which require larger parcels of land, and or uses which involve products or activities which require special attention to environmental impacts as per Chapter 8.

2.109.02 Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Chapter 8:

- A. Professional services, including but not limited to financial, medical and dental, social services, real estate, legal, artistic, and similar uses.
- B. General retail trade, including bakeries where product distribution is limited to retailing on the premises only.
- C. Personal and business services, including day cares, preschools, and kindergartens.
- D. Postal substations when located entirely within and incidental to a use permitted outright.
- E. Temporary uses, including but not limited to portable construction offices and real estate sales offices, subject to Section 4.500.
- F. Farm and garden supply stores, and retail plant nurseries, but excluding wholesale plant nurseries, and commercial farm equipment and vehicle sales which are prohibited.
- G. Agricultural uses such as truck farming and horticulture, excluding commercial buildings and structures, or the raising of animals other than household pets.
- H. Commercial trade schools.
- I. Motion picture and live theaters, but excluding drive-ins which are prohibited.
- J. Restaurants, taverns, and lounges.

- K. Automotive and other appliance and equipment parts sales, but excluding junkyards and salvage yards which are prohibited.
- L. Blueprinting, printing, publishing, or other reproduction services.
- M. Automobile, recreational vehicle, motorcycle, truck, manufactured home, boat, farm, and other equipment sales, parts sales, repairs, rentals or service.
- N. Wholesale trade, warehousing, commercial storage and mini-warehousing, except as prohibited in Sections 2.110.04E and 2.111.04E.
- O. Limited manufacturing, including only: beverage bottling plants, commercial bakeries, machine shops, and handicraft manufacturing.
- P. Building material sales, lumberyards, contractors storage and equipment yards, building maintenance services, and similar uses.
- Q. Veterinarian offices and animal hospitals.
- R. Agricultural uses including but not limited to farming, and wholesale and retail plant nurseries, with customarily associated commercial buildings and structures permitted.
- S. Medical, dental, and similar laboratories.
- T. Truck and bus yards and terminals.
- U. Adult entertainment businesses, subject to Section 2.208.

2.109.03 Conditional Uses

The following uses are permitted as conditional uses, provided such uses meet the applicable environmental performance standards contained in Chapter 8, and are approved in accordance with Section 4.300:

- A. Special care facilities, including but not limited to hospitals, sanitariums, convalescent homes, correctional institutions, and residential care facilities.
- B. Radio, television, and similar communication stations, including transmitters.
- C. Churches and parsonages.

- D. Cemeteries and crematory mausoleums.
- E. Public and private utility buildings, including but not limited to telephone exchanges, electric substation, gas regulator stations, treatment plants, water wells, and public works yards.
- F. Government offices, including but not limited to administrative office, post offices, and police and fire stations.
- G. Public use buildings including but not limited to libraries, museums, community centers and senior centers.
- H. Private lodges, fraternal organizations, country clubs, sports and racquet clubs, and other similar clubs, but excluding golf courses which are prohibited.
- I. Motels or hotels.
- J. Residential apartments when located on the upper floors, in the rear of, or otherwise clearly secondary to a commercial building.
- K. Public recreational facilities, including but not limited to parks, playfields, and sports and racquet courts, but excluding golf courses which are prohibited.
- L. Public and private schools providing education at the elementary school level or higher.
- M. Any incidental business, service, process, storage or display, not otherwise permitted by Section 2.109, that is essential to and customarily associated with any use permitted outright.

2.109.04 Prohibited Uses

The following uses are expressly prohibited:

- A. Junkyards and salvage yards.
- B. Industrial and manufacturing uses, except as specifically permitted by Sections 2.109.02 and 2.109.03.
- C. Any other prohibited use noted in Section 2.109.03.

2.109.05 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or

requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Dimensions

Except as otherwise provided, required minimum lot areas and dimensions shall be:

1. Lot area: 10,000 square feet
2. Lot width at front property line: 70 feet
3. Lot width at building line: 70 feet

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: None, unless the lot abuts a residential zone, then the front yard shall be that required in the residential zone.
2. Side yards: None, unless abutting a residential zone or public park property, then there shall be a minimum of twenty (20) feet.
3. Rear yard: None, unless abutting a residential zone, then there shall be a minimum of twenty (20) feet.
4. Existing residential uses shall maintain setbacks specified in Section 2.105.04.

C. Height

Except as otherwise provided, the maximum height of structures shall be fifty (50) feet, except structures within one hundred (100) feet of a residential zone shall be limited to the height requirements of that residential area. Structures over fifty (50) feet in height may be permitted as conditional uses, subject to Section 4.300.

2.109.06 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9.

2.109.07 Flood Plain

Except as otherwise provided, Section 8.202 shall apply.

2.110 LIGHT INDUSTRIAL (LI)**2.110.01 Purpose**

The LI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products which have been previously prepared from raw materials. Industrial establishments shall not have objectionable external features and shall feature well-landscaped sites and attractive architectural design, as determined by the Commission.

2.110.02 Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Chapter 8.

- A. Veterinarians offices and animal hospitals.
- B. Contractor's offices, and other offices associated with a use permitted in the LI zone.
- C. Public and private utilities including but not limited to telephone exchanges, electric substations, gas regulator stations, sewage treatment plants, water wells and public works yards.
- D. Glass installation and sales.
- E. Government offices, including but not limited to postal stations, administrative offices, police and fire stations.
- F. Automobile, boat, trailer, and recreational vehicle storage.
- G. Laboratories for testing and medical, dental, photographic, or motion picture processing, except as prohibited by Section 2.110.04E.
- H. Industrial hand tool and supply sales, primarily wholesaled to other industrial firms or industrial workers.
- I. Other similar light industrial uses subject to Section 4.600.
- J. Uses permitted outright in the GC zone, Section 2.109.02, except for adult entertainment businesses which are prohibited.

- K. Dwelling unit for one (1) security person employed on the premises, and their immediate family.
- L. PUDs, subject to the provisions of Section 2.202.
- M. Temporary uses, including but not limited to construction and real estate sales offices, subject to Section 4.500.

2.110.03 Conditional Uses

The following uses are permitted as Conditional Uses provided such uses meet the applicable environmental performance standards contained in Chapter 8 and are approved in accordance with Section 4.300:

- A. Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesaling, warehousing or storage of the following articles or products:
 1. Food products, including but not limited to candy, dairy products, beverages, coffee, canned goods and baked goods, and meat and poultry, except as prohibited by Section 2.110.03.
 2. Appliances, including but not limited to, refrigerators, freezers, washing machines, dryers; small electronic motors and generators; heating and cooling equipment; lawn mowers, rototillers, and chain saws; vending machines; and similar products and associated small parts.
 3. Cosmetics, drugs, pharmaceutical, toiletries, chemicals and similar products, except as prohibited by Section 2.110.04.
 4. Electrical, radio, television, optical, scientific, hearing aids, electronic, computer, communications and similar instruments, components, appliances and systems, and similar products and associated small parts.
 5. Building components and household fixtures, including but not limited to furniture, cabinets, and upholstery; ladders; mattresses, doors and windows; signs and display structures; and similar products and associated small parts.
 6. Recreational vehicles and equipment, including but not limited to bicycles, recreational watercraft, exercise equipment, and similar products and

associated small parts, but excluding motorized equipment unless otherwise permitted by Section 2.110.02 or 2.110.03.

7. Musical instruments, toys and novelties.
 8. Pottery and ceramics, limited to products using previously pulverized clay.
 9. Textiles and fiber products.
 10. Other small products and tools manufactured from previously prepared or semi-finished materials, including but not limited to bone, fur, leather, feathers, textiles, plastics, glass, wood products, metals, tobacco, rubber, and precious or semi-precious stones.
- B. Laundry, dry cleaning, dyeing or rug cleaning plants.
- C. Light metal fabrication, machining, welding and electroplating and casting or molding of semi-finished or finished metals.
- D. Offices associated with a use conditionally permitted in the LI Zone.
- E. Sawmills.

2.110.04 Prohibited Uses

The following uses are expressly prohibited:

- A. Adult Entertainment Businesses.
- B. Any use permitted or conditionally permitted under Section 2.111 that is not specifically listed in this Section, and any use listed in Section 2.111.04.
- C. Auto wrecking and junk or salvage yards.
- D. Distillation of oil, coal, wood or tar compounds and the creosote treatment of any products.
- E. Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesale, warehousing, or storage of the following products of substances, except for any incidental business, service, process, storage, or display that is essential to and customarily associated, in the City's determination, with any otherwise permitted or conditionally permitted use:

1. Abrasives, acids, disinfectants, dyes and paints, bleaching powder and soaps and similar products.
 2. Ammonia, chlorine, sodium compounds, toxics, and similar chemicals.
 3. Celluloid or pyroxylin.
 4. Cement, lime, gypsum, plaster of Paris, clay, creosote, coal and coke, tar and tar-based roofing and waterproofing materials and similar substances.
 5. Explosives and radioactive materials.
 6. Fertilizer, herbicides and insect poison.
- F. Metal rolling and extraction mills, forge plants, smelters and blast furnaces.
- G. Pulp mills and paper mills.
- H. Slaughter of livestock or poultry, the manufacture of animal by-products or fat rendering.
- I. Leather tanneries.
- J. General purpose solid waste landfills, incinerators, and other solid waste facilities.

2.110.05 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Dimensions

Except as otherwise provided, required minimum lot area and dimensions shall be:

1. Lot area: 10,000 sq. feet
2. Lot width at front property line: 100 feet
3. Lot width at building line: 100 feet

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: Twenty (20) feet, except when abutting a residential zone or public park, then there shall be a minimum of forty (40) feet.
2. Side yards: None, except when abutting a residential zone, then there shall be a minimum of forty (40) feet.
3. Rear yard: None, except when abutting a residential zone, then there shall be a minimum of forty (40) feet.
4. Corner lots: Twenty (20) feet on any side facing a street, except when abutting a residential zone, then there shall be a minimum of forty (40) feet.

C. Height

Except as otherwise provided, the maximum height shall be fifty (50) feet, except that structures within one hundred (100) feet of a residential zone shall be limited to the height requirements of the residential zone.

2.110.06 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9.

2.110.07 Flood Plain

Except as otherwise provided, Section 8.202 shall apply.

TO: SHERWOOD PLANNING COMMISSION Emailed: 7/5/2022
 FROM: R. James Claus *Jim Claus*
 RE: LU 2022-012 SP, MM, LLA Langer Storage/Chestnut Inn Hotel
 COMMENTS FOR THE RECORD

Dear Commission Members:

This land use application is not an inconsequential land use act. The Langers, by their own count and admission currently own 1,000 storage units between their four storage locations in Sherwood and Herman Road. Their recent Major Modification in front of the Planning Commission that is now under appeal at the City Council is a request to add 575 storage units more by constructing a 74,000 sq.ft. three story building within the Langer PUD boundaries.

Let's add this pending application request for storage to the initial analysis from the earlier application.

Gross Storage Income Estimated at \$100 average price/unit per month and annualized

Existing 1,000 Langer storage units	\$100,000 monthly x 12 mos. =	\$1,200,000
Request #1 for 575 more storage units	57,500 monthly x 12 mos.=	690,000
Request #2 for 690 more storage unit	<u>69,000 monthly x 12 mos. =</u>	<u>828,000</u>
Total	\$ 226,500 monthly	\$2,718,000

If you assume a 75 percent net gross income after expenses:

Existing 1,000 units	\$100,000 x 0.75= \$75,000 monthly x 12 =	\$ 900,000
Request #1 for 575 units	57,500 x 0.75 = \$43,125 monthly x 12=	517,500
Request #2 for 690 units	<u>69,000 x 0.75 = \$51,750 monthly x 12 =</u>	<u>621,000</u>
Total	\$169,875 monthly x 12 =	\$2,038,500

Applying a 6% capitalization rate to the three estimated net gross incomes, the value is estimated:

Existing Langer 1,000 units net gross income	\$900,000 / 0.06 cap rate	\$15,000,000
Request #1 for 575 units net gross income	517,500 / 0.06 cap rate	8,625,000
Request #2 for 690 units net gross income	621,000 / 0.06 cap rate	<u>10,350,000</u>
TOTAL STORAGE INCOME VALUE ESTIMATE using a 6% Cap Rate		<u>\$33,975,000</u>

Even with this simplified analysis, it is easy to see the millions of dollars of value that is being requested by this applicant for an illegal use based on a 27-year-old zoning code that no one else in this town can or would dare attempt to invoke in front of the Commission or City Council.

Light industrial zoning in town is supposed to be reserved for living wage jobs. This proposal as well as the earlier 575 storage unit expansion proposal violates the intent of industrial zoning producing living wage jobs. When specifically asked by a member of the Planning Commission about the living wage jobs this application would be offering, the applicant had no answer, and did not attempt to answer the question. The applicant is asking for major modifications for an illegal use of storage and a condition use permit for a hotel in an industrial zone. The applicant bears the burden to produce credible evidence for the record that shows both the storage and the hotel uses will produce living wage jobs. Instead, all the consultant offered was some boiler plate language to fill the gap in the application, instead of dealing with the vacuum of living wage jobs that are NOT being produced if the Planning Commission grants these illegal and conditional use applications for the applicant. The applicant is attempting to use a 27-year-old code and an ORS 92.040 statute, both of which do not apply to the applicant's request.

The applicant has provided no benefit-cost analysis showing why this request outweighs the benefit and intent for industrial zones in town to provide living wage jobs.

As usual, this land use application is a win-win-win situation for the Langers. They want tremendous increased value in their property, they do not want to build any public improvements, they do not want to provide living wage jobs for the town, and they want land use approvals for uses that they, themselves declared in their own CC&Rs to be PROHIBITED USES... as well as asking the town to give them an approval based on a 27-year-old code that NO ONE in the town would be allowed to use to bootstrap in a currently illegal use. We should congratulate them for something... exactly what remains to be seen.

Langer Farms Parkway was not funded by the Langer or Wal-Mart developments. It was paid for from Sherwood's Urban Renewal Agency, grant money from Washington County's MSTIP road monies and city road funds. How many gifts should the city and the Sherwood citizens be asked to give to this family... and why? Where is the public benefit tradeoff? Why the highly favored treatment? Mayor Mays could likely answer those questions for one of his most prominent contributors.

The first city Urban Renewal Agency was supposed to fund a \$20 million Performing Arts Center and clean up areas around the old cannery site. Instead, we built a palsy \$4 million Arts Center, did inadequate clean up, and have funded more than \$10 Million in road improvements that should have been funded by the Langer family or their buyer, Wal-Mart, or both.

Why did we do it then, and why does this group of people and their investors think that the residents of Sherwood should underwrite their land use schemes again? Wouldn't it be nice if everyone in town could get this kind of deal and this kind of most favored status treatment?

This application should not be approved. **Let's get some real living wage jobs in the town** and stop fummy-diddling around with our town zoning and land use codes, attempting to get more illegal storage units in a light industrial land use zone that is not designated for the same.

From: clausssl@aol.com
To: [Eric Rutledge](#)
Cc: [Erika Palmer](#); [Joy Chang](#)
Subject: Re: Reminder - Testimony for LU 2022-012 Due at 5pm Today
Date: Tuesday, July 5, 2022 1:07:43 PM
Attachments: [image001.png](#)

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Hi Eric--

Why is the deadline at 5 pm? The hearing didn't end until later in the evening last Tuesday so the 5 pm arbitrary deadline isn't even the full seven days. Usually the deadline runs until the end of the day, 11:59:59 pm. Given this has also been a holiday weekend, the time seems to be shortened in every possible manner. Again, why? No one from the audience was allowed to speak their objection regarding the timing.

Please add this to the record.

-----Original Message-----

From: Eric Rutledge <RutledgeE@SherwoodOregon.gov>
To: Susan Claus <clausssl@aol.com>
Cc: Erika Palmer <PalmerE@SherwoodOregon.gov>; Joy Chang <ChangJ@SherwoodOregon.gov>
Sent: Tue, Jul 5, 2022 12:40 pm
Subject: Reminder - Testimony for LU 2022-012 Due at 5pm Today

Hi Susan,

I wanted to remind you that any new testimony for LU 2022-012 is due by 5pm today. City Hall will be open until 5pm and we can also accept an email with PDF attachment. Let us know if you have any questions.

Thanks,

Eric Rutledge
City of Sherwood
Associate Planner
rutledgee@sherwoodoregon.gov
Desk 503.625.4242
Work Cell 971.979.2315



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From: clausl@aol.com
To: [PlanningCommission](#)
Cc: [Joy Chang](#); [Erika Palmer](#); [Eric Rutledge](#)
Subject: Re: LU 2022-012 SP, MM, CUP, LLA Langer application additional comments
Date: Tuesday, July 5, 2022 3:49:55 PM

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TO: The Sherwood Planning Commission
RE: LU 2022-012 SP, MM, CUP, LLA Langer application
Jim Claus additional Comments drafted for the record
DATE: 5 July 2022

Dear Planning Commission Members –

No one is trying to question the actual motives of people on the Planning Commission, with the possible exception of one or two people. Further, it is problematic trying to explain in a general way the massive amounts of money and funds being transferred in some of the land use actions by inadequately understanding the public hearing process.

Let me simply note it is troubling to appear in front of the Commission and not one member asked one single question of any opponent to an application. Some new members of the Planning Commission may not realize they could ask questions. The Chairperson however has been in that position for quite a while and on the Commission even longer. She knows she can talk to staff endlessly and then begins testifying in the hearings herself, adding new information and interpretations to applications in efforts to either sway the approval or disapproval of an application. It's a unique "take" in the administration of the land use process in Sherwood.

Not only are some of the commission members new to the commission, but also some of the staff are new and inexperienced. Just because a staff member "declares" what the history of 1995 PUD is—does not mean that is the actual history. Planning Commission is being asked to rely on some staff writings that do not adequately detail the "history" of the applicant's PUD. I don't say that in an accusatory way, but merely as someone who has been in town since the beginning of the Langer PUD 95-1 and its various land use applications and iterations and have observed facts that have either been omitted, forgotten or changed to conform to the approval intent of whatever is the application at hand.

I have advanced education and experience in regional urban planning and development. For complicated applications such as what is now being proposed and has been proposed recently and currently under appeal with the City Council, I find it quite surprising that junior staff with limited background is being tasked with the complexities of the application. It also becomes problematic if staff becomes defensive if questioned on matters pertaining to the land use application(s).

In the last meeting of the Planning Commission, there was an outside attorney at the Planning Commission meeting who stated that she represented "the City of Sherwood", and yet she was replacing Josh Soper who works for the City Council. He's a licensed professional and has had to recuse himself from even the Urban Renewal Agency matters because of potential and/or actual conflicts of interest as we understand it.

I believe your procedure is seriously flawed in the broad dictates of the 14th Amendment of U.S. Constitution constraints and the Oregon Constitution that restrains biased and unfair public hearings. Without Josh Soper in the room, the stand-in replacement attorney advised the Commission that if the hearing was extended for seven days and the applicant made any remarks that were different than in the

record, you automatically had to reset the hearing record for another seven days so others have the opportunity to respond to those remarks. Your Planning Commission Chairperson has refused to apply that “new evidence” rule repeatedly. Either she is prejudiced by her ideas of whom she should listen to before she votes and/or she needs to take a serious set of classes in civil rights and property rights considerations in public hearings. Bear in mind U.S. Constitution on its first amendment, Fifth Amendment, and 14th amendment have extensive legal cases talking about the protection you have in the United States from government wrongful acts under those constitutional amendments. I appreciated the approach the stand-in attorney was counseling to the Commission.

Put another way, currently some in the town believe if you are not a friend of Keith Mays and/or following his prejudices or his “dictates” for that hearing, those citizens are considered a second-class participant in the land use planning process. Look how poorly the turn out is for public meetings and hearings. The Planning Commission members are free agents—not subject to listening solely to what other members of the Commission may be testifying to while an application is in process. Planning Commission members are supposed to be neutral observers. If bias creeps into the land use process for any of the Commission members, there is a process for recusal. As “judges” in a process, if you have bias, you must recuse yourself instead of taking a “can they prove my bias?” approach. And if a member has an open dislike for the applicant or any opponents they have no business sitting there because they have bias or conflicts of interest that precludes them being a judge with a vote in these public hearings.

Let me make some general observations.

Generally, is a rule of thumb in the suburban areas, industrial land is worth about five dollars a square foot. In order to find out the estimated value for a parcel of ground multiply the five dollars times 43,560 ft.². That is not advance math. It's simple arithmetic. One acre (43,560 sqft.) multiplied by \$5/sf = \$217,800 in value for the industrial acre.

As a simple example, the present Walmart site which was purchased for \$15 a square foot per acre of land was zoned light industrial. We do not know, and neither does the Planning Commission, who paid for the right-of-way of Langer Farms Pkwy and the construction of that road including the turnabout etc. but it appears for all practical purposes it was a combination of monies from the Urban Renewal Agency, Washington County MSTIP funds, and city street funds.

And understand in addition to paying \$15-\$25 per square foot for the land right-of-way, the road construction runs about \$1500 per linear foot to construct a collector Street.

The \$5/sq.ft industrial land zoned the Langer Family LLC sold to Wal-Mart roughly for \$15/sq.ft. – not an insignificant increase in value for the Wal-Mart 15 Acre Parcel. Generally, the price increase for the industrial land is \$10/sf for 15 acres of 43,560 sq.ft.per acre:

$$\$10/\text{sf increase} \times 43,560 \text{ sf} \times 15 \text{ acres} = \$6,534,000 \text{ increase received}$$

We now have a new Urban Renewal Agency district that is allowing for \$166.6 Million in indebtedness for 30 years. The old Urban Renewal Agency was supposed to remove the pollution from the cannery site and build a \$20 Million Performing Arts Center. Instead, monies went to enhance other projects like the Langer Farms Parkway infrastructure and development. We were to have an outstanding regional community art center, a cleaned-up cannery site and an enhanced central business district to revitalize historic Old Town. Instead, we encouraged a retail category killer like Wal-Mart to come to Sherwood. Our Historic Old Town businesses and district are still feeling the negative effects.

Further the Planning Commission is being asked to believe that a Langer LLC is a Langer LLC is a Langer LLC and any Langer LLC or Corporation should benefit from an expired development agreement that the Langer Family LLC and Clarence and Pam Langer and the City of Sherwood had several years ago so illegal zoning in a light industrial area can still obtain 27-year-old zoning uses. That's laughable. The implication is that this applicant has a corner on LLCs for the state of Oregon and that LLC ownership is not as complicated of subject of ownership of land as you can find in real property law. That's a glowing mistake to make. You need to get an attorney that is not Josh Soper, who works for the City Council, and

get an outside legal counsel find out of these are even the same applicants for this next massive bite at the apple Langers are attempting.

I don't know how to present the subject to this planning commission. The chairperson is constantly testifying on behalf of certain applicants and advocating for their project, that's my opinion and belief. She becomes animated in trying to explain the law that she has absolutely no legal background. Planning staff at times seems to be in the same position of practicing law and making legal interpretations.

Why do I mention that subject? Because Walmart is a category killer. They're proud of it and they love the fact that they are a mass merchandiser that has a profile of shoppers that is distinct, and clearly not the profile of the average citizen in Sherwood, that they service and service well with this attitude. And this particular profiler demographics was brought into Sherwood and even the police force admits they have to make extra trips there to monitor the activities at Walmart.

And now we have one of the worst cases I've ever seen a mix-and-match zoning.

We are going to match some kind of hotel, that has no frontage on the Pacific Highway, with a business commercial storage operation that is so large it is larger than the combined operations in the area, and we have little information about the impact of this from competent transportation engineers.

Now we have the applicant saying well they're not going to conflict with each other in their origin destination trips. They promise they are not going to double up on the available parking and I guess it's just a case of trust and believe me the sun will shine in the morning regardless. Then we have a 20-foot wall along Century Drive that is going to look like a fortress. We can and should do better than that—after all the town will be looking at the fortress for years to come if this application ultimately receives approval.

The enabling statute in the state of Oregon is very liberal on what is defined as a public use for urban renewal districts. But you still must promote and protect public health, safety, welfare and aesthetics but not the business interest of a special group over other groups under the dictates of our enabling statute. You are being asked to put together two zones, that in my opinion and belief, under their current structure are completely illegal.

The enabling statute does not anywhere say that a city has the right to restrict the rights of other property to land uses and then come back and grant non-permitted uses to a special applicant, were apparently has affiliations the rest of us don't.

Why am I writing this to you? Because I have never seen any individual, be accorded the favoritism in public hearings and in land use applications, even under our broad enabling statute in urban renewal statutory provisions without serious questioning of various acts that for the rest of us would be prescribed and frequently called illegal.

I am also objecting to the shortened time frame for the material submittals with an early 5 pm deadline. That is less than the full 7 days requested and granted. Please confirm that this information was received before the 5 pm deadline.

Sincerely,

Jim Claus

From: clausl@aol.com
To: [PlanningCommission](#)
Cc: [Joy Chang](#); [Erika Palmer](#); [Eric Rutledge](#)
Subject: LU 2022-012 SP, MM, CUP, LLA Langer Application Additional comments
Date: Tuesday, July 5, 2022 4:51:16 PM
Attachments: [We sent you safe versions of your files.msg](#)
[Galati_email RE - Question about road SDCs and reimbursement.pdf](#)

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Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

TO: Planning Commission Members
FR: Jim Claus
RE: LU 2022-012 SP, MM, CUP, LLA Langer Application

Additional comments

City employees enjoy very broad sovereign immunities and have wide and broad protections by the League of Cities City and County insurance program in the state of Oregon.

That should be kept in mind when reading documents such as the attached, because is it evident that staff and the mayor may be pushing this road infrastructure matter to litigation where interrogatory, deposition, and discovery is forced. Making false statements about infrastructure such as made in the enclosed documents can lead to charges that could be brought into court of law. The Planning Commission should understand clearly, much of what you are hearing is biased interpretation and potential political influence of someone(s) idea of who should have land use permits and who should not in the City of Sherwood. Worse than simply deciding who and who does not receive land use permits, and in a more serious category than possibly now known, there is the distinct possibility that the mayor has encourage staff to inflict certain development costs on his political opponents ("Throw the book at them") and use staff to endow political backers with substantial gifting of public money for the building of such as roads and infrastructure and purchase of the right-of-way.

Now caution would tell anyone to be careful treading such waters. Politicians and/or staff should not vicariously, with a "wink and a nod", or directly, take away the fundamental rights to due process and equal treatment for citizens. Citizens who may have been in Sherwood for two or three generations of families.

As an example, Who paid for Langer Parkway Road in the infrastructure improvements that went into an industrial area and transformed that area into a Retail Commercial shopping area? We really don't know. But it is a good guess that the money was taken out of the urban renewal funds that were to build the community art center and cleanup the pollution from the tannery in the first urban renewal grant, and other county and city street and infrastructre funds. A question like that is answered in deposition, interrogatory, discovery.

If you look at the enclosed letters, or memorandum from the Sherwood staff, in one case we must dedicate 50 feet of right-of-way and put in the center linear structure and "possibly, maybe" we will get a refund for the additional 14 feet and extra construction costs. On a road that is not wanted, needed or the responsibility of that land. But read the memorandum carefully from this individual who clearly has favorites in the city, and you will realize you don't know the full scope and extent of what is being suggested. And then read the other memorandums back and forth. They are the classic vague answers that can lead to entropy and chill potential activity on selected or targeted properties. Why? Because a landowner or aggrieved party would have to spend between \$50,000 and \$150,000 at a minimum on attorney's fees, engineers, surveyors, environmental studies etc. before an applicant can come into a meeting and have an infrastructure question finalized such as "who will pay for Cedar Brook way" a city designated road.

Why do I bring that up in a Langer hearing? Well, it's simple- our piece of property we've been talking about has two deeded exit and entrances to 99W and it has a third easement that is a separate parcel property that has the clear language of okaying or rejecting a frontage road, such as the city engineer's purported Cedar Brook Way road, that has been developed at the demands of the city engineer. Multiple reasons are suggested. It is hard to believe that any competent urban land use planner with any economic training could try to create obstacles in the development of the road back into itself along these Highway properties between Meinecke Road and Sunset Blvd. Unbiased commissioners and council members could guess at least one reason for the obstacle(s).

What is the obvious reason for wanting to create restraints against alienation and create obstacles to the development of this highly valuable property as zoned with confused public infrastructure? Even Washington County's assessor's office with their mass appraisal techniques cannot deal with local municipality infrastructure confusion. Their appraisals were made under the assumption that you didn't have a city engineer attempting to engineer obstacles to development by both cutting the size of the parcels and their availability and inflicting devastating costs on these properties to build. Again, staff has responsibilities to clarify infrastructure requests and not tie up significant portions of valuable property in Sherwood while other properties are allowed to develop.

Clearly, beyond a shadow the doubt, the left hand doesn't know what the right hand is doing. In the end, in my opinion and belief, it should not be a forceful politician or staff "engineering" infrastructure obstacles or restraints on trade or alienation of property to favor some properties to develop while others are restrained.

Again, I am objecting to the 5 pm deadline today for these comments.

Sincerely, Jim Claus

From: GalatiB@SherwoodOregon.gov,

To: clausssl@aol.com, HajdukJ@SherwoodOregon.gov,

Cc: AbdillK@SherwoodOregon.gov, ChristensenC@SherwoodOregon.gov,

Subject: RE: Question about road SDCs and reimbursement

Date: Fri, Sep 17, 2021 11:46 am

Attachments:

Susan,

Karen forwarded your request on to me for SDC/TDT credits eligibility information. I've tried to provide you with the information that would answer your inquiry. Please let me know if you have any specific questions about this information.

City of Sherwood System Development Charges (SDCs) and related credits are predicated on Chapter 15.16 – System Development Charges of the City's Municipal Code. Applicable Credit requirements are listed in Section 15.16.100 of Chapter 15.16. The specific language of the MC section is shown below for your reference.

15.16.100 - Credits

A. Credit may be applied to the system development charge to the extent that prior structures or uses existed, city services were established to those structures or uses, and said structures or uses had previously paid the applicable system development charge in effect at the time the structure or use was established. Except as provided in subsection F of this section, credits may not exceed the calculated system development charge. Refunds may not be made on account of such excess credit.

B. Credit shall be given for the cost of a qualified public improvement, as defined by [Section 15.16.040](#) of this chapter. Except for transportation improvements, if a qualified public improvement is located partially on and partially off the parcel or parcels that are the subject of the development approval, the credit shall be given only for the cost of the portion of the improvement not located on or wholly contiguous to the property. For transportation improvements, credit may also be given for the cost of the portion of the improvement located on or contiguous to the property. The terms of this subsection may be modified by the authorizing resolution described in [Section 15.16.050](#) of this chapter to the extent that credit provisions are made less restrictive.

C. The credit provided for by this section shall be only for the improvement charges for the type of improvement being constructed and, except as provided in subsection B of this section, shall not exceed the improvement charge even if the cost of the capital improvement exceeds the applicable improvement charge. Credits shall not be provided for reimbursement charges.

D. The qualified public improvement must be designed and constructed to provide additional capacity to meet projected future capacity needs created by the development. Improvements that address capacity deficiencies existing at the time of development are not eligible for credit. In the case of improvements addressing both future and existing capacity needs, only that portion providing future capacity is eligible for credit. The terms of this subsection may be modified by the authorizing resolution described in [Section 15.16.050](#) of this chapter to the extent that credit provisions may be made less restrictive.

E. The city manager must determine that the timing, location, design, and scope of the proposed improvement is consistent with and furthers the objectives of the capital improvement programs of the city. The city manager may use priorities established by the city council in the city's capital improvement plan, the information contained in the city's comprehensive plan and various public facility master plans, the advice of the city's engineering, public works, and planning staff, and other relevant information and data in making this determination. The city manager must also determine

that the improvement is required to fulfill a condition of development approval issued by the city and is included in the city's adopted public facility plans.

F. Except as provided in this subsection, excess credit may not be transferred from one development to another.

1. In the case of a multi-phased development, excess credit generated in one phase may be used to offset applicable system development charges in subsequent phases.
2. Upon written application to the city manager, excess credits may be reapportioned from one lot or parcel to another lot or parcel within the confines of the property originally eligible for the credit. The reapportionment shall be noted on the original credit form retained by the city.
3. Upon written application to the city manager, excess credits may be transferred to another lot or parcel that is adjacent to and served by the transportation facility that generated the credits.

G. Credit may not be transferred from one of the types of capital improvements defined by [Section 15.16.040](#) of this chapter and authorized by a resolution, to another type of capital improvement authorized by a different resolution.

H. All credit requests must be in writing and filed with the city manager no more than ninety (90) days after acceptance by the city of the qualified public improvement. Improvement acceptance shall be in accordance with the practices, procedures and standards of the city. At the time the city accepts the qualified public improvement, the city shall provide written notice to the person making the improvement that the improvement may qualify for credit under this section. The notice shall state that a credit request must be filed within 90 days of the date of acceptance.

I. The amount of any credit shall be determined by the city manager and based upon the subject improvement's construction contract documents, or other appropriate information provided by the applicant, and verified and accepted by the city. Notwithstanding the contract amount, the credit may not exceed prevailing market rates for similar projects, as determined by the city.

J. In the case of rights-of-way, easements, or other land associated with the improvement, value shall be established by sales documents, formal appraisal provided at the developers cost, by county assessors records, or some other method deemed acceptable to the city. Notwithstanding actual sales price, the credit may not exceed prevailing market rates for similar projects, as determined by the city.

K. Credit shall be provided to the applicant on a form provided by the city. The original of the credit form shall be retained by the city. The credit shall state a dollar amount that may be applied against any applicable system development charge imposed against the subject property. Excess credit may not be redeemed for cash or a cash-equivalent.

L. All requests for redemption of credits must be submitted not later than the issuance of a building permit or, if deferral was permitted pursuant to [Section 15.16.090](#) of this chapter, issuance of an occupancy permit. The permittee is solely responsible for presentation to the city of any credit redemption request and no credit redemption request shall be accepted after issuance of a building permit or, if deferral was granted, issuance of an occupancy permit. In no event is a subject property entitled to redeem credits in excess of the system development charges imposed.

M. Credits shall not be allowed more than seven years after the acceptance of the applicable improvement by the city. Extensions of this deadline may not be granted.

N. Upon annexation of affected parcels of land, credits previously issued by Washington County will be honored by the city.

In particular, Sub-Sections D., I. and J. appear to be the focus of your question for City SDC credits. However, to try and answer your question with specificity cannot be accomplish as the value of the public improvement construction cost is not known. The same can be said regarding the value of any land that was dedicated to the City as right-of-way.

What I can say is that the value of any credit eligible constructed or dedicated improvements can meet or exceed the amount of any individual SDC fee assessment, implied by Sub-Section K. The regulations allow the retainage of the

excess credits as noted on Sub-Section L.

So the best answer I can provide you with relation to City SDC credits issued under Section 15.16.100, is that a portion or all of a particular City SDC fee can be offset based on the construction or dedication value of eligible public improvements for which a Credit Voucher is issued.

City Parks SDC Municipal Code Language

City Parks System Development Charges (SDCs) are dealt with in a separate section of Chapter 15, specifically Chapter 15.20 – Parks and Recreation System Development Charges on New Development.

Within this Chapter, Subsection 15.20.060 – SDC Credits provides the specific information relative to your inquiry.

15.20.060 - SDC Credits

A. The city shall grant a credit against the parks and recreation SDC, which is otherwise assessed for a new development, for any qualified public improvement(s) constructed or dedicated as part of that new development. The applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Credit and to a particular value of SDC credit.

B. To obtain an SDC credit, the applicant must specifically request a credit prior to the city's issuance of a building permit for the new development. In the request, the applicant must identify the improvement(s) for which credit is sought and explain how the improvement(s) meet the requirements for a qualified public improvement. The applicant shall also document, with credible evidence, the value of the improvement(s) for which credit is sought. If, in the administrator's opinion, the improvement(s) is a qualified public improvement, and the administrator concurs with the proposed value of the improvement(s), and SDC credit shall be granted. The value of the SDC credits under this section shall be determined by the administrator based on the cost of the qualified public improvement, or the value of land dedicated, as follows:

- 1. For dedicated lands, the value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction;*
- 2. For improvements yet to be constructed, value shall be based upon the anticipated cost of construction. Any such cost estimates shall be certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC credit is sought;*
- 3. For improvements already constructed, value shall be based on the actual cost of construction as verified by receipts submitted by the applicant;*
- 4. For all improvements for which credit is sought, only the fraction of over-capacity in the improvement is eligible for SDC credit.*

C. The administrator will respond to the applicant's request in writing within twenty-one (21) days of when the request is submitted. The administrator shall provide a written explanation of the decision on the SDC credit request.

D. If the applicant disputes the administrator's decision with regard to an SDC credit request, including the amount of the credit, the applicant may seek an alternative SDC credit calculation under [Section 15.20.070](#) Any request for an alternative SDC credit calculation must be filed with the administrator in writing within ten calendar days of the written decision on the initial credit request.

E. Where the amount of an SDC credit approved by the administrator under this section exceeds the amount of the parks and recreation SDC assessed by the city upon a new development, the excess credit may be applied against parks and recreation SDC's that accrue in subsequent phases of the original development project. Any excess credit must be used not later than ten years from the date the credit is given. (01-1118. § 6)

Washington County Transportation Development Tax

The following information is taken for the Washington County TDT Procedures Manual, which provides the guidance on valuation of TDT eligible credits.

3. Credits Option

A development applicant may hold TDT credits received for constructing eligible transportation improvements. A detailed explanation of the credit provisions is provided in Section IV of this Procedures Manual. If Credits are granted, developers are issued credit vouchers in a specific dollar amount. These credit vouchers must be submitted no later than the time of issuance of a Washington building permit, or if deferred, at the time of occupancy permit, for payment of the TDT obligation. This section discusses the procedures used to process credits used to satisfy payment of the TDT.

3.17.080 Credit Application and Administration. H. Any credit must be redeemed not later than the issuance of the building permit or, if deferral was permitted pursuant to Section 3.17.060, issuance of the occupancy permit. The applicant is responsible for presentation of any credit prior to issuance of the building or occupancy permit. Except as provided in Section 3.17.110, under no circumstances shall any credit redemption be considered after issuance of a building permit or, if deferral was granted, issuance of an occupancy permit.

a. The applicant for a building permit is required to submit a copy of the credit voucher. If TDT has been deferred to occupancy, the credit voucher must be submitted prior to occupancy. The applicant is responsible for timely presentation of any credit, and no credit shall be considered after issuance of a building permit or, if deferral was granted, issuance of an occupancy permit. Note: While it is the applicant's responsibility to submit the credit voucher, the jurisdiction will normally keep track of available credit vouchers.

b. However, according to the program's refund policies (Section III.D), a refund shall be granted because of failure to claim a credit at the time of building permit issuance or building occupancy if the request is made in writing within 30 days of payment.

3.17.110 Refunds. Refunds of the TDT may be made upon initiation of the Director, or upon written application filed with the Director. Refunds shall be allowed upon a finding by the Director that there was clerical error in the calculation of the TDT. Refunds shall be allowed for failure to redeem a credit voucher or offset, provided the claim for refund is in writing and actually received by the appropriate jurisdiction within thirty days of the date of issuance of the building permit, or occupancy permit if deferral was granted. No refund shall be granted for any reason other than those expressly provided for herein.

c. Submittal of a valid credit voucher shall be considered payment of the TDT in the amount of the credit. The rate assessed to a building permit is the rate in effect at the time the credit voucher is submitted. d. The amount of the TDT paid through credits is subtracted from the outstanding credit balance and noted on the jurisdiction's master credit form. Note: No refund is allowed for TDT credit vouchers that exceed the TDT obligation. e. Credits expire ten years after issuance. No extension of this deadline shall be granted. f. Upon annexation, credits previously issued by the County shall be honored by the jurisdiction collecting the tax, provided that the credit voucher is redeemed in accordance with the rules listed above.

IV. TDT CREDIT ELIGIBILITY PROCEDURES

INTRODUCTION

This section describes the Transportation Development Tax (TDT) credit procedures. These procedures are utilized for determining whether an improvement project constructed by a developer may be eligible for credit, and if so how much credit. The information is provided to assist jurisdictions in implementing the credit provisions of the TDT and has largely been abstracted from the countywide TDT Ordinance as adopted in the Washington County Code. IV.A. GENERAL CREDIT PROVISIONS The Transportation Development Tax (TDT) program provides opportunities for a developer to construct capacity or safety improvements to eligible transportation facilities and receive credit for those costs. Credits may be redeemed against the amount of the TDT otherwise due for that development. To receive a credit, an applicant must submit a request for TDT credit when it completes an improvement. Staff reviews the request in order to assure that the project meets eligibility requirements and that the actual construction costs incurred are reasonable. If all criteria are met,

the jurisdiction will issue credits for the applicable properties. Credits are valid for ten years from the date of issuance, and are attached to specific property unless transferred, as allowed. Developers of the subject properties may submit credit vouchers in lieu of payment of the TDT.

The following provisions apply to any credit application:

3.17.070 Credit. An applicant for a building permit, or occupancy permit if deferral has been granted, shall be entitled to a credit against the tax for constructing eligible capital improvements as defined in this section. Credit eligibility shall be determined by the Director.

A. A transportation capital improvement constructed on a public road or transit facility, and accepted by the jurisdiction operating the facility, is eligible for credit provided it meets all the following criteria, and the requirements of either 3.17.070(B) or (C):

1. The Director determines that the timing, location, design and scope of the improvement is consistent with and furthers the objectives of the capital improvement program of the jurisdiction issuing the credit. 2. The improvement is required to fulfill a condition of development approval issued by the jurisdiction with land use decision making authority.

3. The improvement must provide additional capacity to meet future transportation needs, or be constructed to address an existing safety hazard. Improvements to mitigate a safety hazard created primarily by the development are not eligible.

4. Improvements which primarily function as access to a private street, driveway or development parcel are not eligible.

5. The applicant shall have the burden of demonstrating in its application for credit that a particular improvement qualifies for credit.

6. Improvements, including travel lanes and bike lanes, must be at ultimate alignment, line and grade. 7. New roads are eligible projects as long as they meet the remaining project eligibility criteria. An existing dirt or gravel road is deemed new if its daily traffic volume is below two hundred vehicles per day.

8. Bike lanes are eligible if required pursuant to applicable street or road standards.

9. No credit shall be granted for utility relocation except for that portion which otherwise would have been the legal obligation of the jurisdiction pursuant to a franchise, easement or similar relationship.

10. No credit shall be granted for minor realignments not designated on the comprehensive plan.

11. No more than 13.5 percent of the total eligible construction cost shall be creditable for survey, engineering, and inspection.

12. No credits shall be granted for storm sewer improvements that are also eligible for storm water SDC credits.

Several important highlights to these general provisions:

- The improvement must be required to fulfill a condition of the development approval.
- The improvement must add transportation capacity to the public road or transit system or mitigate an EXISTING safety hazard. Improvements to mitigate a safety hazard created by the development are not eligible.
- An improvement that primarily functions as a private access is not eligible.

An improvement is only eligible for credit if all the general provisions are met. If a portion of the improvement meets the general provisions, only that portion of the improvement is eligible.

As with the City's SDC Credit eligibility, to try and answer your question with specificity cannot be accomplish as the value of the public improvement construction cost is not known. The same can be said regarding the value of any land that was

dedicated to the City as right-of-way.

So the best answer I can provide you with relation to WACO TDT credits issued under Section 3.17.070, is that a portion or all of the WACO TDT fee can be offset based on the construction or dedication value of eligible public improvements for which a Credit Voucher is issued.

Bob Galati, PE

City Engineer

From: Karen Abdill <AbdillK@SherwoodOregon.gov>
Sent: Thursday, September 16, 2021 8:30 AM
To: Susan Claus <clausl@aol.com>
Cc: Craig Christensen <ChristensenC@SherwoodOregon.gov>; Bob Galati <GalatiB@SherwoodOregon.gov>
Subject: RE: Question about road SDCs and reimbursement

Hi Susan. While we in the Building Department collect the SDC fees when we issue new home permits; those fees and credits are all calculated by our Engineering Department.

I'm copying Craig and Bob from Engineering on this message. They will be the department to answer your questions.

Take care,

Karen

Karen Abdill

Lead Building Permit Specialist

City of Sherwood

503-625-4226



Home of the Tuolumne River National Wildlife Refuge

From: clausssl@aol.com <clausssl@aol.com>
Sent: Wednesday, September 15, 2021 6:02 PM
To: Karen Abdill <AbdillK@SherwoodOregon.gov>
Subject: Re: Question about road SDCs and reimbursement

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you are expecting this email and/or know the content is safe.

Hi Karen--

I have a couple questions about SDCs and the city's reimbursement process.

How much per residential lot would there be for reimbursement on any road improvement that meets the city's criteria for reimbursement? Estimated from 1700 sq.ft. house, 3 bed, 2.5 baths with two car garages.

What is that process to apply for and receive the reimbursement?

The example I am wondering about would be the 27 residential lots in the back of our property if Cedar Creek Way was extended. What SDC categories could apply toward the reimbursement: county TDT, city collector road SDC, etc.

If there were apartments, how much road SDC per unit estimated?

Thank you for your help.

-- Susan



1120 NW Couch Street
10th Floor
Portland, OR 97209-4128

+1.503.727.2000
+1.503.727.2222
PerkinsCoie.com

July 5, 2022

Seth J. King
SKing@perkinscoie.com
D. +1.503.727.2024
F. +1.503.346.2024

VIA ELECTRONIC MAIL TO RUTLEDGEE@SHERWOODOREGON.GOV

Chair Jean Simson
City of Sherwood Planning Commission
c/o Community Development Department
22560 SW Pine St
Sherwood, OR 97140

**Re: Chestnut Inn and Parkway Village South Self Storage Land Use Applications
City of Sherwood Case File LU 2022-012-SP/MM/CUP/PLA
Applicant's First Open Record Period Submittal**

Chair Simson and Members of the Planning Commission:

This office represents the Langer family regarding the land use applications to develop the Chestnut Inn and Parkway Village South Self-Storage (City of Sherwood Case File LU 2022-012-SP/MM/CUP/PLA) ("Application"), which is pending before the City of Sherwood ("City") Planning Commission. This letter constitutes the first open record submittal by the applicant and responds to opposition testimony presented by Jim Claus in his letter dated June 27, 2022. For the reasons explained below, the contentions raised by Mr. Claus lack merit. Further, the Planning Commission recently denied nearly identical contentions raised by Mr. Claus when the Planning Commission approved the Sentinel Storage II Site Plan Modification application (City Case File LU 2022-004 MM). There is no legal basis to reach a different conclusion in this proceeding. Therefore, the Planning Commission should deny Mr. Claus' contentions and approve the Application.

- I. **Applicant's Response: Mr. Claus' contentions misconstrue the law and facts.**
 - A. **The Development Agreement does not modify the vesting provisions of ORS 92.040.**

When a city approves a subdivision for land inside an urban growth boundary, the city's laws in effect at the of subdivision application govern development on the land "unless the applicant elects otherwise." ORS 92.040(2). The City may establish a time period

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not to exceed 10 years for how long vesting under the subdivision lasts. ORS 92.040(3). The subject property is located inside the UGB, and the Langers submitted an application to subdivide it in 2012, which the City ultimately approved. In conjunction with the subdivision, the Langers did not elect for the City to apply different standards to development of the property. Therefore, the standards in effect at the time of the 2012 application, which included the standards applicable through the Amended and Restated Development Agreement among the City and Langers (“Development Agreement”), govern development on the property for a 10-year period of time ending in 2022. That is the beginning and the end of the analysis required under ORS 92.040(2) and (3) in this case.

Mr. Claus mistakenly contends that when the Development Agreement expired in 2017, the standards vested under ORS 92.040 also expired. None of the provisions of the Development Agreement expressly or by implication indicate that the Langers waived any rights they had under ORS 92.040 when they entered the Development Agreement.

Likewise, in the absence of any express provisions that the use election under the local code provision memorialized in the Development Agreement constituted an election of standards under ORS 92.040, there is no reasonable argument that the City intended the Development Agreement to shorten the 10-year vesting period under ORS 92.040(3).

Finally, the plain text of ORS 92.040 does not provide that the vesting period under the statute is modified based upon an earlier development agreement.

For all of these reasons, the Planning Commission should deny Mr. Claus’ contention on this issue.

B. Mr. Claus’ hypothetical development scenario is distinguishable from the present case.

Additionally, the Planning Commission need not worry itself with the hypothetical scenario identified in Section 2 of Mr. Claus’ letter because the Planning Commission’s task is to decide about the actual Application, not a hypothetical one. Moreover, Mr. Claus’ hypothetical scenario involved a development agreement with no expiration date. It is undisputed that the Development Agreement in the present case had an

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expiration date. Therefore, the far-fetched scenario Mr. Claus outlines could not happen with this development.

C. Mr. Claus misapplies the *Group B* decision.

Correctly construed, the Land Use Board of Appeals (“LUBA”) stated in *Group B, LLC v. City of Corvallis*, ___ Or LUBA ___ (LUBA No. 2015-019, August 25, 2015) that, even if specific development is not approved at the time of subdivision, if a local government approves a lot size and configuration in that subdivision decision that is premised upon a particular type or location of future development, the local government is precluded by ORS 92.040(2) from applying different or conflicting standards to that future development. *Id.* For the Langer Farms Subdivision, the City approved a lot size and configuration that was premised upon the Langers developing uses that were permitted under the base zone at the time of final approval of the Langer Planned Unit Development. See p. 9 of the decision for City File No. SUB 12-02 (Langer Farms Subdivision) addressing use issues. Accordingly, the City is barred for a 10-year period from applying different or conflicting standards to the Langers’ future development of the property, which would include new use standards that would prohibit uses allowed under the base zone at the time of final approval of the Langer Farms Planned Unit Development. For these reasons, the Planning Commission should deny Mr. Claus’ contentions regarding the *Group B* decision.

D. Contrary to Mr. Claus’ contention, the 2017 subdivision of the subject property did not disrupt the vesting granted by the 2012 subdivision.

In the 2017 subdivision/site plan decision for the subject property, the Planning Commission adopted findings stating that: (1) the 2012 decision vested the standards at the time of application for 10 years; and (2) pursuant to that vesting, uses allowed on the subject property in 2012 would still be permitted after the 2017 subdivision. See pp. 2, 17, 18 of Notice of Decision for City Case File SP 17-01/SUB 17-03 (submitted by Mr. Claus into the record). These findings, which the Langers have relied upon in developing their investment-backed expectations for the subject property, provide the framework for analyzing the current Application. Further, the 2017 subdivision/site plan decision was not timely appealed and is now final. Challenging the findings of that decision in the present case would be an impermissible collateral attack on the 2017 decision. *Sahagian v. Columbia County*, 27 Or LUBA 341, 344 (1994) (arguments that challenge an

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unappealed prior decision are a collateral attack on that earlier unappealed decision). In short, the City has already determined that, notwithstanding the 2017 subdivision, the vesting of standards under the 2012 subdivision remains in effect, and that determination cannot be challenged in the present case.

II. Conclusion.

For all of these reasons, the Planning Commission should deny the contentions raised by Mr. Claus and approve the Application.

We have asked City staff to place a copy of this letter in the official record for this matter and to place a copy before you. Please consider it before making your decision on the Application. The Langers reserve the right to submit additional argument and evidence in accordance with ORS 197.797 and the open record schedule established by the Planning Commission.

Thank you for your consideration of this request.

Very truly yours,



Seth J. King

cc: Eric Rutledge (via email)
Carrie Richter (via email)
Matt Langer (via email)
AKS Engineering & Forestry (via email)



1120 NW Couch Street
10th Floor
Portland, OR 97209-4128

+1.503.727.2000
+1.503.727.2222
PerkinsCoie.com

July 12, 2022

Seth J. King
SKing@perkinscoie.com
D. +1.503.727.2024
F. +1.503.346.2024

VIA ELECTRONIC MAIL TO RUTLEDGEE@SHERWOODOREGON.GOV

Chair Jean Simson
City of Sherwood Planning Commission
c/o Community Development Department
22560 SW Pine St
Sherwood, OR 97140

**Re: Chestnut Inn and Parkway Village South Self Storage Land Use Applications
City of Sherwood Case File LU 2022-012-SP/MM/CUP/PLA
Applicant's Second Open Record Period Submittal**

Chair Simson and Members of the Planning Commission:

This office represents the Langer family regarding the land use applications to develop the Chestnut Inn and Parkway Village South Self-Storage (City of Sherwood Case File LU 2022-012-SP/MM/CUP/PLA) ("Application"), which is pending before the City of Sherwood ("City") Planning Commission. This letter constitutes the second open record submittal by the applicant and responds to opposition testimony received from Jim and Susan Claus during the first open record period. For the reasons explained below, the contentions raised by Mr. and Mrs. Claus lack merit. Therefore, the Planning Commission should deny their contentions and approve the Application.

I. Applicant's Responses

A. The use elections reflected in the Application are consistent with ORS 92.040.

As explained in the Langers' first open record period submittal and as previously found by the Planning Commission, pursuant to ORS 92.040, the standards in effect at the time of the 2012 subdivision govern development on the property for a 10-year period of time ending in 2022, "unless the applicant elects otherwise." For one lot, the Langers have "elected otherwise" because they have submitted an application for a hotel use, which would not have been allowed on the property in 2012. Although Mr. and Mrs.

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Claus contend that the election is improper, they do not identify any legal authority that supports their position. Moreover, the hotel use is being reviewed pursuant to a noticed public process, and for the reasons stated in the staff report, it may be approved based upon compliance with applicable conditional use permit criteria. Finally, although the Langers did not elect to apply the post-2012 use standards to the storage facility, that development is on a separate lot, and for that matter, is the subject of a different application that was only included with the hotel conditional use permit for processing convenience.

B. There is no basis to deny the Application on the grounds that it will not generate adequate jobs.

For four reasons, the Planning Commission should deny Mr. Claus' contention that the Langers have not demonstrated that development pursuant to the Application will create "living wage jobs."

First, the plain language of the provision in question (Comprehensive Plan Economic Goal #1) demonstrates that it is a policy directive to the City and does not apply to any specific development application:

"Accelerate the growth of local businesses and attract new businesses that balance the City's tax base, provide stable, high-wage jobs and capitalize on Sherwood's location and enhance the high-quality of life."

In other words, it is not an approval standard for the Application. *Angel v. City of Portland*, 21 Or LUBA 1, 13-14 (1991). Therefore, non-compliance with Goal 1 is not a basis to deny or condition the Application.

Second, even to the extent it applies to the development, it only applies through the conditional use permit criteria in ZCDC 16.82.020.C.3. As a result, it only applies to the hotel, not to the storage facility (because the latter is not part of the conditional use permit application).

Third, the Langers adequately explain in the Application narrative how development of the hotel would bring a new business to the City, would generate a variety of employment opportunities, and would support the local economy. This explanation is

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sufficient on its face to demonstrate consistency with the broadly-stated Goal 1, which calls for furthering a variety of economic and quality-of-life benefits. Mr. Claus does not acknowledge the Langers' explanation, let alone rebut it.

Fourth, and in the alternative, even if the Planning Commission determined that the Langers did not adequately demonstrate consistency with Goal 1, the Planning Commission should still find that, on balance, the Application is consistent with the City's acknowledged comprehensive plan, which would be sufficient to satisfy ZCDC 16.82.020.C.3. *See, e.g., Waker Associates, Inc. v. Clackamas County*, 111 Or App 189, 826 P2d 20 (1992) (balancing of plan goals is a decisional necessity when determining consistency with local government comprehensive plan).

C. The Planning Commission should deny Mr. Claus' procedural objections.

First, the timing of the open record periods established by the Planning Commission are adequate. Although Mr. Claus contends that he should have had a few additional hours to submit written testimony at the close of the first open record period, the Planning Commission held the record open for seven days as required by ORS 197.797(6)(c). Further, that seven-day period provided an adequate opportunity for Mr. and Mrs. Claus to submit additional testimony. In fact, during those seven days, they submitted five different submittals (some with exhibits) comprising dozens of pages of new material—all this in addition to submitting hundreds of pages of material before the first hearing and testifying in person at the public hearing. In short, the Planning Commission's open record schedule is consistent with the statute and did not cause prejudice to any party in this case.

Second, contrary to the Claus' contentions, the City adequately and completely identified the approval criteria applicable to the Application throughout the staff report and at the public hearing in this matter. Further, the Claus' extensive and wide-ranging testimony in this matter reflects that they recognize which criteria apply to the Application. Accordingly, the Planning Commission should deny the Claus' contentions on this issue.

Third, Mr. Claus has not presented any credible evidence that the members of the Planning Commission are biased in this matter. Rather, the process to date demonstrates that the Planning Commission has reviewed the Application for

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compliance with applicable criteria solely based upon the arguments and evidence in the record.

D. The Planning Commission should deny Mr. Claus' remaining contentions.

Mr. Claus' remaining contentions lack merit. For example, although Mr. Claus expresses concerns about the project transportation analysis, parking, and design, his concerns are not adequately developed to provide a basis to deny the Application or even to warrant a focused response.

Additionally, his grievances against the City's Urban Renewal Agency and Walmart and concerns regarding the construction of Langer Farms Parkway are not relevant to the current matter before the Planning Commission and therefore are misplaced. They do not provide a basis to approve, deny, or condition the Application.

II. Conclusion.

For all of these reasons, the Planning Commission should deny the contentions raised by Mr. and Mrs. Claus and approve the Application.

We have asked City staff to place a copy of this letter in the official record for this matter and to place a copy before you. Please consider it before making your decision on the Application. Finally, Applicant agrees to waive its right under ORS 197.797(6)(e) for an additional seven-day period to submit final written argument in support of the Application. Thank you for your consideration of this request.

Very truly yours,



Seth J. King

cc: Eric Rutledge (via email); Carrie Richter (via email); Matt Langer (via email);
AKS Engineering & Forestry (via email)

Family entertainment complex slated for fall opening in Sherwood

By: Ray Pitz, Sherwood Gazette

May 16, 2019

The 54,000-square-foot complex will include bowling, laser tag, a rock wall and ropes as well as a future go-cart track.



[TIMES PHOTO: JAIME VALDEZ - Matt Langer, who is the spokesman for many of his familys property ventures, is excited about the progress of the familys new entertainment complex: Langer's: Since 1879. Plans are to open the complex, which will feature bowling, laser tag, a rock climbing wall and ropes course in the fall. An adjacent go-cart track is planned for the future.](#)

To say Matt Langer is excited about creating what he believes will become a regional destination family fun center along Langer Farms Parkway in Sherwood is an understatement.

A long-time Sherwood resident — whose family roots date back 140 years — Langer recently described his plans for creating a \$30 million, 54,000-square-foot project that will go by the family name and its ties to the Sherwood area: "Langer's: Since 1879."

"I've been designing this for over 10 years, mostly working with my wife (Nikki) and planning this thing out," Langer explained during a recent on-site interview inside the site's construction trailer, just south of the Walmart Superstore, built on family property and opened in 2014. "We wanted to create a space where family and friends of all ages can gather and spend quality time together and at the same time, create a unique place for Oregon to celebrate the history and the beauty of the great Pacific Northwest."

When it opens sometime in the fall, the entertainment complex will contain a three-story rock-climbing wall and accompanying ropes course along with a 22-lane bowling alley, a sports bar

and restaurant with 24 beer taps, a two-story Pacific Northwest-themed laser tag facility and more.

Then, in another year, construction will begin on an adjacent 40,000-square-foot covered track designed for high-speed, electric go-carts.



[TIMES PHOTO: JAIME VALDEZ - Matt Langer shows where activities in his familys new entertainment complex, Langers: Since 1879, will go during a recent tour of the facility. Along with numerous activities will be a Thunder Mountain-ish ticket cabin containing a live-action water wheel.](#)

The motif in the facility pay homage to Oregon and the timber industry, as well as to Sherwood itself. The entire bowling area — which includes four private lanes — will commemorate Sherwood's early glory days when a cannery and brick factory dominated the landscape.

Pence Construction is the general contractor for the project, which sits on a total of 15 acres of property owned by the Langer family. When all is said and done, the adjacent property will contain five more retail buildings, said Langer, a former member of the Sherwood City Council.

No expense has been spared to make the facility look attractive and the exterior will include one-inch-thick cedar skirl siding that accentuates the 57-foot-tall building.

Every Tuesday, Langer meets with his construction supervisors to go over the minutest details of his creation.

"That's the fun of it," he said.

The entertainment complex also will include a three-story "soft play" area for younger children, complete with both a one-story-tall spiral slide and a straight racing slide.

"I've done the racing slide," Langer said. "It's pretty fast."



COURTESY OF MATT LANGER - A new entertainment complex, Langers: Since 1879, is expected to open in the fall on Langer Farms Parkway in Sherwood.

Food fare in the facility will include pizza along with burgers and fries, he said.

Throughout the course of designing the center, Langer did his homework, chatting with owners of family entertainment center throughout the United States during annual conferences and conventions.

"From all those years of conversations with veterans in the industry, we just cherry-picked the best stuff we thought would be appropriate and bring fun and experiences to Sherwood," he said, noting that a decade of research has made a difference. "Having put this together in a year or two, it would be totally different."

The original family homestead is in back of the rising entertainment center, where a lone American chestnut tree that's estimated to be more than 100 years old marks the old homestead. Originally planning to take down the chestnut tree, Langer said it will remain standing with hopes of someday using it as part of a future park or green space.

Other highlights of the center include:

□ **A Thunder Mountain-ish cabin built by a firm out of Southern California that does work for Walt Disney Co., something he found during a Global Association for the Attractions Industry convention.**



COURTESY OF MATT LANGER - A Thunder Mountain-ish cabin complete with a water wheel built by a firm out of Southern California that does work for Walt Disney Co. will be one of the visual highlights of the new center.

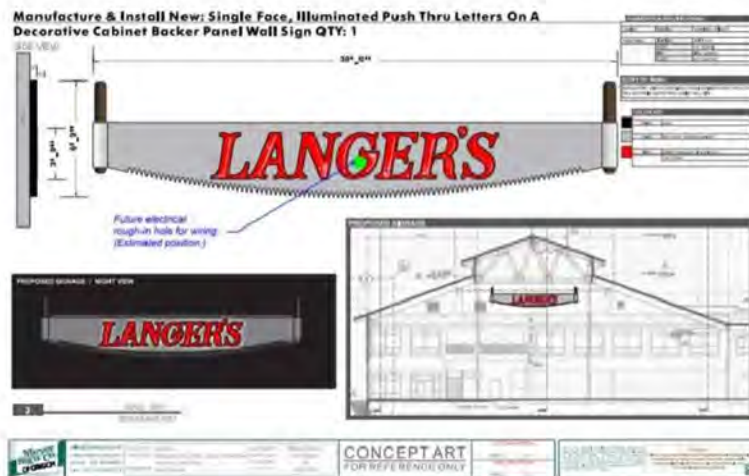
"It's two (stories) with a live-action water wheel," he said. "When you walk in the front door, that's what you'll see, there's the ticket booth cabin but it also has a party room up above it that will mainly be used most of the time as a quiet place for parents who want to get away with maybe the tiniest ones."

A coffee shop will be inside the cabin as well.

□ **nA three-story ropes course that goes up 56 feet. On every column that looks like a tree, there's a platform. To replicate the indoor fir trees, Langer had 20-foot-tall steel columns wrapped in synthetic "bark" that is so realistic-looking that a woodpecker**

pecked a hole through the top of an outdoor prototype model.

- An American-Ninja-Warrior-type obstacle course.
- An upper floor that includes a glassed-in area for parents with another bar and vintage arcade along with pool and darts.
- An eight-foot diameter gas-fed fireplace along with a giant black metal chimney suspended to the ceiling and its 40-foot-long, glued and laminated wooden beams by huge logger chains.



[COURTESY OF MATT LANGER - The name of the new Sherwood entertainment complex will highlight not only Oregon history but will highlight the farming/ranching activities the Langer family has been involved with since 1879.](#)



All around the fireplace will be 24 seats made of log rounds from Langer's ranch, along with soft seating as well. A sequoia redwood tree struck by lightning on the family property not long ago is being turned into bar tops and countertops made by local wood maker Terry Bowman.

LU 2022-012 SP / MM / CUP / PLA Chestnut Inn and Parkway Village South Self-Storage

Project ID:
LU 2022-012 SP / MM / CUP / PLA
Chestnut Inn and Parkway Village
South Self-Storage
Project Type: Land Use

Project Status: Under Review

21650 SW Langer Farms
Parkway
Sherwood, OR 97140
See map: [Google Maps](#)

Proposal: The applicant is proposing a new 100-room hotel and 690-unit self-storage building on Lots 1 and 2 of Parkway Village South. The Parkway Village South campus is zoned Light-Industrial Planned Unit Development (LI-PUD) and currently contains existing improvements (on Lots 3, 4, and 5) that were reviewed and approved through City of Sherwood File Nos. SP 17-01 / SUB 17-03. Existing site improvements include paved circulation and parking areas, site lighting and landscaping, trash enclosures, public infrastructure extensions (franchise utilities, sewer, water, etc.), and the Langer's Entertainment Center building. The applicant is also proposing property line adjustment to adjust the property boundary between Lots 1, 2, 3, and 5. Access is proposed from the existing driveways serving the property along SW Langer Farms Parkway and SW Century Dr.

Address: 21650 SW Langer Farms, additional lots w/o addresses

Location: East of SW Langer Farms / South of SW Century Dr.

Map/Tax ID: 2S129DC00100, 1200, 1300, 1400, 1500





Staff Contact: Joy Chang, changj@sherwoodoregon.gov (503) 625-4214

Decision Maker: Planning Commission

Public Hearing Date: Tuesday, June 28, 2022 at 6pm

Decision: Under Review

Files:

-  Full application 5-20-22 (59 MB)
-  Planning Commission Staff Reports and Exhibits 6-21-22 (74 MB)
-  Testimony Received at 6-28-22 Hearing (33 MB)
-  Testimony Received Week 1 Open Record (through 7-5-22 at 5pm) (32 MB)



[Return to Projects](#)

sherwoodgazette.com

Developer eyes second hotel, more in Sherwood

Langer plans development near entertainment center

By RAY PITZ
Pamplin Media Group

Sherwood could find itself with a second hotel next to Langer's Entertainment Center, along with a new mini-storage facility.

The application calls for a 100-room hotel along with a proposed skybridge connecting the hotel to the entertainment complex. The hotel would be located just east of the current entertainment center.

The name of the proposed hotel is still under consideration, Matt Langer said.

Opened in 2019, the 54,000-square-foot Langer's Entertainment Center features bowling, a rock wall, arcade, high ropes course, laser tag and more.

Langer said like the entertainment market, the hotel market is soft at the moment, warning: "If that industry doesn't come back, then that hotel will go away, even though we went through the process."

Hampton by Hilton Sherwood Portland was the first hotel to locate in Sherwood, opening in July 2020.

Langer's hotel land-use application also includes plans to construct a 690-unit self-storage building on two adjacent lots.

"Immediately north of that (hotel) building, also in the same application, is a three-story, 110,000-square-foot, mini storage and light industrial flex building," he said.

The planning commission will consider whether to approve the land-use application for the hotel on June 28.

Langer said COVID-19 wreaked havoc on the entertainment sector, and his business was no exception. He told Pamplin Media Group he didn't even

receive any federal relief money, like many business owners did, because of how the Internal Revenue Service classifies his family holdings.

Langer blames Oregon politicians and the way they handled the pandemic for some of the industry's woes now, saying when he traveled to other states during the pandemic, he found "hotels were booming because people were vacationing in other states rather than states like Oregon that shut everything down."

Langer said property immediately east of Langer's Entertainment Center is still earmarked for a 40,000-square-foot covered track designed for high-speed, electric go-carts.

So focused is Langer on getting the go-cart track correctly built that he plans to travel with his wife, Nikki, to Italy in October to tour several of that country's tracks to get ideas on designs he might use for his Sherwood track.

Once that is complete, it should be easy to pull permits and finish the race-track, he said.

"We'll get everything ready. We'll get everything designed," said Langer. "Then we'll evaluate the economic/political climate at that moment in Oregon and decide whether or not to go ahead and build it or not, but we're not stopping all the design stuff."

Separately, the Langers' plans for a nearby major modification to a proposed Sentinel Storage complex are on hold, pending an appeal.

Langer said those plans call for replacing a recreational vehicle canopy site in an existing self-storage development with a 75,000-square-foot, three-story storage building on the south side of the entertainment center. That building would contain 575 storage units.

Jim and Susan Claus have appealed the provisional decision to approve the addition. The Sherwood City Council will hear the appeal July 19.

R. James Claus
22211 SW Pacific Highway
Sherwood, Oregon 97140

July 11, 2022

City of Sherwood
Planning Department
22560 SW Pine St.
Sherwood, OR 97140

Re: LU 2022-012 SP, MM, CUP, LLA
Applicant: Langer Family, LLC

Dear Planning Commissioners Members:

I write in response to the letter submitted by Seth King, attorney for the applicant, dated July 5, 2022. Mr. King's letter responds to my letter dated June 27, 2022. Respectfully, Mr. King misses the mark on all arguments raised, misinterprets both the law and the facts, and further highlights why this application must be denied. Please enter this letter into the record.

In his first response (labeled I(A) by Mr. King), Mr. King asserts that the 2010 Amended and Restated Development Agreement (Agreement) between the applicant in this proceeding (Langer) and the City did not modify the vesting provisions of ORS 92.040. One look at the Agreement dispels that argument.

Please review Subsections A(1) and (2) of the Agreement, which provide:

“1. Applicable Code. ZCDC 16.32.020.H, provides that “Approved PUDs may elect to establish uses which are permitted or conditionally permitted under the base zone text at the time of final approval of the PUD.” The Langer PUD was approved and Phases 4, 6, 7 and 8 were assigned the Light Industrial (“LI”) base zone designation on August 3, 1995.

2. Permitted and Conditional Uses. **Accordingly, Langer elects to establish uses on the LI-designated phases of the PUD that were permitted or conditionally permitted under the LI base zone text applicable on August 3, 1995**, including “Uses permitted outright in the GC zone Section 2.109.02, except for adult entertainment businesses, which are prohibited.” A copy of the uses permitted in the LI and GC zones on August 3, 1995 is set forth in Attachment A, attached hereto and incorporated herein by reference.” (**Emphasis** added).

This voluntary act by the applicant and the City is the election under ORS 92.040. ORS 92.040(3) gives the City (not Langer) the right to shorten the time period in which a subdivision applicant may rely on the land use regulations in effect when the subdivision application is approved. In this case, Langer entered into a contract with the City (the Agreement) in which Langer elected to apply ZCDC 16.32.020.H to develop Phases 4, 6, 7, and 8 in accordance with the applicable provisions of the LI base zone from the 1995 ZCDC. As part of that same

contract, Langer agreed that its ability to apply the 1995 ZCDC to develop Phases 4, 6, 7, and 8 terminated on January 1, 2015 or 2017, depending upon Langer's compliance with other provisions of the Agreement. In other words, the City exercised its authority under ORS 92.040(3) to allow Langer to develop using the 1995 ZCDC, but only for applications filed before 2017 at the latest.

Mr. King would have you ignore this Agreement completely, and act as if it did not exist. The fallacy of this argument is that if Langer and the City had not entered into the Agreement, the ZCDC provision that Langer would rely upon to establish the right to apply the 1995 code to this application is ZCDC 16.32.020.H, the exact same code provision that the exact same two parties (the City and Langers) addressed in the Agreement. To claim that the City and the applicant did not intend to limit the applicant's right to apply the 1995 ZCDC in the Agreement is silly. They did limit that time, and both parties did so voluntarily.

Ironically, if you accept Mr. King's argument, then you must deny the application. As Mr. King opines:

"Therefore, the standards in effect at the time of the 2012 application, which included the standards applicable through the Amended and Restated Development Agreement among the City and Langers ("Development Agreement"), govern development on the property for a 10-year period of time ending in 2022. That is the beginning and the end of the analysis required under ORS 92.040(2) and (3) in this case."

For the sake of argument only, assume that Mr. King is correct. If he is, then the hotel cannot be approved, as a hotel was not a use authorized in the LI zone (or as an outright permitted use in the GC zone) under the 1995 ZCDC. The Langers chose to apply the 1995 ZCDC, and now ask the City to apply the 1995 ZCDC to this application. ZCDC 16.32.020.H, which Langer relies upon in this application to use the 1995 ZCDC to approve the mini-storage facility (which was allowed under the 1995 ZCDC but not the 2012 or current ZCDC), subjects development approval to the 1995 ZCDC. The 1995 ZCDC does not allow a hotel in the LI zone, including the subject property. Therefore, if we assume Mr. King's interpretation of ORS 92.040 is correct, then the application must be denied, because the hotel cannot be sited on the subject property.

The end result is that in order to approve this application, you must apply the 1995 ZCDC for the mini-storage portion of the application, and the current ZCDC for the hotel portion of the application. Not only is there absolutely nothing in ORS 92.040 that can be read to allow an applicant to "pick and choose" which provisions of past or present versions of the ZCDC it wishes to apply to create a hodgepodge ZCDC applicable only to it, neither the Langers (through Mr. King) nor I believe that is an appropriate read of ORS 92.040. In effect, applying different versions of the ZCDC in this manner would constitute an amendment of the code, which would require the City to follow the applicable law for amending the ZCDC, including acknowledgment by LCDC. Moreover, if the City is allowing a hodgepodge code to be applied, what are the applicable provisions for this application? The City has never listed them, and is required to do so, so that the applicant and the public don't have to guess.

In his third response (labeled I(C) by Mr. King), Mr. King argues that my read of LUBA's decision in *Group B. LLC v. City of Corvallis*, ___ Or LUBA ___ (LUBA No. 2015-019) is inaccurate, and that the case stands for the proposition that:

“even if specific development is not approved at the time of subdivision, if a local government approves a lot size and configuration in that subdivision decision that is premised upon a particular type or location of future development, the local government is precluded by ORS 92.040(2) from applying different or conflicting standards to that future development.”

Mr. King reads way too much into LUBA's decision, which is not nearly as broad as he claims. In *Group B.*, LUBA acknowledged that when a developer submits an application for subdivision approval that does not also propose development, ORS 92.040(2) does not generally operate to shield future development from application of new development standards adopted after the subdivision approval, like the amendments to the ZCDC which prohibit a mini-storage on the subject property. However, in *Group B.*, even though there was no development proposed at the time the lot was created by the subdivision approval, the lot was configured as a flagpole lot, was zoned for multi-family development, and the new regulations by the City of Corvallis required all development of the lot to occur within the flagpole portion of the property, not the actual flag itself. Those new regulations had the effect of prohibiting any development of the subject property for the multi-family development, and LUBA found that although the subdivision applicant did not propose development at the time of the subdivision application, it was clear from the configuration of the lot and the zoning at the time of subdivision approval that development was going to occur on the flag portion of the property, not the flagpole area. Therefore, ORS 92.040(2) authorized the applicant to develop the flag portion of the property, notwithstanding the new Corvallis regulations that required development to occur only in the flagpole portion of the property.

The facts in this application are far different from those in *Group B.* In this case, not only did Langer not seek any type of development as part of the 2012 subdivision (the property was used for agricultural purposes both before and after the subdivision approval), the lots were not configured in a manner that was unique to a mini-storage facility, and the new ZCDC code provisions enacted after the 2012 subdivision approval do not prohibit light industrial uses on the subject property, only one type (mini-storage) of use. Many other light industrial uses remain on the subject property – in fact, most of the rest of the light industrial uses authorized in 2012 are still allowed today. The facts simply don't support a claim by Langer that it designed the 2012 subdivision lots in a manner that they would be used exclusively for a mini-storage facility. In fact, the subject parcel for this application were not created in 2012, and were only created by the 2017 subdivision approval. Therefore, LUBA's conclusion that ORS 92.040(2) does not generally operate to protect subdivision developers who do not propose particular development as part of their subdivision application from changes in new land use regulations enacted by the city after the date of subdivision approval applies with full force here. The narrow exception identified in *Group B* simply does not apply here.

Finally, in his fourth response, Mr. King claims that the 2017 subdivision approval which created the subject property did not change the vesting created by ORS 92.040 in 2012, when the previous subdivision application was approved. He misunderstands my argument.

My argument (and the correct reading of ORS 92.040) is that the statute applies to the subdivision application that created the subject property. In this case, the 2012 subdivision approval did not create the subject property – that occurred as part of the 2017 subdivision approval. Therefore, to the extent ORS 92.040 applies, it only applies to uses that were authorized in the 2017 ZCDC, which did not include a mini-storage facility.

Mr. King asserts that the 2017 subdivision approval authorized the applicant to use the subject property for the uses authorized in 2012, which allowed the applicant to elect to apply the uses authorized at the time of issuance of the original PUD, which was 1995. Therefore, Mr. King claims that the 2017 subdivision approval bootstrapped the 1995 ZCDC, which as noted above, did not include a hotel. He argues that my argument is a collateral attack on the 2017 subdivision approval, which is untimely.

I am not challenging the 2017 subdivision approval, nor does Langer appear to be relying upon it for its ORS 92.040 argument. I am simply interpreting the language of ORS 92.040(2), which authorizes reliance on the acknowledged land use regulations which are in effect at the time of the subdivision application. In 2017, the ZCDC did not authorize mini-storage on the subject parcel, so Langer cannot rely upon ORS 92.040(2) to claim that right, regardless of what the 2017 subdivision approval did (or did not) authorize.

If Langer wishes to argue that ORS 92.040(2) applies to the 2017 subdivision approval, and vests authority for it to establish the uses authorized by the 2017 version of the ZCDC, so be it. But Langer did not make that argument, and even if it did, it would not assist its case.

Sincerely,

The signature of Jim Claus is written in a blue, cursive-style font.

Jim Claus

From: claussl@aol.com
To: [Erika Palmer](#); [PlanningCommission](#)
Cc: [Eric Rutledge](#); [Joy Chang](#)
Subject: Re: Testimony recieved for land use case file LU 2022-012 SP/MM/CUP/LLA-- Please add this to the file
Date: Tuesday, July 12, 2022 3:38:59 PM
Attachments: [image006.png](#)
[image004.png](#)
[image002.png](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you are expecting this email and/or know the content is safe.

July 12, 2022

Dear City Council and Planning Commission and Staff:

The local level appeal fee expressed below by the staff is excessive and there is no municipal justification for the same. You have a flat fee of \$250 for Type I or Type II actions. Then you have an arbitrary amount of 50% of the original application fee for Type III or Type IV actions. Why isn't it 10% or 20% or 30% of the original fee for instance? The appeal fee is supposed to be tied to something-- not used as a barrier to entry at the local level for citizens who may object to an application. **You are asking \$6,969.50-- almost \$7,000-- for the City Council to review a decision made by the Planning Commission.** At that appeal hearing, the appellant is given a mere 30 minutes to talk to the City Council. LUBA does not charge anywhere near such an appeal fee.

Why is the city doing this? We are objecting to this excessive fee being charged.

If the appellant wins the appeal, do they get the appeal fee back?

It's no wonder the public and Sherwood citizens and residents feel shut out of the land use process.

This is not the intent of our vaulted Oregon land-use system and policies-- to preclude participation in the process by charging excessive fees.

Sincerely,

-----Original Message-----

From: Erika Palmer <PalmerE@SherwoodOregon.gov>
To: Susan Claus <claussl@aol.com>
Cc: Eric Rutledge <RutledgeE@SherwoodOregon.gov>; Joy Chang <ChangJ@SherwoodOregon.gov>
Sent: Wed, Jul 6, 2022 11:04 am
Subject: Testimony recieved for land use case file LU 2022-012 SP/MM/CUP/LLA

Hello Susan,

Here is the link to all public testimony received as of yesterday 7/5. Please see the testimony from Seth King.

https://www.sherwoodoregon.gov/sites/default/files/fileattachments/planning/project/50446/lu_2022-012_testimony_week_1.pdf

There is a one-week rebuttal period. Anyone can rebut the information received within the first 7 days of additional testimony that ended yesterday, July 5th at 5:00 pm. If you wish to provide rebuttal testimony, it will be accepted till July 12th at 5:00 pm.

Jim asked what the appeal fee would be. Here is the link to the City's adopted fee schedule.

https://www.sherwoodoregon.gov/sites/default/files/fileattachments/Finance/page/115/resolution_2022-051_adopt_fee_schedule_fy2022-23.pdf

On page 29:

B. Appeals

Type I or II actions (ORS 227.175) 10 (b) = \$250

Type III or IV actions = 50% of original fee(s)

Expediated and Middle Housing Land Division = \$300

50% of the original fees for the Case File LU 2022-012 SP/MM/CUP/LLA is broken down below.

Type IV Site Plan Review (storage)	\$6,843.14
<i>Additional \$102 for every 10,000 SF over the first 15,000 SF</i>	\$ 867.00
Type IV Major Modification to Approved Site Plan (hotel)	\$2,667.12
Type IV Publication and Distribution Notice	\$ 466.00
Type III Conditional Use Permit (w/ concurrent app)	\$2,278.52
Type I Property Line Adjustment	<u>\$ 817.23</u>
	TOTAL \$13,939.01

Appeal Fee = 50% of \$13,939.01 = \$6,969.50

Thank you,

Erika Palmer

Planning Manager

City of Sherwood

22560 SW Pine Street • Sherwood, OR 97140

☎ 503-625-4208

✉ palmere@sherwoodoregon.gov

🌐 www.sherwoodoregon.gov

The Community Development Department is located on the 2nd floor of the City Hall/Library building and is currently open Monday – Friday 8am to 5pm

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TO: Sherwood Planning Commission
FR: Susan Claus
RE: LU 2022-012 SP, MM, CUP, LLA
Applicant: Langer Family LLC
DATE: 28 June 2022

REQUEST TO LEAVE THE RECORD OPEN

Per ORS 197.797(6)(b), I would like to formally request that the planning commission keep this land use hearing record open for at least seven days for all parties.

I would like to submit additional evidence to the record and respond to the new information received at the hearing tonight.

Please add this request to the record for the above referenced file.

Sincerely,

Susan Claus

Susan Claus

22211 SW Pacific Highway

Sherwood, OR 97140

**R. James Claus
22211 SW Pacific Highway
Sherwood, Oregon 97140**

June 27, 2022

City of Sherwood
Planning Department
22560 SW Pine St.
Sherwood, OR 97140

Re: LU 2022-012 SP, MM, CUP, LLA
Applicant: Langer Family, LLC

Planning Commissioners:

I write in opposition to the above-numbered application for site plan approval, major modification to an approved site plan, conditional use permit, and lot line adjustment for the Applicant's property located at the southeast corner of the intersection of SW Langer Farms Parkway and SW Century Drives. The specific tax lots for this application are Tax Map 2S1 29DC, Lots 1100, 1200, 1300, 1400, and 1500. Please enter this letter into the record of these proceedings. I am also requested a continuance of this hearing after all the additional information is received at the hearing this evening, to allow additional evidence, comments, and materials into the record.

The applicant proposes a new 100-room hotel and a 690 unit self-storage building on Tax Lots 1100 (self-storage) and 1200 (hotel). The property is part of Phase 6 of the Sherwood Village Planned Unit Development, which was approved in 1995, File No. PUD 95-1, and first subdivided in 2012 (SUB 12-02). In 2017, the property was further subdivided (SP 17-01/SUB 17-03) and development was authorized on the newly created parcels, and in 2019, the 2017 subdivision plat was recorded (Document No. 2019-034798). The applicant also proposes to adjust the property lines between lots 1 (self-storage) and 2 (hotel) of the Parkway Village South subdivision plat (Document No. 2019-034798).

Both staff and the Applicant recognize that the proposed 690-unit self-storage building on Tax Lot 1100 (Lot 1) is not allowed under the current Sherwood Zoning and Community Development Code (SZCDC). Nevertheless, both staff and the Applicant argue that self-storage uses were allowed under the SZCDC in 2012 when the parent parcel was created. As noted

above, since the 2012 parent parcel was created, the Applicant has further subdivided and received land use approvals to develop portions of the subject property, and development has commenced and been completed on portions of the subject property. Nevertheless, both staff and the Applicant assert that ORS 92.040 allows the Applicant to make uses on the subject property which are not currently allowed under the SZCDC, based on a 2012 subdivision approval that 1) sought no land use approvals, 2) did not create the subject property, 3) has subsequently been further subdivided to create the subject property, 4) has been approved for development that is inconsistent with the proposed development in this application, and 5) has been partially developed based upon the earlier approvals.

Respectfully, there is simply nothing in ORS 92.040 that can be read to allow that statute to authorize development inconsistent with the current SZCDC on a parcel that has been divided, further subdivided, approved for development inconsistent with the subject use, and partially developed, as is the case with the subject parcel. This is an extravagant interpretation of the statute, designed solely to allow the Applicant, and no one else, to get away with a use that the City currently prohibits.

The City should deny the application, and require the Applicant to seek an amendment to the text of the SZCDC or the City's Comprehensive Plan and or SZCDC map to allow the proposed use, in the same manner that staff would require any other property seeking to make an illegal use on property with zoning that doesn't allow the use.

ORS 92.040 provides:

- (1) Before a plat of any subdivision or partition subject to review under [ORS 92.044](#) may be made and recorded, the person proposing the subdivision or partition or authorized agent or representative of the person shall make an application in writing to the county or city having jurisdiction under [ORS 92.042](#) for approval of the proposed subdivision or partition in accordance with procedures established by the applicable ordinance or regulation adopted under [ORS 92.044](#). Each such application shall be accompanied by a tentative plan showing the general design of the proposed subdivision or partition. No plat for any proposed subdivision or partition may be considered for approval by a city or county until the tentative plan for the proposed subdivision or partition has been approved by the city or county. Approval of the tentative plan shall not constitute final acceptance of the plat of the proposed subdivision or partition for recording. However, approval by a city or county of such tentative plan shall be binding upon the city or county for the purposes of the preparation of the subdivision or partition plat, and the city or county may require only such changes in the subdivision or partition plat as are necessary for compliance with the terms of its approval of the tentative plan for the proposed subdivision or partition.

- (2) After September 9, 1995, when a local government makes a decision on a land use application for a subdivision inside an urban growth boundary, only those local government laws implemented under an acknowledged comprehensive plan that are in effect at the time of application shall govern subsequent construction on the property unless the applicant elects otherwise.
- (3) A local government may establish a time period during which decisions on land use applications under subsection (2) of this section apply. However, in no event shall the time period exceed 10 years, whether or not a time period is established by the local government.

As stated above, staff and the Applicant argue that this statute authorizes the Applicant to apply the 2012 SZCDC provisions that were in effect at the time of the application for the original subdivision of Phase 6 of the 1995 Langer Farms PUD (PUD 95-1). In 2012, when SUB 12-02 was approved, self-storage buildings were not permitted in the LI-PUD zone. Nevertheless, one type of permitted use in the LI-PUD zone was set out in SZCDC §16.32.020(H) which provided:

“(H) PUD’s, new and existing, subject to the provisions of Chapter 16.40. New PUD’s may mix uses which are permitted within the boundaries of the PUD. Approved PUD’s may elect to establish uses which are permitted or conditionally permitted under the base zone text applicable at the time of final approval of the PUD.”

Note that the language of this subsection is permissive, not mandatory. The holder of an approved PUD “may” elect to develop the property based on uses authorized at the time of the final approval of the PUD (in this case 1995), but they were not required to do so. It took an election by the holder of the PUD to choose the uses authorized under the SZCDC when the PUD was adopted, rather than the uses authorized by the SZCDC when the subdivision was applied for.

That is exactly what happened for the Applicant in this case. In 2010, the Applicant and the City entered into an Amended and Restated Development Agreement (Agreement), a contract in which the two parties agreed that the Applicant would develop the PUD Phases based on the 1995 SZCDC provisions in effect at the time of the 1995 Langer Farms PUD application and approval (PUD 95-1). After citing SZCDC §16.32.020(H) in Paragraph A(1), Paragraph A(2) of the “Agreement” Section of the Agreement provides:

“2. Permitted and Conditional Uses. Accordingly, Langer elects to establish uses on the LI-designated phases of the PUD that were permitted or conditionally permitted

under the LI base zoned text on August 3, 1995, including: “Uses permitted outright in the GC zone Section 2.109.02, except for adult entertainment businesses, which are prohibited.”

By entering into this Agreement, the City and the Applicant agreed that during the term of the Agreement, subsequent development of Phase 6 would be based on uses that were authorized in the LI or GC zones under the 1995 version of the SZCDC. As staff and the Applicant note, one of those uses was “mini-warehousing”, which staff and the Applicant interpret to mean a self-storage facility like the one being applied for in this application. I don’t disagree that the self-storage facility would fall under the definition of “mini-warehouse”.

That means that in 2012, when SUB 12-02 was approved, allowing subdivision of Phase 6 of the Langer Farms 1995 PUD into lots that would eventually be further subdivided to create Tax Lots 1100, 1200, 1300, 1400, and 1500 (the subject property), a mini-warehouse was an allowed use in the LI-PUD. But that does not mean that ORS 92.040 applies to this case, or that the Applicant may rely on that statute or the Agreement to enable a use on the subject property that hasn’t been allowed in the LI-PUD zone for decades. In fact, for the following reasons, ORS 92.040 is simply inapplicable to the subject application, and cannot be relied upon to allow a use prohibited by the current SZCDC.

1. The 2010 Agreement Has Expired by Its Terms. Under ORS 92.040(3), the Deadline For the Applicant to Rely Upon the 1995 Code and the Protections Authorized by ORS 92.040(2) Terminated With the Expiration of the 2010 Agreements, Not 10 Years From the Date of the 2012 Approval in SUB 12-02.

Section 17 of the Agreement contract provides that the terms of the Agreement, which includes the language in which the Applicant opted to develop the property pursuant to the provisions of the 1995 SZDC, expire on either January 1, 2015 or January 1, 2017. Obviously this application was filed after either of those two dates, meaning any future development of the site, including the right to develop based upon the 1995 SZDC, would not be governed by the terms of the 2010 agreement.

As set forth above, ORS 92.040(3) allows a city to establish a time period for which the protections of ORS 92.040(2) apply. In no event may the time period established by the city exceed 10 years. In other words, ORS 92.040 does not create an automatic protection period of 10 years from the date of a subdivision application. The 10 year time period is the maximum time in which the property owner/developer may rely upon the land use regulations in effect at

the time of application, but the local government may limit that time period under ORS 92.040(3), which is exactly what happened in this case.

In this case, both the city and the applicant agreed in 2010 that the right to develop pursuant to the uses authorized by the 1995 SZDC would expire no later than January 1, 2017. The contract clearly sets out the agreement between the City and the applicant that the uses allowed under the 1995 SZDC would be authorized on the property, regardless of the existing limitations of the current SZDC. In other words, the 2010 agreement addressed the provisions of 92.040(2). The parties then agreed that the applicant's right to make the uses authorized by the 1995 SZDC terminated no later than January 1, 2017. Under ORS 92.040(3), the contract established the time limit for the applicant to apply the 1995 code to make uses authorized by a subsequent subdivision of the property occurring between the date of the agreement and January 1, 2017. The applicant is no longer entitled to rely upon ORS 92.040(2) to allow uses authorized by the 1995 SZDC. At best, that right terminated on January 1, 2017 under ORS 92.040(3) and the parties 2010 agreement.

Even if the Commission were to find that the City did not intend to limit the time for the applicant to accept the provisions based upon the 2010 Agreement, ORS 92.040(2) allows the applicant to waive the right to rely upon the SZDC provision in effect on the date of the application for approval in SUB 12-02. The subsection creates the right of the subdivision applicant to rely upon the applicable development provisions in effect on the date of the subdivision application, "unless the applicant elects otherwise." As shown above, in 2012, SZCDC §16.32.020(H) authorized a PUD holder to elect which land use regulations would govern development of the PUD – the regulations in effect when the development applications were submitted or the regulations in effect when the PUD was approved. The Applicant chose the latter, but also agreed to limit the time to exercise that choice to no later than January 1, 2017. If the applicant wants to rely on the 2010 Agreement, it has to apply the Agreement in its entirety, and not just pick and choose from the Sections it likes. That is what Applicant attempts to do here.

2. The Applicant's Position Would Allow an Applicant to Indefinitely Lock In Development Under an Old Version of a City's Land Use Regulations, and Is Contrary to the Intent of ORS 92.040(2)

If the Applicant and staff are correct that ORS 92.040(2) authorizes a city to agree with a developer to lock in uses to a certain version of the city's land use regulations, as was done here, then there is nothing that would prohibit a city and a property owner from creating an

indefinite right to lock in development based upon land use regulations in effect on a certain date. That is not what the legislature intended with ORS 92.040(2).

Imagine if the City and Applicant had not entered a termination date in their 2010 Agreement. In that situation, if the Applicant wished to take advantage of ORS 92.040(2), the Applicant could resubmit an application to replat the subdivision at any point in time, and lock in the right to a decision based upon the 1995 SZCDC, not the existing regulations. That is what the Applicant and staff are arguing here.

The original PUD was approved in 1995. In 2010, the Applicant and the City struck a deal in which the Applicant elected to develop certain PUD phases, including Phase 6, based on the uses allowed under the 1995 SZCDC. If the 2010 Agreement did not contain a termination clause, what would prevent the Applicant from submitting a new subdivision application in 2025, 2030, or 2040 and arguing that they could develop based upon the 1995 SZCDC, and that once the subdivision was approved, they had an extra 10 years to develop under that code? If the development didn't occur within the 10 years, they could start again with a replat.

That's not what the legislature intended. The legislature's intent in adopting ORS 92.040(2) is well documented in *Athletic Club of Bend, Inc. v. City of Bend*, 239 Or App 89 (2010). As the Oregon Court of Appeals notes in that decision, the purpose of ORS 92.040(2) is to ensure that for a limited period of time after a subdivision plat is approved, the development as envisioned by that subdivision approval is not changed, so that the applicant may rely upon the land use regulations in place at the time of the development.

There is nothing in the Court of Appeals decision that indicates that the legislature intended ORS 92.040(2) to allow a city and a developer to enter into an agreement locking the city into enforcing land use regulations in effect on a certain date, allowing the applicant to submit a subdivision application at some undetermined point thereafter, and then allowing the applicant to demand that the land use regulations agreed upon would govern development of the subdivision for the next 10 years after approval. That's exactly what staff and the Applicant are arguing here. A PUD was approved in 1995. In 2007, 12 years later, the City and the Applicant entered into an agreement locking development into what was allowed in 1995.

In 2010, 15 years after the original PUD, the City and the Applicant amended the 2007 agreement but retained the right to develop under the 1995 SZDC. In 2012, 17 years later, the applicant submitted a subdivision application. In 2017, 22 years later, the Applicant submitted a subdivision application to further subsidize one of the lots approved in the 2012 subdivision, and an application to develop the newly created lots. Sometime between 2017 and the

present, the Applicant developed a portion of the lots approved in the 2017 subdivision. Now, 27 years later, the applicant is submitting an application to amend the 2017 subdivision and site plan approvals, which were based on the 2012 subdivision approval, and citing ORS 92.040(2) as its means of bootstrapping itself in to the right to develop under a 27 year old code. That isn't what ORS 92.040(2) allows.

3. ORS 92.040(2) Does Not Apply to Development That is Different than That Which Was Proposed and Approved by the Applicable Subdivision Application. The Applicant Made no Request to Develop the Property as Part of the 2012 Subdivision Approval (SUB 12-02). ORS 92.040(2) Does Not Shield an Applicant From Current Development Regulations That Was Not Contemplated at the Time of the Subdivision, or to Redevelopment or Further Subdivision That Occurs After the Subdivision is First Developed

The Oregon Land Use Board of Appeals (LUBA) has also interpreted ORS 92.040(2), in a case that was resolved after the Court of Appeals decision in *Athletic Club of Bend*, discussed above. In *Group B LLC v. City of Corvallis*, LUBA No. 2015-019 (2015), LUBA held that ORS 92.040(2) operates to shield development that is contemplated as part of the subdivision application, but not development that is different than that proposed at the time of the subdivision application. As LUBA noted:

“However, the city argues the 2006 subdivision applicant submitted a tentative plan that proposed no development of Tract B, and no development of Tract B was evaluated against the applicable criteria or approved in the 2006 decision. Therefore, the city argues, ORS 92.040(2) does not apply to preclude application of post-2006 standards such as LDC 3.6.30 and 4.10.60.01b.

We partially agree with the city. Because the 2006 subdivision applicant did not propose development of Tract B, and the city did not evaluate any development of Tract B against whatever criteria would be applied to proposed development of lots at the tentative plat stage, ORS 92.040(2) would not generally operate to shield future development of Tract B from application of new development standards adopted after 2006 that regulate development of Tract B. However, as explained above, the 2006 subdivision decision did make a significant decision regarding the general location of future development on Tract B, namely that any future development would occur in the flag portion of the site, consistent with whatever maximum building setbacks and frontage standards, if any, which were in effect in 2006. Tract B was clearly not configured with the expectation that future development would occur in the pole

portion of the site. On the contrary, the pole portion of the site was presumably sized and configured to allow a driveway and utilities to access the interior of the site, where future development would occur. Because the 2006 decision accomplished that much, ORS 92.040(2) operates to preclude application of different or conflicting post-2006 development standards, specifically the new maximum building setback and frontage standards at LDC 3.6.30 and 4.10.60.01b, because those standards would effectively compel development to be located in the pole portion of the site. Accordingly, we agree with petitioner that the city erred to the extent it denied petitioners application for noncompliance with LDC 3.6.30 and 4.10.60.01 b.”

The gist of LUBA’s decision in *Group B LLC*, as set forth above, is that ORS 92.040(2) shields a subdivision applicant from the application of new city land use regulations that require the applicant to deviate from the development proposed or contemplated at the time of the subdivision application. To the extent that the applicant for the subdivision application does not propose any specific type of development or proposes a development which is then fully developed, ORS 92.040(2) does not shield the applicant from new land use regulations.

In this case, the Applicant submitted a subdivision application in 2012 (SUB 12-02) that proposed no development. As staff indicated in the Staff Report for SUB 12-02:

“Although no specific land uses are proposed with this subdivision request, the applicant has attended two pre-application conferences with the City about developing the property with conditional uses.”

Section I(F), City of Sherwood, Staff Report & Notice of Decision, File # SUB 12-02.

Because the Applicant did not seek development as part of SUB 12-02, there was no particular development that Applicant was required to deviate from, since no development was contemplated at the time of the approval of SUB 12-02. ORS 92.040(2) does not shield the applicant from today’s regulations.

Moreover, subsequent to the issuance of the 2012 subdivision application, the Applicant submitted and received an approval of both 1) a further subdivision of the lots created by SUB 12-02 to create the subject property, and 2) approval to develop the subject property, which the Applicant has partially developed. SUB 12-02 did not create the lots which form the subject property. Those lots were created by the 2017 subdivision application. ORS 92.040 might apply to a change in the SZCDC occurring subsequent to the 2017 approval, but staff and the Applicant don’t make that argument, and even if they did, SZCDC §16.32.020(H) and the 2010

Agreement were no longer applicable in 2017. SZCDC §16.32.020(H) was repealed in the code amendments of October 9, 2012, and the 2010 Agreement expired by its terms no later than January 1, 2017. Therefore, even if Applicant argued that it is entitled to develop according to the uses authorized in the 2017 SZCDC, it does not help the Applicant, as self-storage was not an allowed use at that time.

Finally, not only did the Applicant not create the subject property until 2017, when the lots were created by subdivision, Applicant also received development approval at that time, and has partially developed the site. The applicant received the benefit of ORS 92.040(2), as the development which was contemplated at the time of the 2017 subdivision approval occurred, based on the 2017 development approval. The Applicant cannot accept the development approved in 2017, partially develop the site, and then submit a new application and argue for development that was authorized in 2012 for a subdivision approval that did not even create the lots that form the subject parcel. ORS 92.040 simply does not apply here.

The applicant and staff are attempting to change the protections of ORS 92.040(2) from a shield to a sword. That is not what the legislature intended.

As stated above, please enter this letter in the records, keep the record open for at least 7 days for the introduction of new evidence, and **please place a copy of the City's Staff Report and Final Decision in SUB 12-02 into the record, along with the Site Plan and Subdivision Approval decisions creating the lots that form the subject property and approving development thereon (SP 17-01/SUB 17-03).** Staff is in control of the records and can retrieve these documents needed for this land use application and hearing. As discussed before many times, the time frame for a records request is 30 days for staff to fulfill which would preclude me being able to enter the same in this record. The staff report was only received a week ago. These documents are needed for this land use hearing record. Thank you.

Sincerely,



Jim Claus

**CITY OF SHERWOOD
Staff Report & Notice of Decision**

**Date: June 21, 2012
File No: SUB 12-02
Langer Farms Subdivision**

Pre-App. Meeting: December 12, 2011
App. Submitted: March 30, 2012
App. Complete: April 27, 2012
120-Day Deadline: September 1, 2012



Brad Kilby, Senior Planner

Proposal: The applicant has requested preliminary subdivision approval to divide \pm 55.09 acres into five individual lots and two tracts for future development consistent with the Sherwood Village Planned Unit Development, File No. PUD 95-1. The Planned Unit Development was approved in 1995 without a preliminary plat.

I. BACKGROUND

A. Applicant/Owner:

Langer Family, LLC
14958 SW Tualatin-Sherwood Road
Sherwood, OR 97140

Applicant's Representative:

AKS Engineering & Forestry
13910 SW Galbreath Drive
Suite 100
Sherwood, OR 97140

B. Location: The property is located on the south side of SW Langer Farms Parkway, West of Tualatin-Sherwood Road, and east of SW Oregon Street. The property is identified as tax lot 300 on Washington County Assessor Map 2S129D.

C. Parcel Size: The subject property is approximately 55.09 acres in size.

D. Existing Development and Site Characteristics:

The existing use of the site is agriculture. The current crop appears to be a grass or grain crop. The property is generally rectangular in site, and includes a gently rolling landscape. There is a delineated natural resource and buffer area in the southeast portion of the site. The buffer and resources includes some trees and riparian landscape materials. This specific proposal does not include any physical impacts into the resource area.

Bonneville Power Administration (BPA) and Portland General Electric (PGE) have power lines and associated easements through the northeast corner of the site. The subject property has frontage onto SW Tualatin-Sherwood Road, and SW Langer Farms Parkway. SW Century Blvd. stubs into the property from the east and west. Finally, the property contains two existing storm water ponds. One of the ponds is located in the north east portion of the site, and the other is located in the south and west portion of the site. The existing ponds serve off-site developments.



- E. Site History: The site has been owned and farmed by the Langer family since the late 1800's. This particular piece of property is made up of phases 6, 7, and 8 of the Sherwood Village PUD that was approved by the Sherwood City Council in 1995. All future development is subject to the conditions of the approved Planned Unit Development and any subsequent amendments.
- F. Zoning Classification and Comprehensive Plan Designation: The property is zoned PUD-LI. Although the property carries a Light Industrial zoning designation, the City Council, at the request of the property owner, approved a modification to the PUD in File number PUD 07-01. That decision confirmed that the PUD could elect pursuant to Section 16.32.020.H. of the Sherwood Zoning and Community Development Code (SZCDC), to develop Phases 4, 6, 7, and 8 with uses that would have been allowed under the Light Industrial (LI) base zone text applicable on August 3, 1995 (when the City approved the PUD Final Development Plan). At that time, Retail Commercial (RC) uses were also allowed in the Light Industrial zone. Although no specific land uses are proposed with this subdivision request, the applicant has attended two pre-application conferences with the City about developing the property with commercial uses.
- G. Adjacent Zoning and Land Use: The subject site is currently being farmed. Properties to the south and east of the site include lands that are zoned Light Industrial. Billet manufacturing is located directly south of the site, and there are two light industrial uses adjacent to the northeast property line. The remaining properties to the east of the site are zoned LI and are not currently developed. Properties located to the west of the property, on the west side of SW Langer Farms Parkway, include lands developed with commercial, residential and public and institutional uses. Some of the commercial and residentially developed properties to the west were developed in earlier phases of the Langer PUD.
- H. Review Type: According to section 16.72.010.2.i, subdivisions between 4-10 lots require a Type II review with a decision made by City Staff after consideration of public comments. An appeal would be heard by the City of Sherwood Planning Commission so long as the person appealing had provided comments during the 14-day public comment period, and it is filed within (14) days after the decision has been mailed.
- I. Public Notice and Hearing: Notice of the application was mailed to property owners within 1000 feet, posted on the property and in five locations throughout the City on April 25, 2012 in accordance with the notice provisions of Section 16.72.020 of the SZCDC.
- J. Review Criteria: Sherwood Zoning and Community Development Code, 16.40(Planned Unit Development), 16.58.010 (Clear Vision), 16.70 (Administrative Procedures), Division VI - 16.104-16.118 (Public Infrastructure), Division VII 16.120 (Subdivisions), 16.128 (Land Division Design Standards), and Division VIII 16.144 (Wetland, Habitat and Natural Areas).

II. PUBLIC COMMENTS

Public notice was mailed, posted on the property and in five locations throughout the City on April 25, 2012. Staff has received the following comments.

R. James Claus of 22211 SW Pacific Highway submitted comments opposing the subdivision proposal. Mr. Claus alleges that the proposed subdivision violates the PUD Code requirements. Specifically, he maintains that the City can only allow changes in the plan that are necessary with the terms of the preliminary approvals, that the code requires that the preliminary subdivision be processed concurrently with the PUD, that the time has passed to allow them to submit a subdivision proposal, that the traffic survey used to gain approval did not contemplate the traffic that could result from future commercial development of the site, that the City has modified the original PUD without citizen input, and that a staff level review is not the correct process for processing the proposed subdivision. A copy of Mr. Claus' full comments is incorporated into the record.

Staff Response: Staff will address each one of the items raised in Mr. Claus' below:

- *The City can only allow changes in the plan that are necessary with the terms of the preliminary approvals...*

Staff Response: Mr. Claus is referring to Code section 2.202.02(E) which is now Section 16.40.020(E), which states, "Approval of the Preliminary Development Plan shall not constitute final acceptance of the PUD. Approval shall, however, be binding upon the City for the purpose of preparation of the Final Development Plan, and the City may require only such changes in the plan as are necessary for compliance with the terms of preliminary approvals." This provision is titled the Effect of Decision under the overall heading for Preliminary Development Plan. First, the City is not requiring the proposed subdivision, and the Final Development Plan was approved in 1995. It is unclear why Mr. Claus feels that this is relevant to the proposed development.

- *The code requires that the preliminary subdivision be processed concurrently with the PUD*
- *The time has passed to allow them to submit a subdivision proposal*
- *Staff Level review is not the correct process for processing the proposed subdivision*

Staff Response: This proposal does not constitute a substantial change to the PUD, rather, it is a subdivision of land which routinely happens in commercial and industrial developments. The subdivision was not filed at the same time that the PUD was processed in 1995, but that should not preclude a property owner from dividing their property if it meets the standards the community puts into place. Had there been a subdivision requested at the time the PUD was being considered in 1995, the City would have requested that it be reviewed concurrently.

According to the City Attorney's office, "A PUD decision under 16.40 is a separate and distinct decision from a subdivision decision under 16.120. Section 16.40.020.B.5 states, "If the PUD involves the subdivision of land ..." Apparently, this particular PUD did not when it was approved in 1995 – it was a straight PUD that did not include a subdivision. The code section goes on to say that when the PUD also involves a subdivision, the two decisions shall be processed concurrently. This affirms the interpretation that they are separate decisions, albeit when they are proposed concurrently, they need to be processed concurrently. In fact, the City has reviewed other subdivisions within this same PUD since the final development plan was approved.

Furthermore, the PUD approval is an overlay zone that is applied to a property. In this instance, the boundaries of the PUD are not changing, the applicant is not asking for any land use that

would be inconsistent with the prior approvals, and the prior approvals did not identify which land was devoted to a specific use. There is not an increase in density because it is not a residential development. Therefore, this does not constitute a modification to the PUD. It is simply a subdivision of land. According to 16.120.030.1.a, "A subdivision application for 4-10 lots will follow a Type II process." Subdivisions are processed in accordance with the administrative provisions spelled out in Section 16.72.

Therefore, this application does not constitute a major or minor modification to the approved PUD, and the subdivision can be reviewed as a Type II staff level subdivision.

The traffic survey used to gain approval did not contemplate the traffic that could result from future commercial development of the site

Staff Response: All newly proposed developments within the boundaries of the PUD have been required to provide a traffic study, and there is no reason that the City would not require a traffic study for any future proposed developments. This subdivision, in and of itself, does not generate any new traffic. Certainly, future development will be required to provide a traffic study at the time of application consistent with the developers' agreement. Given the pace of growth in the Portland Metro area over the past 20 years, it is highly unlikely that the information provided within the original PUD could still be relied upon.

The City has modified the original PUD without citizen input

Staff Response: The only modification that staff is aware of to this application is file number PUD 07-01. That decision confirmed that commercial uses would be allowed, and spelled out the community's expectations for future improvements associated with the PUD. That application was processed in accordance with the development code Section 16.40.040.B.2 which specifies that minor changes to a Final Development Plan may be approved by the Council **without further public hearing or Commission review**, provided that such changes do not increase densities, change boundaries or uses, or change the location or amount of land devoted to specific uses. It is not clear to staff how this is germane to the proposal at hand which is in fact, being made after a public comment period in which one public comment was received on this matter.

III. AGENCY COMMENTS

Staff sent e-notice to affected agencies on April 25, 2012. The following is a summary of the comments received. Copies of full comments are included in the record unless otherwise noted.

SHERWOOD ENGINEERING DEPARTMENT:

Engineering staff has reviewed the information provided for the above cited project. Further review will occur with individual land-use applications for the subdivided lots. The project(s) will need to meet the standards established in the City of Sherwood Engineering Design and Standard Details Manual and Clean Water Services (CWS) Design & Construction Standards Manual, in addition to requirements established by other jurisdictional agencies providing land-use comments. City Engineering Department comments are as follows:

Transportation

There are no improvements proposed with the subdivision, although the subdivided lots must have the ability to access public rights-of-way per the development code of the applicable agency prior to recording of the final subdivision plat map. Individual traffic studies will be

required with each subsequent development land-use application. All traffic impact analyses shall address the City of Sherwood Capacity Allocation Program (COS Ordinance 2000-1104 codified by SMC 16.107.070) while considering the Development Agreement as amended and restated by Sherwood Resolution 2010-033. Development Agreement term H.4 (Highway 99W Capacity Allocation Program) states:

For purposes of calculating whether the trips associated with the regulated activities in Phases 6, 7, and 8 of the PUD exceed the trip limit of ZCDC 6.306.D.4 (renumbered as ZCDC 16.107.070), the City shall aggregate the trips and acreage of all such phases. As a result, the trips associated with the regulated activities of a single phase may exceed the trip limit that would otherwise apply if that phase were calculated individually, provided that the trips associated with all regulated activities for Phases 6, 7, and 8 do not exceed the trip limit in the aggregate. At each phase of development of the PUD, the number of reserve trips for the remaining phases will be identified in the applicable Trip Allocation Certificate.

Prior to City approval of the subdivision, the applicant shall submit a plan identifying the separate acreages of PUD Phases 6, 7 and 8, less the 100-year floodplain and the SW Century Drive right-of-way. City staff will use the information shown on the plan to aggregate the CAP trip limit for comparison during future site plan reviews.

It is suggested that the applicant evaluate the intent of and any discrepancies between the original and amended PUD decisions, amended & restated Development Agreement, and the City Transportation System Plan, particularly: the location of public streets, site access points, vehicular and pedestrian circulation, traffic study areas, if subsequent traffic studies for Phases 6/7/8 consider whether the North Extension has been planned or funded prior to development or redevelopment, and editions of the ITE Trip Generation manual.

A public right-of-way and eight foot wide public utility easements shall be shown on the preliminary and final recorded subdivision plat map for the extension of SW Century Drive.

See comments from Washington County DLUT on right-of-way dedications, improvements and access to/from SW Tualatin-Sherwood Road.

Staff Response: Planning staff discussed these comments with Engineering staff, the discrepancy lies in the issue that the approved Final PUD Plan showed three access points from SW Langer Farms Parkway into the site. This proposal shows three access locations, and the extension of SW Century Blvd. The Engineering Division is not opposed to the access locations, but felt that it should be pointed out that there are realistically four accesses into the site. Certainly, the applicant was not aware that the extension of SW Century Blvd was going to be placed into the Transportation System Plan, and there were no specific discussions in any of the staff reports or decisions for the preliminary or final PUD approvals discussing the limitations of the access points along SW Langer Farms Parkway.

Furthermore, there is plenty of language within the PUD file to suggest that many of the decisions related to traffic would be deferred to review of individual development proposals as they were submitted to the City. Since the applicant could not have anticipated the reintroduction of the extension of SW Century Blvd. into the Transportation System Plan (TSP), it is completely understandable that there would be at least three accesses from SW Langer Farms Parkway into the site.

Sanitary Sewer

There are no sanitary improvements being proposed with the subdivision application, although the subdivided lots must have the ability to connect (by gravity) to the public sanitary system when development occurs. All public conveyance easements, if required for gravity service, shall be shown or referenced on the subdivision plat map. Prior to recordation of the final plat map, the applicant shall submit detailed plans that clearly label each lot number's connection to the public system and elevations that show gravity service is achievable.

If retaining walls or slopes are necessary to support the public sanitary system, then wall and/or slope easements shall be granted to the City with actual site development, not with the subdivision plat map.

Staff Response: Sewer service has been stubbed to the parent parcel, so it is available. The developer will be required to determine how to best serve the site with sewer, loop and/or extend the system as necessary as proposals for future development on the site evolve.

Water

There are no water improvements being proposed with the subdivision, although the subdivided lots must have the ability to connect to the public water system when development occurs. The applicant shall submit detailed plans that clearly label each lot number and how it will connect to the public system prior to recordation of the final plat map.

If retaining walls or slopes are necessary to support the public water system, then wall and/or slope easements shall be granted to the City with actual site development, not with the subdivision plat map. Public water easements must be established around water meter and fire flow vaults during site development.

Staff Response: Water service has been stubbed to the parent parcel with the recent completion of SW Langer Farms Parkway, so it is available. The developer will be required to determine how to best serve the site with water, loop and/or extend the system as necessary as proposals for future development on the site evolve.

Storm Sewer

There are no storm improvements being proposed with the subdivision, although the subdivided lots must have the ability to connect to the public storm system (by gravity) when development occurs on any subdivided lot. The preliminary subdivision plat map shows a 15' wide public storm drainage easement over Tract 'A' and Lot 4 for the benefit of existing and future upstream development. The preliminary subdivision plat also shows a 15' wide public storm drainage easement over Lot 1 and a small portion of Lot 2, but has a note 'to be dedicated with development of Lots 1-3'. Development Agreement term F.1.a (Stormwater Facility – Langer Commitments) states:

Prior to issuance of a final occupancy permit for the first structures located in Phases 6 or 7, Langer will design and substantially construct the "Stormwater Facility" on Phase 8 (including any necessary portions of Phase 6), to accommodate existing stormwater detention and treatment for the PUD (including development of Phases 6, 7, and 8), and any detention and treatment associated with the South Extension and Century Drive Connection. In conjunction with this construction, Langer retains the right to terminate use of the Existing Facilities and any Temporary Facility constructed...

In addition, City infrastructure mapping indicates the storm drainage easement shown over Lot 1 and Lot 2 is intended to convey flows from existing upstream development and public rights-of-way.

Based on the materials submitted by the applicant, the Development Agreement, and City infrastructure mapping, the regional storm facility will treat runoff from all of the subdivided lots, proposed rights-of-way, as well as existing upstream development and public rights-of-way. Although construction can be deferred until future site development, all of the tracts, public storm drainage and access easements shown on the preliminary plat map must be dedicated to the City with the subdivision plat.

If retaining walls or slopes are necessary to support the public storm system, then wall and/or slope easements shall be granted to the City with actual site development, not with the subdivision plat map.

Grading and Erosion Control:

No early grading is proposed with this subdivision. Site grading will exceed 5 acres of disturbed area for all phases of development. Therefore, a 1200-C permit is required. The 1200-C permitting process can be initiated through the City of Sherwood Engineering Department. It is likely DEQ (via CWS) will require that all phases of development on and around tax lot 300 be authorized under the same 1200-C permit.

The memorandum from CWS dated May 8, 2012 indicates that a CWS Storm Water Connection Permit (SWCP) must be obtained prior to plat approval and recordation. CWS typically requires a 1200-C permit prior to issuing a SWCP. Contact CWS to obtain a SWCP.

Other Engineering Issues:

The subdivision includes new property lines within Bonneville Power Administration (BPA) and/or Portland General Electric (PGE) transmission line easements. The applicant must coordinate with those entities to determine when they will issue a land use agreement to the developer, prior to final plat approval and recordation or with individual site plan review, or both.

The applicant may be required to install infrastructure for Sherwood Broadband as noted in City Ordinances 2005-17 and 2005-74 during future phases of development, but not with the subdivision plat.

Per CWS requirements, tracts or easements shall be established over wetlands and vegetated corridors with the subdivision plat. See conditions of the CWS Service Provider Letter (SPL) and land-use comments memo dated May 8, 2012.

WASHINGTON COUNTY:

1. The applicant is not proposing access to SW Tualatin-Sherwood Road. **To implement the County's access-spacing standards, the applicant will be required to record a motor vehicle access restriction along the subject site's entire frontage of SW Tualatin-Sherwood Road for the purposes of implementing the access spacing standards.**
2. Consistent with statewide pedestrian circulation/linkage goals of the Transportation Planning Rule and the County's R&O 86-95 (road safety requirements), the County normally requires sidewalk installation as a minimum road safety improvement along site frontage of all County-maintained roads. Sidewalks further establish future street profiles, demarcate County or City right-of-way, and address drainage issues. Sidewalk

requirements are not generally waived, even when sidewalk is not currently present on neighboring properties. Rather, even non-contiguous sidewalk is considered to provide some measure of pedestrian refuge and ideally, makes possible eventual connection of sidewalks (as surrounding development takes place and is likewise conditioned to provide sidewalk). Additionally, the Washington County Road Design and Construction Standards require provision of adequate drainage along a site's frontage of a county road.

The applicant is required to construct a half-street improvement, including illumination, to an A-2 County standard along the subject site's frontage of SW Tualatin-Sherwood Road OR pay a fee-in-lieu (Contact Dan Erpenbach at 503-846-7877).

Note: For half street improvements, an applicant shall provide street lighting consistent with County engineering standards and procedures and the requirements of the electrical utility company providing service to the area. The applicant shall ensure the construction, maintenance and power costs of street light facilities through the annexation and petition for service to an existing County service district for lighting or other funding method approved by the County Engineer.

- 3 The statewide Transportation Planning Rule requires provision for adequate transportation facilities in order for development to occur. Accordingly, the County has classified roads and road segments within the County system based upon their function. The current Transportation Plan (regularly updated) contains adequate right-of-way, road width and lane provision standards based upon each roadway's classification. Subject right of way is considered deficient if half-width of the existing right of way does not meet that determined necessary within the County's current transportation plan.

The applicant is required to dedicate additional right-of-way to provide 49 feet from centerline of SW Tualatin-Sherwood Road, including adequate corner radius at the intersection.

Staff Response: The comments from Washington County have been considered, and to the extent that they are applicable to the proposed development, the conditions of approval have been incorporated into this report. The request for a non-access easement along the property's frontage with Tualatin-Sherwood Road, according to Naomi Voegel, Associate Planner with Washington County Operations, is not intended to prevent the existing access location that is used to maintain the water quality facility on the northeast corner of the site. Because that location is provided with a mountable curb, Washington County does not view that as a formal access to the site.

CLEAN WATER SERVICES (CWS):

CWS provided comments that essentially require that a Storm Water Connection Permit Authorization be obtained. The District also requires that the application comply with the requirements of the Amended service provider letter 12-000162.

Staff Response: The CWS conditions of approval have been incorporated into this report where appropriate.

TUALATIN VALLEY FIRE AND RESCUE (TVFR):

TVFR provided comments that do not specifically identify any deficiencies within the proposal, but rather outline the districts expectations for access, the provision of hydrants, and

infrastructure that would aid the district in providing services to the site. The comments are attached to this decision, and to the extent that they apply, the applicant will be required to satisfy the standards of TVFR in final design and construction of the subdivision.

Kinder Morgan Energy, ODOT, Pride Disposal, the Tualatin Valley Water District, NW Natural Gas, and Portland General Electric were all provided an opportunity to comment on this proposal, but did not provide comments. It is incumbent upon the applicant to coordinate the final design of the subdivision with any of the above affected agencies.

IV. APPLICABLE CODE STANDARDS

Chapter 16.32 Light Industrial (LI)

A. 16.32.020 Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Division VIII. Incidental retail sales, limited to 10% of the total floor area of a business, may be permitted as a secondary function of a permitted or conditional use, subject to the review and approval of the Hearing Authority.

STAFF ANALYSIS: The property is currently in agricultural use, and the subdivision does not include a proposal to use the land any differently. It should be noted, that staff has been in contact with the applicant, and they have indicated that they do intend to submit an application in the near future for commercial uses on the site. Section 16.32.020.H states, "PUDs, new and existing, subject to the provisions of Chapter 16.40. New PUDs may mix uses which are permitted within the boundaries of the PUD. Approved PUDs may elect to establish uses which are permitted or conditionally permitted under the base zone text applicable at the time of final approval of the PUD."

FINDING: At the time that the PUD was approved, general retail uses were permitted within the Light Industrial district, so there would be no reason that the applicant couldn't propose commercial development on the site in the future. Since the subdivision does not include proposals for any new uses on the subject site, the development complies with this section.

B. 16.32.050 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.84.

A. Lot Dimensions

Except as otherwise provided, required minimum lot areas and dimensions shall be:

- 1. Lot area: 10,000 sq ft**

2. Lot width at front property line: 100 feet
3. Lot width at building line: 100 feet

STAFF ANALYSIS: The proposed subdivision creates five lots and two tracts. The tracts, Tract A and Tract B, are for the purposes of protecting the natural resource on site, and to establish an area for a regional water quality facility, and are not buildable lots. Lot 1 is 13.99 acres in size, and has frontage onto three public streets. There are several front lot lines with the proposed lot, but the longest one is approximately 444.21 feet in length. Lot 2 is approximately 3.65 acres and has more than 1,050 feet of frontage onto two public streets. Lot 3 is approximately 2.35 acres in size and has more than 700 feet of frontage onto two public streets. Lot 4 is 21.97 acres in size and has more than 2,000 feet of frontage onto two public streets. Lot 5 is 6.93 acres in size and is provided access through a 40-foot wide access easement. The lot width at the front property line is more than 500 feet.

FINDING: It is feasible that, given the size of the lots, that the lot width at the building lines can be satisfied with future development on every one of the lots. Compliance with setbacks and heights will be verified at the time the properties are developed. The dimensional standards are satisfied to the extent that they apply to this subdivision.

C. 16.32.060 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Divisions V, VIII and IX.

STAFF ANALYSIS: The applicable standards that are listed in the Community Design section are addressed elsewhere in this narrative. As proposed, it is feasible that future development on the proposed lots would be able to satisfy the standards, and any proposed development will be evaluated against those standards that are found to be applicable.

Chapter 16.40 Planned Unit Development

STAFF ANALYSIS: The subject property has an approved PUD overlay. Initially approved in 1995, development on the property is subject to the provisions of that approval, any approved modifications, and the associated Developers Agreement. There are no approval criteria within Chapter 16.40 that can be directly attributed to this proposal. The standards of this chapter are only applicable to review and approval of the Preliminary Development Plan, the Final Development Plan, and any modifications. In this instance, the property is being subdivided outside of the PUD process, and does not preclude the applicant from satisfying the intent of the PUD, nor relieve them of their commitments to make the public improvements called for in that approval. This constitutes a development action on Phases 6, 7, and 8 of the proposed development. Consistency with the applicable requirements of the approved 2010 Development Agreement is discussed throughout this report. Consistency with the approved development standards and design guidelines apply to proposals for actual physical development of the property, and will be evaluated at such time that those applications are filed.

Chapter 16.58 Clear Vision and Fence Standards

16.58.010 Clear Vision Areas

- A. A clear vision area shall be maintained on the corners of all property at the intersection of two (2) streets, intersection of a street with a railroad, or intersection of a street with an alley or private driveway.**
- B. A clear vision area shall consist of a triangular area, two (2) sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation; or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection, and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two (2) sides.**
- C. A clear vision area shall contain no planting, sight obscuring fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half (2 1/2) feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to the height of seven (7) feet above the ground on the sidewalk side and ten (10) feet on the street side.**

The following requirements shall govern clear vision areas:

- 1. In all zones, the minimum distance shall be twenty (20) feet.**
- 2. In all zones, the minimum distance from corner curb to any driveway shall be twenty-five(25) feet.**
- 3. Where no setbacks are required, buildings may be constructed within the clear vision area.**

STAFF ANALYSIS: The proposed subdivision does not include any physical improvements that would preclude future development on each of the lots from complying with the provisions of this Chapter.

FINDING: It is feasible that the development can comply with the clear vision standards stated above. Compliance with the provisions of this chapter will be evaluated with future development proposals associated with the property.

Chapter 16.70 General Provisions**16.70.010 Pre-Application Conference**

Pre-application conferences are encouraged and shall be scheduled to provide applicants with the informational and procedural requirements of this Code; to exchange information regarding applicable policies, goals and standards of the Comprehensive Plan; to provide technical and design assistance; and to identify opportunities and constraints for a proposed land use action. An applicant may apply at one time for all permits or zone changes needed for a development project as determined in the pre-application conference.

STAFF ANALYSIS: Although not a requirement, the applicant requested and attended a pre-application conference with City staff on December 12, 2011 to discuss partitioning, subdividing, and developing the property.

16.70.020 Neighborhood Meeting

A. The purpose of the neighborhood meeting is to solicit input and exchange information about the proposed development.

B. Applicants of Type III, IV and V applications are required to hold a meeting, at a public location for with adjacent property owners and recognized neighborhood organizations that are within 1,000 feet of the subject application, prior to submitting their application to the City. Affidavits of mailing, sign-in sheets and a summary of the meeting notes shall be included with the application when submitted. Applicants for Type II land use action are encouraged, but not required to hold a neighborhood meeting.

STAFF ANALYSIS: The applicant held a neighborhood meeting on February 8, 2012 at St. Francis Church to discuss the overall development of the PUD site including a partition, a subdivision, and potential development of the site. Approximately 25 people attended. Twenty one of the attendees signed the attendance roster, and the applicant has provided a summary of the meeting and the items raised by the public. Concerns included added truck traffic on Langer Farms Parkway, speeding on Langer Farms Parkway, access to Tualatin-Sherwood Road from the extension of Century Drive, a desire for future development to attract store brands that appeal to teenagers, concerns about competition with existing businesses as a result of any commercial development on the property, the amount of existing vacant commercial space in Sherwood, a desire for additional transit service, disruption of wildlife, and disruption of existing views. To the extent that the development code addresses any of the concerns, staff has taken them into consideration in this decision.

It should be noted that SW Langer Farms Parkway is a collector intended to provide another route into Sherwood. Traffic laws on the right-of-way are enforced by the Sherwood Police Department, and currently the right-of-way does not restrict truck traffic. Future development proposals on the site include individual traffic impact reports that will better inform the decision makers on the impacts associated with those specific proposals. If the traffic in some way deteriorates the acceptable functionality of the street systems, then the Engineering Division may impose mitigation measures to help offset those impacts. The property is approved for commercial and light industrial type developments, and will most likely be developed in that manner.

All future development proposals will be required to meet the dimensional requirements including heights, setbacks, and to the extent they apply, the design guidelines that were approved with the Final PUD approval. There are no protected scenic corridors within the City's Comprehensive Plan, so it is likely that any development on the subject site will affect the existing views of those who live adjacent to the site, and have become accustomed to the views the existing farmland provides, but that land is within the City limits and is set aside for development.

FINDING: Although not required to host a neighborhood meeting by code, the applicant did in fact hold a neighborhood meeting on February 8, 2012 and provided the materials along with

this application that demonstrate that they complied with the requirements for neighborhood meetings.

Division VI. Public Infrastructure

16.104 General Provisions

To ensure the health, safety, and the economic stability of the community, and to establish a quality system of public improvements, the City shall require any buildings or other development for which public facilities and public rights-of-way are not fully provided or improved to current City standards, to install said improvements. Except as otherwise provided or authorized, private improvements serving substantially the same function as equivalent public facilities shall generally be provided and improved to the standards established by this Code and other City regulations.

STAFF ANALYSIS: As agreed to within the approved development agreement, the applicant is required to provide the right-of-way and ultimately construct the extension of SW Century Blvd. from its eastern terminus at the roundabout in SW Langer Farms Parkway to the western terminus at the west property line. The applicant is also required to dedicate the vegetated corridor and Natural Resource in Tract A, and to dedicate and construct the regional storm water facility located in Tract B. As proposed, the applicant is proposing to dedicate all three of these areas, and to defer construction of the improvements until such time that they are constructing improvements with future development.

16.104.020 Future Improvements

The location of future public improvements including water, sanitary sewer, storm water, streets, bicycle and pedestrian paths, and other public facilities and rights-of-way, as depicted in the Transportation System Plan (TSP) Chapters 4, 5, 6 and 7 of the Community Development Plan are intended as general locations only. The precise alignment and location of a public improvement shall be established during the land use process and shall be depicted on public improvement plans submitted and approved pursuant to § 16.108 and other applicable sections of this Code. (Ord. No. 2011-011, § 1, 10-4-2011)

16.104.030 Improvement Procedures

Except as otherwise provided, all public improvements shall conform to City standards and specifications found in the Engineering Design Manual and installed in accordance with Chapter 16.108. The Council may establish additional specifications to supplement the standards of this Code and other applicable ordinances. Except for public projects constructed consistent with an existing facility plan, a public improvements shall not be undertaken until land use approval has been granted, a public improvement plan review fee has been paid, all improvement plans have been approved by the City, and an improvement permit has been issued.

STAFF ANALYSIS: The City of Sherwood completed the extension of SW Langer Farms Parkway in 2012 funded primarily by Washington County Major Streets Transportation Improvement Program (MSTIP). As part of that construction, sewer, water, and access from SW Langer Farms Parkway were stubbed to the property. In accordance with the approved development agreement for the PUD, the right-of-way for the future extension of SW Century

Boulevard will be dedicated to the City with this application. When it is constructed, utilities will be extended through the site to accommodate future development on this site, and the adjacent properties. The specific locations of where and how the utilities will be provided onto the property will be evaluated and approved at such time that proposals for actual development of the lots are submitted and reviewed.

FINDING: The applicant has either proposed, or has been conditioned through prior approvals to provide needed public infrastructure with proposed development of the site. Adequate water, sewer and access are available to the property. Stormwater for all future development on site will be captured and treated in a new regional stormwater facility that the applicant will construct as part of any future development proposal for the site. The applicant will also be responsible for future construction of SW Century Blvd to City standards under the requirements of the approved Developers Agreement. This criterion is satisfied.

16.106 Transportation Facilities

16.106.020 Required Improvements

A. Generally

Except as otherwise provided, all developments containing or abutting an existing or proposed street, that is either unimproved or substandard in right-of-way width or improvement, shall dedicate the necessary right-of-way prior to the issuance of building permits and/or complete acceptable improvements prior to issuance of occupancy permits.

STAFF ANALYSIS: There are no physical improvements being proposed with the subdivision. The proposed subdivision is adjacent to two existing streets, SW Tualatin-Sherwood Road, and SW Langer Farms Parkway. The extension of a third public street, SW Century Blvd is required with future development as a condition of the approved development agreement that is binding upon the PUD. The right-of-way for that street will be dedicated with the subdivision.

FINDING: Since SW Langer Farms Parkway was only recently constructed, it is found to be constructed to standard. The developer will dedicate the right-of-way necessary for the future extension of SW Century Blvd. Improvements to the overall system may be warranted with future development. The development agreement requires the property owner to provide an individual traffic study for each development application. The City Engineer has determined that no improvements to the adjacent City streets are warranted by this proposal.

Tualatin-Sherwood Road is a County facility and therefore subject to restrictions imposed by county regulations. The county recognizes that the applicant is not proposing any access to SW Tualatin-Sherwood Road, but has requested the following conditions to ensure that the County's access-spacing standards, and the Transportation Planning Rule as it applies, through the county's regulations, to developments that front County rights-of-way are enforced.

It should be noted that the first condition would potentially restrict access to an existing driveway used to access a storm water quality facility in the northeast corner of the site. For this reason, the condition that the county has requested be imposed has been modified by City staff in a manner that allows the applicant to discuss the issue with County staff.

Conditions:

1. Prior to final plat approval, the applicant shall dedicate the necessary right-of-way needed to construct SW Century Drive.
2. Prior to final plat approval, the applicant shall establish the public right-of-way and 8' public utility easement for and adjacent to SW Century Drive on the face of the plat.
3. Prior to final plat approval, the following shall be represented on the plat and recorded with Washington County:
 - a. Dedication of additional right-of-way to provide 49 feet from centerline of SW Tualatin-Sherwood Road.
 - b. Dedication of additional right-of-way to provide adequate corner radius at the intersection of SW Tualatin-Sherwood Road.
 - c. Provision of a non-access reservation along SW Tualatin-Sherwood Road frontage, except at the existing access point(s) approved in conjunction with this land use application.

16.106.030 Location

A. Generally

The location, width and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, and proposed land uses. The proposed street system shall provide adequate, convenient and safe traffic and pedestrian circulation, and intersection angles, grades, tangents, and curves shall be adequate for expected traffic volumes. Street alignments shall be consistent with solar access requirements as per Chapter 16.156, and topographical considerations.

B. Street Connectivity and Future Street Systems

1. Future Street Systems. The arrangement of public streets shall provide for the continuation and establishment of future street systems as shown on the Local Street Connectivity Map contained in the adopted Transportation System Plan (Figure 8-8).

STAFF ANALYSIS: Figure 8-8 of the Sherwood Transportation System Plan (TSP) illustrates the future extension of Century Blvd. The approved Developer's Agreement associated with the original PUD calls for the dedication and ultimate construction of Century Blvd. The applicant has proposed to dedicate the right-of-way for Century Drive, and defer final construction plans, financial assurance, permits and construction of the street until such time that specific development proposals are provided for the property. The applicant has provided a preliminary plan and profile, and has demonstrated on Sheet 6, that it is feasible for the construction to occur within the right of way area given that the end points for SW Century Drive are already established by prior construction.

FINDING: The City has evaluated the proposal and agrees that the actual construction of the street can be deferred until such time that physical development of the property occurs given that the right-of-way area is already established, and is agreeable to the applicant's dedication of the right-of-way on the face of the plat.

2. Connectivity Map Required. New residential, commercial, and mixed use development involving the construction of new streets shall be submitted with a site plan that implements, responds to and expands on the Local Street

Connectivity map contained in the TSP.

- a. **A project is deemed to be consistent with the Local Street Connectivity map when it provides a street connection in the general vicinity of the connection(s) shown on the map, or where such connection is not practicable due to topography or other physical constraints; it shall provide an alternate connection approved by the decision-maker.**
- b. **Where a developer does not control all of the land that is necessary to complete a planned street connection, the development shall provide for as much of the designated connection as practicable and not prevent the street from continuing in the future.**
- c. **Where a development is disproportionately impacted by a required street connection, or it provides more than its proportionate share of street improvements along property line (i.e., by building more than 3/4 width street), the developer shall be entitled to System Development charge credits, as determined by the City Engineer.**

STAFF ANALYSIS: The applicant is only proposing to subdivide the property at this point in time. As mentioned previously in this decision, the applicant is proposing to dedicate the right-of-way for SW Century Boulevard. The applicant has provided a Conceptual Circulation Plan that generally demonstrates compliance with the Local Street Connectivity Map in the Sherwood TSP. It will be incumbent upon future development proposals to demonstrate compliance with this section as it applies to future development of proposed lot 4, because the TSP shows a north-south local connection.

FINDING: As proposed, the subdivision would not preclude the owner's ability to provide a connection consistent with the TSP local connectivity map; however, the applicant is not requesting approval of any development within the area of the site that calls for the connection discussed above. It is feasible for future development on the property to satisfy this condition.

3. **Block Length. For new streets except arterials, block length shall not exceed 530 feet. The length of blocks adjacent to arterials shall not exceed 1,800 feet.**
4. **Where streets must cross water features identified in Title 3 of the Urban Growth Management Functional Plan (UGMFP), provide crossings at an average spacing of 800 to 1,200 feet, unless habitat quality or length of crossing prevents a full street connection.**
5. **Where full street connections over water features identified in Title 3 of the UGMFP cannot be constructed in centers, main streets and station communities (including direct connections from adjacent neighborhoods), or spacing of full street crossings exceeds 1,200 feet, provide bicycle and pedestrian crossings at an average spacing of 530 feet, unless exceptional habitat quality or length of crossing prevents a connection.**
6. **Pedestrian and Bicycle Connectivity. Paved bike and pedestrian accessways consistent with cross section standards in Figure 8-6 of the TSP shall be provided on public easements or right-of-way when full street connections are not possible, with spacing between connections of no more than 300 feet. Multi-use paths shall be built according to the Pedestrian and Bike Master Plans in the adopted TSP.**
7. **Exceptions. Streets, bike, and pedestrian connections need not be constructed when any of the following conditions exists:**
 - a. **Physical or topographic conditions make a street or accessway connection**

impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided.

- b. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or
- c. Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.

STAFF ANALYSIS: This proposal does not include the creation of any new streets not already accounted for by the TSP. There is no identified bicycle or pedestrian connections in the TSP that are not already provided for within the existing right-of-way. It should be noted that the site is limited by the presence of the wetlands in Tract A, a major arterial to the north, a collector to the west, and existing industrial development directly south of the site.

FINDING: Existing site conditions and pre-existing development on adjacent properties may deter full street connectivity on a portion of the site. A conceptual circulation plan is provided with the preliminary plans to illustrate how the site can conceptually meet the standards, however, the site is zoned for light industrial and commercial uses, so it is unlikely that a full street connection would be necessary beyond what is called for in the TSP. It will be incumbent upon the property owner to demonstrate that the existing conditions preclude full connectivity, and if so, how pedestrian or bicycle connections can be made for future proposals for development. These criteria are not applicable to the proposed subdivision.

16.106.040 Design

Standard cross sections showing street design and pavement dimensions are located in the City of Sherwood Transportation System Plan, and City of Sherwood's Engineering Design Manual.

16.106.040.C. Future Extension

Where necessary to access or permit future subdivision or development of adjoining land, streets shall extend to the boundary of the proposed development and provide the required roadway width. Dead-end streets less than 100' in length shall comply with the Engineering Design Manual.

A durable sign shall be installed at the applicant's expense. The sign shall notify the public of the intent to construct future streets. The sign shall read as follows: "This road will be extended with future development. For more information contact the City of Sherwood at 503-625-4202."

STAFF ANALYSIS: As discussed previously in this report, the applicant has proposed to dedicate right-of-way that would allow for the construction of a public street that extends from the east terminus of SW Century Drive to the west terminus. Once constructed, this Century Blvd. will be complete.

FINDING: Because the applicant has proposed to dedicate the right-of-way with this application, and the signs called for in the standard above are already in place, this standard is satisfied.

16.106.040 .J. Transit Facilities

Development along an existing or proposed transit route, as illustrated in Figure 7-2 in the TSP, is required to provide areas and facilities for bus turnouts, shelters, and other transit-related facilities to Tri-Met specifications. Transit facilities shall also meet the following requirements:

1. Locate buildings within 20 feet of or provide a pedestrian plaza at major transit stops.
2. Provide reasonably direct pedestrian connections between the transit stop and building entrances on the site.
3. Provide a transit passenger landing pad accessible to disabled persons (if not already existing to transit agency standards).
4. Provide an easement or dedication for a passenger shelter and underground utility connection from the new development to the transit amenity if requested by the public transit provider.
5. Provide lighting at a transit stop (if not already existing to transit agency standards).

STAFF ANALYSIS: There are no existing or proposed transit routes adjacent to or near this site. Tri-Met has indicated that due to costs, some of the existing Sherwood transit service will be cut.

FINDING: Transit facilities are not necessary at this site at this time, as there would be no service available. This criterion is not applicable to the proposed subdivision.

16.110 - Sanitary Sewers**16.110.010 Required Improvements**

Sanitary sewers shall be installed to serve all new developments and shall connect to existing sanitary sewer mains. Sanitary Sewers shall be constructed, located, sized and installed at standards consistent 16.110.

STAFF ANALYSIS: There is sanitary sewer service in the adjacent street and available to the subdivision. It will be incumbent upon future development proposals to illustrate how service is provided for each new development proposal.

FINDING: no public sanitary easements are required with the subdivision plat as the service is already stubbed to the lots. When it becomes necessary to provide service to an individual lot or convey existing flows from upstream development the applicant will be required to provide easements to accommodate the construction and maintenance of the line. This criterion is satisfied.

16.112- Water Supply**16.112.010 Required Improvements**

Water lines and fire hydrants conforming to City and Fire District standards shall be installed to serve all building sites in a proposed development in compliance with 16.112.

STAFF ANALYSIS: There is water service in the adjacent street and available to the subdivision. It will be incumbent upon future development proposals to illustrate how service is provided for each new development proposal.

FINDING: Because the public water is stubbed to the property line for future development, there is no need to extend the water or provide easements with the subdivision plat. When it becomes necessary to provide service to an individual lot the applicant will be required to provide easements to accommodate the construction and maintenance of the line. This criterion is satisfied.

16.114 - Storm Water

16.114.010 Required Improvements

Storm water facilities, including appropriate source control and conveyance facilities, shall be installed in new developments and shall connect to the existing downstream drainage system consistent with the Comprehensive Plan, the requirements of the Clean Water Services water quality regulations and section 16.114.

STAFF ANALYSIS: The Preliminary Subdivision Plat map shows a 15' wide public storm drainage easement over Tract 'A' and Lot 4 for the benefit of existing and future upstream development. The Preliminary Subdivision Plat also shows a 15' wide public storm drainage easement over Lot 1 and a small portion of Lot 2, but has a note 'to be dedicated with development of Lots 1-3'. City infrastructure mapping indicates this easement will convey flows from existing upstream development and public rights-of-way, therefore both portions of the 15' public storm easement will be required with the subdivision plat. If public storm easements are required and retaining walls or slopes are necessary to support and the storm infrastructure, then separate wall or slope easements shall be established with the public storm easements, unless approved otherwise by the City Engineer.

Construction of a regional storm water treatment facility is required under the development agreement, and proposed by the applicant during the development of Phase 6, 7 or 8. Construction can be deferred until future site development. The Preliminary Subdivision Plat shows a 'Regional Stormwater Facility' at the east corner of Lot 5 located in Tract 'B', a '20' Wide Storm Drainage and Access Easement' over Lot 5, and '26' Wide Storm Drainage and Access Easement' over Lot 4.

FINDING: Since construction of the regional facility will be required for any development upon Phase 6, 7 or 8, particularly to convey and treat upstream flows from and across Lot 4, Lot 1, Lot 2 and existing public rights-of-way, Tract 'B', the 20' and 26' wide storm and access easements should be included with the subdivision plat.

Individual Storm Water Connection Permits (CWS) will be required with subsequent development, not with the subdivision plat.

16.116 Fire Protection

16.116.020 Standards

A. Capacity

All fire protection facilities shall be approved by and meet the specifications of the Fire District, and shall be sized, constructed, located, and installed consistent with this Code, Chapter 7 of the Community Development Plan, and other applicable City

standards, in order to adequately protect life and property in the proposed development.

B. Fire Flow

Standards published by the Insurance Services Office, entitled "Guide for Determination of Required Fire Flows" shall determine the capacity of facilities required to furnish an adequate fire flow. Fire protection facilities shall be adequate to convey quantities of water, as determined by ISO standards, to any outlet in the system, at no less than twenty (20) pounds per square inch residual pressure. Water supply for fire protection purposes shall be restricted to that available from the City water system. The location of hydrants shall be taken into account in determining whether an adequate water supply exists.

C. Access to Facilities

Whenever any hydrant or other appurtenance for use by the Fire District is required by this Chapter, adequate ingress and egress shall be provided. Access shall be in the form of an improved, permanently maintained roadway or open paved area, or any combination thereof, designed, constructed, and at all times maintained, to be clear and unobstructed. Widths, height clearances, ingress and egress shall be adequate for District firefighting equipment. The Fire District, may further prohibit vehicular parking along private accessways in order to keep them clear and unobstructed, and cause notice to that effect to be posted.

D. Hydrants

Hydrants located along private, accessways shall either have curbs painted yellow or otherwise marked prohibiting parking for a distance of at least fifteen (15) feet in either direction, or where curbs do not exist, markings shall be painted on the pavement, or signs erected, or both, given notice that parking is prohibited for at least fifteen (15) feet in either direction.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3; Ord. 86-851, § 3)

STAFF ANALYSIS: As indicated earlier in this decision, water service and hydrants were provided with the construction of SW Langer Farms Parkway. The land is not proposed to be developed at this time, and there are no structures on the existing site at this time.

FINDING: The fire district comments do not indicate that any additional services need to be provided with this proposal. Their comments are incorporated into this decision for reference. It will be incumbent upon applicants to demonstrate compliance with this section with future development proposals. These criteria are satisfied.

16.118. – Public and Private Utilities

16.118.020 Standards

A. Installation of utilities shall be provided in public utility easements and shall be sized, constructed, located and installed consistent with this Code, Chapter 7 of the Community Development Code, and applicable utility company and City standards.

- B. Public utility easements shall be a minimum of eight feet in width unless a reduced width is specifically exempted by the City Engineer.
- C. Where necessary, in the judgment of the City Manager or his designee, to provide for orderly development of adjacent properties, public and franchise utilities shall be extended through the site to the edge of adjacent property (ies).
- D. Franchise utility conduits shall be installed per the utility design and specification standards of the utility agency.
- E. Public Telecommunication conduits and appurtenances shall be installed per the City of Sherwood telecommunication design standards.
- F. Exceptions: Installation shall not be required if the development does not require any other street improvements. In those instances, the developer shall pay a fee in lieu that will finance installation when street or utility improvements in that location occur.

STAFF ANALYSIS: There is no physical development proposed with this subdivision. There are utilities around the entire site that are readily available for future development of the site. Public utility easements will be provided where required to ensure that there is adequate room for franchise utilities.

FINDING: No new utility extensions are necessary with this request. The applicant is showing an 8-foot public utility easement around the lots as required. Utilities are available to the property and will be extended as future development is proposed on the site.

16.118.030 Underground Facilities

Except as otherwise provided, all utility facilities, including but not limited to, electric power, telephone, natural gas, lighting, cable television, and telecommunication cable, shall be placed underground, unless specifically authorized for above ground installation, because the points of connection to existing utilities make underground installation impractical, or for other reasons deemed acceptable by the City.

STAFF ANALYSIS: As indicated previously, there is no need for new utilities with this subdivision proposal. All existing and adjacent utilities were placed underground when the SW Langer Farms Parkway was constructed in 2011. There are above ground PGE or BPA powerlines along SW Tualatin-Sherwood Road, that cannot be undergrounded because of the load they carry. If the opportunity arises in the future to underground the facilities, it is likely that those providers will do it themselves.

FINDING: There are overhead utilities on the property, but they carry an electrical load that is not conducive to undergrounding. Future proposals for new development will be required to provide underground facilities when extending utilities where applicable. This criterion is satisfied.

16.120 Subdivisions

16.120.040 Approval Criteria: Preliminary Plat

No preliminary plat shall be approved unless:

- A. Streets and roads conform to plats approved for adjoining properties as to widths, alignments, grades, and other standards, unless the City determines that the public interest is served by modifying streets or road patterns.

STAFF ANALYSIS: SW Century Drive is conditioned to be constructed through the PUD and the approved Development Agreement. As proposed, the right-of-way for SW Century Drive will be dedicated to the public for future construction. The design and construction of that right-of-way will be consistent with this section to the extent that the provided right-of-way will not preclude the construction of that future street from complying with this standard.

FINDING: Because the right-of-way for SW Century Drive is being dedicated with the plat, SW Langer Farms was recently constructed, and the County has agreed to allow the applicant to either construct improvements or pay a fee in lieu of improvements to Tualatin-Sherwood Road, this criterion can feasibly be satisfied as provided the applicant meets the conditions of this decision.

B. Streets and roads held for private use are clearly indicated on the plat and all reservations or restrictions relating to such private roads and streets are set forth thereon.

STAFF ANALYSIS: As proposed or conditioned, all existing easements are indicated on the preliminary plat as required, and will be checked and verified again prior to the City's approval of the final plat.

FINDING: The plat illustrates all of the existing reservations or restrictions for access to the extent that they are existing. New ones may be established with future development, but for now, this criterion is satisfied.

C. The plat complies with applicable zoning district standards and design standards in Division II, and all provisions of Divisions IV, VI, VIII and IX. The subdivision complies with Chapter 16.128 (Land Division Design Standards).

STAFF ANALYSIS: Compliance with these standards have been discussed throughout this decision.

FINDING: As conditioned, the proposed subdivision can comply with the standards including Chapter 16.128, the Land Division Design Standards. It should be noted that this proposal does not include an application for physical development, so some of the standards listed above are not applicable to this proposal, and will need to be satisfied with future proposals for development on the individual lots.

D. Adequate water, sanitary sewer, and other public facilities exist to support the use of land proposed in the plat.

STAFF ANALYSIS: Compliance with these standards have been discussed throughout this decision.

FINDING: As discussed earlier in this decision, all public utilities and facilities are available to the site. This criterion is satisfied by the proposed subdivision.

E. Development of additional, contiguous property under the same ownership can be accomplished in accordance with this Code.

STAFF ANALYSIS: Approval of this subdivision as proposed, does not preclude any of the adjacent properties from being developed.

FINDING: There are no contiguous properties adjacent to the subject site that are under the same ownership. This criterion is not applicable to the proposed subdivision.

F. Adjoining land can either be developed independently or is provided access that will allow development in accordance with this Code.

STAFF ANALYSIS: Approval of this subdivision as proposed, does not preclude any of the adjacent properties from being developed.

FINDING: The proposed subdivision does not affect adjoining land from being provided with access. There are no landlocked parcels of land adjacent to this site. Future construction of SW Century Drive will improve access to the adjacent properties, but they currently have access to a public street. This criterion is satisfied.

G. Tree and woodland inventories have been submitted and approved as per Section 16.142.060.

STAFF ANALYSIS: A tree and woodland inventory has not been submitted for this proposal because there is no physical development proposed. It will be incumbent upon the property owner to demonstrate compliance with these standards with future proposals for development on the property.

FINDING: Because there is no physical development associated with this request, this criterion is not applicable.

H. The plat clearly shows the proposed lot numbers, setbacks, dedications and easements.

STAFF ANALYSIS: The proposed preliminary plat illustrates the proposed lot numbers, dedications and easements as required.

FINDING: Because there is no physical development associated with the plat, setbacks are not required to be shown, and will be verified in future proposals for development. To the extent that this criteria applies to the proposal, it is satisfied. Because of the size of the lots, it is feasible for the setbacks to be met with future development.

I. A minimum of five percent (5%) open space has been provided per § 16.44.B.8 (Townhome- Standards) or §16.142.020 (Parks, Open Spaces and Trees-Single-Family Residential Subdivisions), if applicable. (Ord. No. 2011-011, § 1, 10-4-2011)

STAFF ANALYSIS: Because this property is associated with an existing Planned Unit Development, and is not associated with residential development, this standard is not applicable to the proposed development.

FINDING: This standard is not applicable to the proposed development.

16.128 – Land Division Design Standards
16.128.010 - Blocks

A. Connectivity**1. Block Size**

The length, width, and shape of blocks shall be designed to provide adequate building sites for the uses proposed, and for convenient access, circulation, traffic control and safety.

2. Block Length

Block length standards shall be in accordance with Section 16.108.040. Generally, blocks shall not exceed five-hundred thirty (530) feet in length, except blocks adjacent to principal arterial, which shall not exceed one thousand eight hundred (1,800) feet. The extension of streets and the formation of blocks shall conform to the Local Street Network map contained in the Transportation System Plan.

- 3. Pedestrian and Bicycle Connectivity.** Paved bike and pedestrian accessways shall be provided on public easements or right-of-way consistent with Figure 7.401.

STAFF ANALYSIS: This proposal does not include the creation of any new streets not already accounted for by the TSP. There is no identified bicycle or pedestrian connections in the TSP that are not already provided for within the existing right-of-way. It should be noted that the site is limited by the presence of the wetlands in Tract A, a major arterial to the north, a collector to the west, and existing industrial development directly south of the site.

FINDING: Existing site conditions and pre-existing development on adjacent properties may deter full street connectivity on a portion of the site. A conceptual circulation plan is provided with the preliminary plans to illustrate how the site can conceptually meet the standards, however, the site is zoned for light industrial and commercial uses, so it is unlikely that a full street connection would be necessary beyond what is called for in the TSP. It will be incumbent upon the property owner to demonstrate that the existing conditions preclude full connectivity, and if so, how pedestrian or bicycle connections can be made for future proposals for development. These criteria are not applicable to the proposed subdivision.

B. Utilities Easements for sewers, drainage, water mains, electric lines, or other utilities shall be dedicated or provided for by deed. Easements shall be a minimum of ten (10) feet in width and centered on rear or side lot lines; except for tie-back easements, which shall be six (6) feet wide by twenty (20) feet long on side lot lines at the change of direction.

STAFF ANALYSIS: The proposed subdivision shows the location of all existing utility easements associated with the site. An 8-foot public utility easement was dedicated along the front and side lot lines with document No. 2011-030292, and is illustrated on the plat.

FINDING: The Engineering division has indicated that the easement is of adequate width to accommodate utilities. As new proposals for development come in on the lots, it will be incumbent upon the applicant to ensure that adequate easements are provided to allow access and maintenance to future public utilities. This criterion is satisfied by the proposed subdivision.

C. Drainages

Where a subdivision is traversed by a watercourse, drainage way, channel or street, drainage easements or rights-of-way shall be provided conforming substantially to

the alignment and size of the drainage.

STAFF ANALYSIS: The proposed subdivision is traversed by a drainage way; therefore, this criterion is applicable. As proposed, the subdivision includes two tracts. Tract A identifies the location of the drainage way and associated corridor, and Tract B identifies the location for a future regional stormwater treatment facility.

FINDING: The applicant has proposed to dedicate the facilities as is conditioned in the Original PUD and associated Development Agreement. This criterion is satisfied by the proposal.

16.128.020 - Pedestrian and Bicycle Ways

Pedestrian or bicycle ways may be required to connect cul-de-sacs, divide through an unusually long or oddly shaped block, or to otherwise provide adequate circulation.

STAFF ANALYSIS: There are no cul-de-sacs proposed with this subdivision, and as proposed, it is untimely to evaluate the circulation given that the sizes of the lots are so large. It will be incumbent upon future applications to demonstrate compliance with this standard.

FINDING: As indicated previously in this decision, the site is not subject to this standard until such time that physical development is being proposed on the site.

16.128.030 - Lots

A. Size and Shape

Lot size, width, shape, and orientation shall be appropriate for the location and topography of the subdivision or partition, and shall comply with applicable zoning district requirements, with the following exception:

- 1. Lots in areas not served by public sewer or water supply shall conform to any special County Health Department standards.**

STAFF ANALYSIS: As previously discussed, the proposed lots meet or exceeds the applicable dimensional standards for lots within the Light Industrial zoning district.

FINDING: The approved PUD did not place any additional lot restrictions on the property. This site is served by public sewer and water. This criterion is satisfied.

B. Access

All lots in a subdivision shall abut a public street, except as allowed for infill development under Chapter 16.68.

STAFF ANALYSIS: Lots 1-4 directly abut one of the three adjacent public rights-of-way (SW Century Drive will be dedicated with this plat and constructed with future development). Lot 5 has direct public access through a private 40-foot wide access and utility easement as allowed in Chapter 16.68.

FINDING: Because the lots abut a public street, or are served by an easement to a public street, this criterion is satisfied.

D. Side Lot Lines Side lot lines shall, as far as practicable, run at right angles to the street upon which the lots face, except that on curved streets side lot lines shall be radial to the curve of the street.

STAFF ANALYSIS: With the exception of Lots 4 and 5, the side lot lines of each lot run perpendicular to SW Langer Farms Parkway. Lots 4 and 5 are not able to be perpendicular because of the onsite drainage way.

FINDING: To the extent that it is practical, the side lot lines run at right angles to SW Langer Farms Parkway. The proposal has satisfied this criterion.

E. Grading

Grading of building sites shall conform to the following standards, except when topography of physical conditions warrants special exceptions:

1. Cut slopes shall not exceed one (1) and one-half (1 1/2) feet horizontally to one (1) foot vertically.
2. Fill slopes shall not exceed two (2) feet horizontally to one (1) foot vertically.

STAFF ANALYSIS: No on-site grading is proposed with this subdivision.

FINDING: Because no grading is associated with the proposed subdivision, it will be incumbent upon future development proposals on the site to comply with this standard. It should be noted that the site is fairly flat, so it is very likely that the amount of future grading on this property will be minimal, and that it is entirely feasible for the standards listed above to be met given the topography. This criterion is not applicable to this proposal.

Division VIII – Environmental Resources

16.142 – Parks and Open Space

STAFF ANALYSIS: The proposed subdivision is on land that is zoned Light Industrial (L-1) with a Planned Unit Development (PUD) overlay. The PUD required the provision of open space that has already occurred for those properties developed with residential uses. The vegetated corridor is being set aside in a tract to be dedicated to the public to meet a condition of the original PUD as it pertains to open space. The following criteria are the only provisions that are applicable in this Chapter to this request.

16.142.030.A Visual Corridors

A. Corridors Required

New developments with frontage on Highway 99W, or arterial or collector streets designated on the Transportation Plan Map, attached as Appendix C, or in Section 5 of the Community Development Plan Part 2, shall be required to establish a landscaped visual corridor according to the following standards:

	Category	Width
1.	Highway 99W	25 feet
2.	Arterial	15 feet

3.	Collector	10 feet
<p>In residential developments where fences are typically desired adjoining the above described major street the corridor may be placed in the road right-of-way between the property line and the sidewalk. (Ord. 2006-021)</p>		
<p>B. Landscape Materials</p>		
<p>The required visual corridor areas shall be planted as specified by the review authority to provide a continuous visual and/or acoustical buffer between major streets and developed uses. Except as provided for above, fences and walls shall not be substituted for landscaping within the visual corridor. Uniformly planted, drought resistant street trees and ground cover, as specified in Section 16.142.050, shall be planted in the corridor by the developer. The improvements shall be included in the subdivision compliance agreement. (Ord. 2006-021)</p>		
<p>C. Establishment and Maintenance</p>		
<p>Designated visual corridors shall be established as a portion of landscaping requirements pursuant to Chapter 16.92. To assure continuous maintenance of the visual corridors, the review authority may require that the development rights to the corridor areas be dedicated to the City or that restrictive covenants be recorded prior to the issuance of a building permit. (Ord. 2006-021)</p>		
<p>D. Required Yard</p>		
<p>Visual corridors may be established in required yards, except that where the required visual corridor width exceeds the required yard width, the visual corridor requirement shall take precedence. In no case shall buildings be sited or trees be removed from within the required visual corridor, with the exception of front porches on townhomes, as permitted in Section 16.44.010(E)(4)(c). (Ord. 2006-021)</p>		

STAFF ANALYSIS: The proposed subdivision does not include any physical development that would mandate the need for a visual corridor. Future development of the lots will be required to comply with the visual corridor standards along it's frontage with SW Langer Farms Parkway, a collector, and SW Tualatin-Sherwood Road, an arterial.

FINDING: Because the applicant is not proposing any physical development of the property at this time, and the City will have the opportunity to impose this requirement on future development proposals, this criterion is not applicable to the proposed subdivision.

16.142.060. Street Trees

- A. Installation of Street Trees on New or Redeveloped Property.**
- Trees are required to be planted to the following specifications along public streets abutting or within any new development or re-development. Planting of such trees shall be a condition of development approval. The City shall be subject to the same standards for any developments involving City-owned property, or when constructing or reconstructing City streets. After installing street trees, the property owner shall be responsible for maintaining the street trees on the owner's property or within the right-of-way adjacent to the owner's property.
1. **Location:** Trees shall be planted within the planter strip along a newly created or improved streets. In the event that a planter strip is not required or available, the trees shall be planted on private property within the front yard setback area or within public street right-of-way between front property lines and street curb lines or as required by the City.
 2. **Size:** Trees shall have a minimum trunk diameter of two (2) inches DBH and minimum height of six (6) feet. Diameter at breast height (DBH) shall be

- measured as defined by the International Society of Arboriculture.
3. **Types:** Developments shall include a variety of street trees. The trees planted shall be chosen from those listed in 16.142.080 of this Code.
 4. **Required Street Trees and Spacing:**
 - a. The minimum spacing is based on the maximum canopy spread identified in the recommended street tree list in section 16.142.080 with the intent of providing a continuous canopy without openings between the trees. For example, if a tree has a canopy of forty (40) feet, the spacing between trees is forty (40) feet. If the tree is not on the list, the mature canopy width must be provided to the planning department by a certified arborist.
 - b. All new developments shall provide adequate tree planting along all public streets. The number and spacing of trees shall be determined based on the type of tree and the spacing standards described in a. above and considering driveways, street light locations and utility connections. Unless exempt per c. below, trees shall not be spaced more than forty (40) feet apart in any development.
 - c. A new development may exceed the forty-foot spacing requirement under section b. above, under the following circumstances:
 - (1) Installing the tree would interfere with existing utility lines and no substitute tree is appropriate for the site; or
 - (2) There is not adequate space in which to plant a street tree due to driveway or street light locations, vision clearance or utility connections, provided the driveways, street light or utilities could not be reasonably located elsewhere so as to accommodate adequate room for street trees; and
 - (3) The street trees are spaced as close as possible given the site limitations in (1) and (2) above.
 - (4) The location of street trees in an ODOT or Washington County right-of-way may require approval, respectively, by ODOT or Washington County and are subject to the relevant state or county standards.
 - (5) For arterial and collector streets, the City may require planted medians in lieu of paved twelve-foot wide center turning lanes, planted with trees to the specifications of this subsection.

FINDING: No new street trees are required for this proposal until such time that physical improvements of SW Century Blvd and improvements along SW Tualatin-Sherwood Road are constructed. The applicant has proposed to dedicate the rights-of-way and defer improvements until future development occurs. The County has requested that the applicant either make the improvements or pay a fee in-lieu of the improvements prior to final plat. This condition has been incorporated into this decision. Street trees were provided along the sites frontage with SW Langer Farms Parkway with that recent improvement. This criterion is not applicable to the proposed subdivision, but will be required with future development of any of the lots that require the construction or reconstruction of new public streets.

16.142.060 - Trees on Property Subject to Certain Land Use Applications

All site developments subject to Section 16.92.020 shall be required to preserve trees or woodlands to the maximum extent feasible within the context of the proposed land

use plan and relative to other policies and standards of the City Comprehensive Plan, as determined by the City. Review and mitigation shall be consistent with 16.142.060 A, B, C and D.

FINDING: This application is for a proposed subdivision, no physical improvements are proposed. This land has been farmed, and the majority of trees on site are located within Tract A. Future development proposals on the lots will be required to satisfy the requirements of this chapter. Because the property is zoned for commercial or light industrial uses, future development will be subject to site development review, and a more detailed analysis of how trees will be affected. This criterion is not applicable to the proposed subdivision.

Chapter 16.144 Wetland, Habitat, and Natural Areas

16.144.020 Standards

A. The applicant shall identify and describe the significance and functional value of wetlands on the site and protect those wetlands from adverse effects of the development. A facility complies with this standard if it complies with the criteria of subsections A.1.a and A.1.b, below:

1. The facility will not reduce the area of wetlands on the site, and development will be separated from such wetlands by an area determined by the Clean Water Services Design and Construction Standards R&O 00-7 or its replacement provided Section 16.140.090 does not require more than the requested setback.

a. A natural condition such as topography, soil, vegetation or other feature isolates the area of development from the wetland.

b. Impact mitigation measures will be designed, implemented, and monitored to provide effective protection against harm to the wetland from sedimentation, erosion, loss of surface or ground water supply, or physical trespass.

c. A lesser setback complies with federal and state permits, or standards that will apply to state and federal permits, if required.

2. If existing wetlands are proposed to be eliminated by the facility, the applicant shall demonstrate that the project can, and will develop or enhance an area of wetland on the site or in the same drainage basin that is at least equal to the area and functional value of wetlands eliminated.

B. The applicant shall provide appropriate plans and text that identify and describe the significance and functional value of natural features on the site (if identified in the Community Development Plan, Part 2) and protect those features from impacts of the development or mitigate adverse effects that will occur. A facility complies with this standard if:

1. The site does not contain an endangered or threatened plant or animal species or a critical habitat for such species identified by Federal or State government (and does not contain significant natural features identified in the Community Development Plan, Part 2, Natural Resources and Recreation Plan).

2. The facility will comply with applicable requirements of the zone.
3. The applicant will excavate and store topsoil separate from subsurface soil, and shall replace the topsoil over disturbed areas of the site not covered by buildings or pavement or provide other appropriate medium for re-vegetation of those areas, such as yard debris compost.
4. The applicant will retain significant vegetation in areas that will not be covered by buildings or pavement or disturbed by excavation for the facility; will replant areas disturbed by the development and not covered by buildings or pavement with native species vegetation unless other vegetation is needed to buffer the facility; will protect disturbed areas and adjoining habitat from potential erosion until replanted vegetation is established; and will provide a plan or plans identifying each area and its proposed use.
5. Development associated with the facility will be set back from the edge of a significant natural area by an area determined by the Clean Water Services Design and Construction standards R&O 00-7 or its replacement, provided Section 16.140.090A does not require more than the requested setback. Lack of adverse effect can be demonstrated by showing the same sort of evidence as in subsection A.1 above.

C. When the Regionally Significant Fish and Wildlife Habitat map indicates there are resources on the site or within 50 feet of the site, the applicant shall provide plans that show the location of resources on the property. If resources are determined to be located on the property, the plans shall show the value of environmentally sensitive areas using the methodologies described in Sections 1 and 2 below.

The Metro Regionally Significant Fish and Wildlife Habitat map shall be the basis for determining the location and value of environmentally sensitive habitat areas. In order to specify the exact locations on site, the following methodology shall be used to determine the appropriate boundaries and habitat values:

FINDING: The applicant has identified the wetlands on site, and has provided staff with a CWS service Provider Letter that spells out all of the requirements for protection as required in the Tualatin River Basin approved HCA. According to the applicant, and as verified by the Service Provider Letter, the area has been delineated in accordance with the requirements of CWS R&O 00-7. Clean Water Services has provided comments in addition to the Service Provider Letter that have been incorporated into this report. The following Condition is warranted to ensure that the applicant continues to comply with the conditions of Service Provider Letter No. 12-000162. It will be incumbent upon future development proposals on proposed Lots 4 and 5 to ensure that their impacts to the protected resources in Tract A meet the requirements of CWS.

CONDITION: Prior to any site work or final plat approval, the applicant shall provide the City with evidence that Clean Water Services has reviewed and approved the final plat, and met the applicable conditions imposed on the letter dated May 8, 2012 from Jackie Sue Humphreys at Clean Water Services.

RECOMMENDATION

Based upon review of the applicant's submittal information, review of the code, agency comments and consideration of the applicant's revised submittal, staff finds that the proposed subdivision does not fully comply with the standards but can be conditioned to comply, approves the subdivision request subject to compliance with the following conditions of approval.

VI. CONDITIONS OF APPROVAL

A. General Conditions

1. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
2. Development and construction on the site shall conform substantially to the preliminary plat development plans submitted by AKS Engineering and Forestry, dated April 11, 2012 except as modified in the conditions below, (and shall conform specifically to final construction plans reviewed and approved by the City Engineer, the Building Official, Clean Water Services, Tualatin Valley Fire and Rescue, Tualatin Valley Water District and Washington County). All plans shall comply with the applicable building, planning, engineering and fire protection codes of the City of Sherwood.
3. The developer is responsible for all costs associated with any remaining public facility improvements and shall assure the construction of all public streets and utilities within and adjacent to the plat as required by these conditions of approval, to the plans, standards, and specifications of the City of Sherwood. The developer shall also provide to the City financial guarantees for construction of all public streets and utilities within and adjacent to the plat, as required by the engineering compliance agreement.
4. **This approval is valid for a period of two (2) years from the date of the decision notice.** Extensions may be granted by the City as afforded by the Sherwood Zoning and Community Development Code.
5. The continual operation of the property shall comply with the applicable requirements of the Sherwood Zoning and Community Development Code and Municipal Code.
6. This approval does not negate the need to obtain permits, as appropriate from other local, state or federal agencies, even if not specifically required by this decision.

B. Prior to approval of the public improvement plans:

1. All public easement dedication documents must be submitted to the City for review, signed by the City and the applicant, and recorded by the applicant with the original or a certified copy of the recorded easements on file at the City prior to release of the public improvement plans.
2. Submit the final plat for review to the Planning Department.

C. Prior to Approval of the Final Plat:

1. The submittal by the applicant for final plat review and approval shall include but not be limited to the following: a final plat application; final plat review fee; narrative identifying how the required conditions of approval have or will be met; three copies of the final plat; and any other materials required to demonstrate compliance with the conditions of approval. In addition, the following specific conditions shall be met prior to approval of the final plat:
2. Prior to final plat approval, the applicant shall dedicate the necessary right-of-way needed to construct SW Century Drive.
3. Prior to final plat approval, the applicant shall establish the public right-of-way and 8' public utility easement for and adjacent to SW Century Drive.
4. Prior to final plat approval, the following shall be represented on the plat and recorded with Washington County:
 - a. Dedication of additional right-of-way to provide 49 feet from centerline of SW Tualatin-Sherwood Road.
 - b. Dedication of additional right-of-way to provide adequate corner radius at the intersection of SW Tualatin-Sherwood Road.
 - c. Provision of a non-access reservation along SW Tualatin-Sherwood Road frontage, except at the existing access point(s) approved in conjunction with this land use application.
5. Prior to any site work or final plat approval, the applicant shall provide the City with evidence that Clean Water Services has reviewed and approved the final plat, and met the applicable conditions imposed on the letter dated May 8, 2012 from Jackie Sue Humphreys at Clean Water Services.
6. Approval of the public improvement plans by the Engineering Department, and signature of a compliance agreement must be complete prior to release of the plat to the County for review. In addition, prior to final plat approval, either all on-site work must be complete or the improvements bonded or guaranteed with a cash deposit.
7. The final plat shall show the following:
 - a. The Community Development Director as the City's approving authority within the signature block of the final plat.
 - b. A 15-foot wide public utility easement for any areas where a single public utility line is located outside a public right-of-way with an increase of five (5) feet for each additional utility line.
 - c. Private access easements, utility easements and/or special use easements as required for the development of the site. A plat note shall reference an easement and maintenance agreement or similar document, to be recorded with the plat, for the joint maintenance of any common private utility lines, common driveway improvements, or other common amenity or perimeter fencing. The language of such plat note and associated document shall be reviewed and approved by the Planning Department.



Home of the Tualatin River National Wildlife Refuge

NOTICE OF DECISION

TAX LOT: 2S1 29DC 00100
Parcel 2 of Partition Plat 2017-019

CASE NO: SP 17-01 / SUB 17-03

DATE OF NOTICE: December 14, 2017

Applicant/Owner

Langer Family, LLC
15555 SW Tualatin Sherwood Road
Sherwood, OR 97140

Owner's Representative

John Christiansen, PE
AKS Engineering and Forestry

NOTICE

Because you testified in writing or in person at the Planning Commission Public Hearing on this matter, you are receiving notice that on December 12, 2017, the Sherwood City Planning Commission approved the **Parkway Village South Site Plan and Subdivision**. The applicant proposes a Site Plan Review and a five lot subdivision, with lots ranging from \pm 0.50 acres to \pm 8.24 acres in the Light Industrial Planned Unit Development (LI-PUD) zone. Lot 1 is reserved for future use and is not included in the concurrent Site Plan Review application. The remaining four lots will consist of the following: \pm 92,899 square feet indoor entertainment and recreation fun center; \pm 32,408 square feet of retail space across four buildings; and \pm 392 square feet drive-through coffee kiosk. The decision was made after consideration of the staff report, application materials, and public testimony.

INFORMATION:

To obtain copies of file materials, go to <https://www.sherwoodoregon.gov/planning/project/parkway-village-south> or contact Joy Chang, Associate Planner, at 503-625-4214 or by e-mail at changj@sherwoodoregon.gov.

APPEAL

Pursuant to Sherwood Zoning and Community Development Code Section 16.72.010.B.3.d, an appeal of the Planning Commission decision may be made to the City Council. Pursuant to Section 16.76, any person who appeared before the local government, orally or in writing, on this matter may file a notice of intent to appeal to the City of Sherwood Planning Director not later than 14 days from the date of this notice. **An appeal of this decision must be filed no later than 5:00 PM on December 28, 2017.**

I, Joy Chang, for the Planning Department, City of Sherwood, State of Oregon, in Washington County, declare that the Notice of Decision SP 17-01/SUB 17-03 Parkway Village South was placed in a U.S. Postal receptacle, or transmitted via electronic mail, on December 14, 2017.


Joy Chang, Associate Planner
City of Sherwood Planning Department

CITY OF SHERWOOD

December 14, 2017

Parkway Village South Site Plan and Subdivision
Case File: SP 17-01 / SUB 17-03

Notice of Decision

Pre-App. Meeting:	January 4, 2017
App. Submitted:	July 19, 2017
App. Complete:	August 18, 2017
Revised 120-Day Deadline:	January 15, 2018
First Hearing Date:	November 28, 2017
Continued Hearing Date:	December 12, 2017

On November 28, 2017, the Planning Commission opened the public hearing and due to a lack of quorum continued the hearing to December 12, 2017. At that same meeting, the applicant granted a one-month extension to the 120-day land use final action deadline extending the date to January 15, 2018. At the December 12, 2017 Planning Commission meeting, the Commission opened the public hearing and took public testimony on the subject application. Staff presented the staff report and after receiving testimonies from the applicant and the public, the Commission closed the record and considered the application before them. No additional written testimony was received.

At the hearing, the Planning Commission discussed the applicable criteria. Questions were raised relating to on-site landscaping maintenance, delivery/loading for Lots 2, 4-5, traffic impacts on the intersection of SW Century Drive/Tualatin Sherwood Road, and clarification on phasing of the development. The Commission praised the applicant in their willingness to modify the designed based on feedback received at the required neighborhood meeting. Additional comments highlighted the project design that include architectural details that creates a pedestrian friendly environment.

The Planning Commission approved the application and based their decision on the findings of fact and conditions contained in this notice including the testimony received, staff report and Exhibits A-K.



Jean Simson, Planning Commission Chair

Proposal: The applicant proposes a Site Plan Review and a five lot subdivision, with lots ranging from \pm 0.50 acres to \pm 8.24 acres in the Light Industrial Planned Unit Development (LI-PUD) zone. Lot 1 is reserved for future use and is not included in the concurrent Site Plan Review application. The remaining four lots will consist of the following: \pm 92,899 square feet indoor entertainment and recreation fun center; \pm 32,408 square feet of retail space across four buildings; and \pm 392 square feet drive-through coffee kiosk.

I. BACKGROUND

- A. Applicant/Owner:** Langer Family, LLC
15555 SW Tualatin Sherwood Road
Sherwood, OR 97140
- Owner's Representative:** John Christiansen, PE
AKS Engineering and Forestry
503-563-6151
- B. Assessor's Information:** Tax Map 2S1 29DC, Tax Lot 100
Parcel 2 of Partition Plat 2017-019
- C. Location:** Southeast corner of SW Langer Farms Parkway and SW Century Drive
- D. Parcel Size:** The site is approximately 15.67 acres in size.
- E. Existing Development and Site Characteristics:** The site is currently vacant and gently slopes upwards from east to west. An existing stockpile of dirt, located on the northern portion of the site, was previously granted through a grading permit from the city's Building Department. The site is also adjacent to a regional stormwater quality facility to the southeast which was committed to serving this tax lot. There is an existing drainageway, and associated wetlands and vegetated corridor designation, located within an unbuildable tract to the southeast that was established as part of the Langer Farms subdivision plat. The site will take access from SW Langer Farms Parkway and SW Century Drive, both designated as collector streets in the City of Sherwood Transportation System Plan (TSP).
- F. Site History:** The site has been owned and farmed by the Langer family since the late 1800's. This particular piece of property is within Phase 6 of the Sherwood Village PUD that was approved by the Sherwood City Council in 1995. All future development is subject to the conditions of the approved Planned Unit Development and SUB 12-02. Because of the approval of the subdivision in 2012, the use of the property is vested for a period of 10 years (ORS 92.040). In this instance, the PUD approval for all of phases 6, 7, and 8 of PUD 95-1 allowed for uses that were permitted within the General Commercial Zone in 1995. This was memorialized by the Council approval of Resolution 2007-081 in 2007. The City also approved a Similar Use Interpretation establishing that the proposed Fun Center is a permitted use on the subject property under the 1995 Sherwood Zoning and Community Development Code (SZCDC) in April 2017.
- G. Zoning Classification and Comprehensive Plan Designation:** The property is zoned Light Industrial Planned Unit Development (LI-PUD). A Fun Center is not currently permitted in this zone, but as stated above, this use was permitted when the original PUD was approved, and the use was vested for a period of 10 years once the subdivision was approved in 2012.
- H. Adjacent Zoning and Land Use:** The overall site is bound on the north by SW Century Drive, to the west by SW Langer Farms Parkway, to the east by a Light Industrial use development, to the southeast by a natural resource area and regional stormwater facility, and to the south by a self-storage facility. The property is surrounded by other properties located to the south and east by other light industrially zoned properties, to the north by an industrially zoned parcel that was developed with the Parkway Village Shopping Center, and to the west by properties that are zoned residential.

- I. **Review Type:** According to Section 16.72.010.A.4.c, Site Plans greater than 40,000 square feet of floor area, parking or seating capacity requires a Type IV review; the hearing authority is the Planning Commission and the appeal authority is the City Council. This application is over the 40,000 square foot threshold requiring the Type IV review. Subdivision applications creating between 4-10 lots are considered a Type II staff level decision per Section 16.72.010.A.2.i and the appeal authority is the Planning Commission.
- J. **Public Notice and Hearing:** Notice of the application was mailed to property owners within 1,000 feet, posted on the property and distributed in five locations throughout the City on October 4, 2017 and on November 7, 2017 in accordance with § 16.72.020 of the SZCDC. The notice was published in the *Times* (a newspaper of general circulation) on October 5, 2017, October 19, 2017, November 9, 2017 and November 23, 2017 in accordance with §16.72.020 of the SZCDC.
- K. **Review Criteria:** Sherwood Zoning and Community Development Code: §16.31 (Industrial Land Use Districts), §16.40 (Planned Unit Development), §16.70 (General Provisions), §16.58.010 (Clear Vision), §16.90 (Site Planning), §16.92 (Landscaping), §16.94 (Off-Street Parking and Loading), §16.96 (On-Site Circulation), §16.98 (On-site Storage), All of Division VI - §16.104-16.118 (Public Improvements), §16.120 (Subdivision), §16.128 (Land Division Design Standards), §16.142 (Parks, Trees, and Open Space), §16.146 (Noise), §16.48 (Vibrations), §16.150 (Air Quality), §16.52 (Odors), §16.154 (Heat and Glare), and §16.156 (Energy Conservation). Other Criteria: 1995 PUD Design Guidelines and 2010 Development Agreement.

II. PUBLIC COMMENTS

Public notice was mailed, posted on the property, and posted in five locations throughout the City on October 4, 2017 and on November 7, 2017. Staff received one comment from the community expressing concerns on land use from industrial to commercial – decreasing the potential of bringing in new industrial high valued jobs. Concerns were also expressed on increase commuter traffic from other suburban areas. See **Exhibit G**. These concerns will be addressed as part of this report. Additional comments are welcome up to the close of the public hearing.

III. AGENCY COMMENTS

Staff sent e-notice to affected agencies on September 6, 2017. The following is a summary of the comments received. Copies of full comments are included in the record unless otherwise noted.

Sherwood Engineering Department: The Sherwood Engineering Department has provided comments that are included in this report and attached as **Exhibit B**.

Clean Water Services (CWS): A CWS Pre-Screening Site Assessment dated March 30, 2016 states that the proposed project will not significantly impact the existing or potentially sensitive area(s) found near the site. Jackie Humphries, CWS, provided comments dated September 28, 2017, that indicated a storm water connection permit authorization would be required prior to plat approval and recordation. This will be discussed and conditioned further within this report. Her comments are attached as **Exhibit C**.

Tualatin Valley Fire and Rescue (TVF&R): Tom Mooney, Deputy Fire Marshall, provided comments in a letter dated September 13, 2017 attached as **Exhibit D**.

Pride Disposal: Kristen Tabscott provided comments in a letter dated September 14, 2017. She states that the applicant's consultant has emailed her stating that some modifications to the enclosures are being made. This will be discussed and conditioned further in Section 16.98.020 Solid Waste and Recycling Storage. Her comments are attached as **Exhibit E**.

Oregon Department of Transportation (ODOT): Marah Danielson and Avi Tayar provided comments in a letter dated October 19, 2017. ODOT reviewed the traffic impact analysis prepared by Kittelson and Associates dated July 18, 2017 and the supplemental analysis prepared by Kittelson and Associates dated October 10, 2017. Based on their analysis the mitigation should be proposed at the intersection of OR 99W/Edy Rd and OR 99W/Tualatin Sherwood Rd. Alternatively, since Washington County has funded projects to improve both intersections in the near term, the applicant could be required to contribute towards the projects. ODOT comments are attached as **Exhibit F**. This is further discussed and conditioned in Section 16.106.080 Traffic Impact Analysis.

Washington County Land Use and Transportation: Formal comments were not submitted from the County on this proposal. However, the City Engineering Department and the County have coordinated and discussed this proposal. The County has agreed to allow for a fee-in-lieu of construction for transportation mitigation requirements pertaining to Tualatin Sherwood Road / Hwy 99W intersection.

Kinder Morgan Energy, METRO, NW Natural Gas and Portland General Electric did not respond or provided no comments to the request for agency comments by the date of this report.

IV. SITE PLAN REVIEW REQUIRED FINDINGS (16.90 Site Planning)

D. Required Findings

No site plan approval shall be granted unless each of the following is found:

- 1. The proposed development meets applicable zoning district standards and design standards in Division II, and all provisions of Divisions V, VI, VIII and IX.**

FINDING: The proposed development meets the applicable zoning district standards as discussed below under the "Division II- Land Use and Development" section, and the applicable provisions of Divisions V, VI, VIII, and IX as discussed in detail below.

- 2. The proposed development can be adequately served by services conforming to the Community Development Plan, including but not limited to water, sanitary facilities, storm water, solid waste, parks and open space, public safety, electric power, and communications.**

FINDING: As discussed in detail in the Public Infrastructure section, water, sanitary sewer, and storm sewer are either available or can be extended to serve the site. The subject site has access to SW Century Drive to the north and SW Langer Parkway to the west, both developed as collector status roads. The nearest park is Langer Park, off of SW Century Blvd. in a residential neighborhood. Solid waste services, communication and public safety are all available to this development. All new utilities for the site will be required to be underground. Sherwood Broadband utilities are required to be installed. This criterion can be met as discussed and conditioned in the Public Infrastructure Section below.

- 3. Covenants, agreements, and other specific documents are adequate, in the City's determination, to assure an acceptable method of ownership, management, and maintenance of structures, landscaping, and other on-site features.**

FINDING: Any required covenants or restrictions imposed by the City will be required to be satisfied as an ongoing condition of the original land use decision and subsequent land use approvals on this parcel of land. The City does not monitor or enforce private covenants and restrictions. As identified within the applicant's narrative, covenants, conditions and restrictions (CC&Rs) for the project, as well as shared access easements, will be recorded with the final plat, providing for ownership, management, and maintenance of on-site features, as necessary. Ongoing maintenance of the structures, landscaping, etc. will be provided by the property owner, lessee, or other appropriate party. This criterion is met.

- 4. The proposed development preserves significant natural features to the maximum extent feasible, including but not limited to natural drainage ways, wetlands, trees, vegetation (including but not limited to environmentally sensitive lands), scenic views, and topographical features, and conforms to the applicable provisions of Division VIII of this Code and Chapter 5 of the Community Development Code.**

FINDING: As documented in the CWS Pre-Screening Site Assessment (Exhibit F of the applicant's application submittal) the proposed project will not significantly impact the existing or potentially sensitive areas found near the site. As identified within the applicant's narrative, the site does not contain any identified significant natural features, sensitive lands, or protected scenic view. An existing drainageway, with associated wetlands and a vegetated corridor, runs east of the site. It is located off site and protected by an open space tract created with a previous phase of the PUD. The preliminary plans show that trees are preserved to the maximum extent feasible and consistent with applicable city standards. The applicable criteria are met.

- 5. For developments that are likely to generate more than 400 average daily trips (ADTs), or at the discretion of the City Engineer, the applicant must provide adequate information, such as a traffic impact analysis (TIA) or traffic counts, to demonstrate the level of impact to the surrounding transportation system. The developer is required to mitigate for impacts attributable to the project, pursuant to TIA requirements in Section 16.106.080 and rough proportionality requirements in Section 16.106.090. The determination of impact or effect and the scope of the impact study must be coordinated with the provider of the affected transportation facility.**

FINDING: This project is expected to generate more than 400 ADT. Kittelson & Associates have prepared a detailed traffic impact analysis that was submitted as part of the application packet. Engineering staff reviewed the TIA and determined revisions were necessary to the analysis - the appropriate category for trip generation need to be modified. Additionally, ODOT comments requested that the analysis be updated to include the OR 99W/Edy Rd intersection. A revised TIA has since been submitted addressing both concerns and will be further discussed in Section 16.106 Transportation Facilities. This criterion is met.

- 6. The proposed commercial, multi-family, institutional or mixed-use development is oriented to the pedestrian and bicycle, and to existing and planned transit facilities. Urban design standards include the following:**
- a. Primary, front entrances are located and oriented to the street, and have significant articulation and treatment, via facades, porticos, arcades, porches, portal, forecourt, or stoop to identify the entrance for pedestrians. Additional**

entrance/exit points for buildings, such as a postern, are allowed from secondary streets or parking areas.

STAFF ANALYSIS: As identified within the applicant's narrative, the site has been designed around the SW Langer Farms Parkway frontage to create an inviting and pedestrian-friendly orientation that draws people in from the street. The project frontage achieves this using several urban design principles. First, this project creates an attractive and inviting streetscape, achieved by locating pedestrian-scale buildings as close as possible to the sidewalk and pedestrian corridors. The project uses window glazing, building materials, and design to avoid presenting blank walls to pedestrians, bicyclist, and drivers. Active spaces work when site materials such as paving, walls, and plantings are strategically placed and cohesively designed to address the street and pedestrian. A dynamic streetscape is created through well-designed and thoughtful outdoor spaces utilizing storefronts, plazas, fountains, and professionally designed landscaping. Vehicle parking is separated from the sidewalk, and located behind the buildings. In addition to screening and separation provided by the buildings themselves, the parking areas are screened with landscaping.

The project also provides multiple direct and convenient pedestrian connections between the boundary streets and the buildings. An approximately 4,000-square-foot plaza and water feature – a shared design element with the commercial area to the north – is planned to be located at the corner of SW Langer Farms Parkway and SW Century Drive, a critical entry point and visual focal point for the project. The plaza will open to pedestrians entering through an attractive trellis from the 12-foot-wide multi-use pathway that runs along the east side of SW Langer Farms Parkway. The design feature reinforces the corner of the site, emphasizes the intersection of streets, articulates a gateway into the project, provides a means of wayfinding, and ultimately delivers a dynamic public space where pedestrians' paths intersect. This corner is designed to be a node of social and economic activity, which is achieved through a distinctive yet familiar architectural treatment. Additional plaza areas are planned abutting the retail buildings. These areas will have pedestrian connections to the sidewalk, and will accommodate the outdoor seating that will generate the activity that draws in pedestrians walking by the site.

A breezeway is planned to connect from SW Century Drive south through the parking area to the main entrance of the Fun Center. The 10-foot-wide covered walkway is separated from the parking and vehicle use areas by curbs, trees on both sides, and the stone and timber frame of the structure. The Fun Center is a large building, and its main entrance provides the focal point once one is within the site. The building itself has been oriented so that its narrower, more pedestrian-scale side, faces the SW Langer Farms Parkway sidewalk. The pitched roof, building materials, and other design cues recall the smaller retail buildings that also front SW Langer Farms Parkway. This design, scales and focuses the entries to the pedestrian while making the development look cohesive.

Finding: The outdoor spaces, landscaping, pedestrian connections and building design provide a harmonious and inviting environment that is human in-scale. The site design facilitates wayfinding as site entrances, internal walkways, and building entries are well defined and oriented to pedestrians. Based on the above analysis, this criterion is met.

b. Buildings are located adjacent to and flush to the street, subject to landscape corridor and setback standards of the underlying zone.

STAFF ANALYSIS: As sated above, the smaller retail buildings that are pedestrian in-scale are located along SW Langer Farms Parkway and SW Century Drive. A landscaped visual corridor is required along both SW Century Drive and SW Langer Farms Parkway per Section 16.142.040.

Buildings are located as close to the street as possible, with at least one building flush to each right-of-way, outside of the Public Utility Easements and required view corridors.

Finding: This criterion is met.

- c. **The architecture of buildings are oriented to the pedestrian and designed for the long term and be adaptable to other uses. Aluminum, vinyl, and T-111 siding are prohibited. Street facing elevations have windows, transparent fenestration, and divisions to break up the mass of any window. Roll up and sliding doors are acceptable. Awnings that provide a minimum 3 feet of shelter from rain are required unless other architectural elements are provided for similar protection, such as an arcade.**

STAFF ANALYSIS: As stated in the applicant’s narrative in response to item “a” above, the site creates an interesting and enjoyable pedestrian experience along the boundary streets, SW Langer Farms Parkway and SW Century Drive. Large storefront windows are planned to face the street. Each street-facing elevation presents multiple bays created through fenestration and design including the use of multiple types of stone, brick, lap siding, shingles, columns, and wood canopy supports. Building design articulates a clear and distinct base, middle, and top to break up the vertical massing and develops a pedestrian scale. The use of ledgestone creates a solid base, and banding in addition to changes in color and/or material emphasize horizontal breaks and vertical coherence in the building plane. Additionally, street facing elevations have varying heights, dormers, upper floor windows, and roof-types. Awning and canopies provide shelter from weather. No aluminum vinyl, or T-111 siding will be utilized.

This type of classic, northwest design lends itself to multiple uses. The commercial buildings are designed as flex space so they are adaptable for use by various retail tenants. The robust northwest appropriate materials - including stone, timber, brick, hardiplank shingles and siding, and metal roofing – will weather well and last long-term in the Pacific Northwest climate.

Finding: Based on the above analysis, this criterion is met.

- d. **As an alternative to the standards in Section 16.90.020.D.6.a—c, the following Commercial Design Review Matrix may be applied to any commercial, multi-family, institutional or mixed use development (this matrix may not be utilized for developments within the Old Town Overlay). A development must propose a minimum of 60 percent of the total possible points to be eligible for exemption from the standards in Section 16.90.020.D.6.a—c. In addition, a development proposing between 15,001 and 40,000 square feet of floor area, parking or seating capacity and proposing a minimum of 80 percent of the total possible points from the matrix below may be reviewed as a Type II administrative review, per the standards of Section 16.72.010.A.2.**

COMMERCIAL DESIGN REVIEW MATRIX

Design Criteria	Possible Points				
	0	1	2	3	4
Building Design (21 Total Points Possible; Minimum 12 Points Required)					
These standards may be applied to individual buildings or developments with multiple buildings.					
Materials ¹	Concrete, artificial materials (artificial or "spray" stucco, etc.)	Cultured stone, brick, stone, decorative patterned masonry, wood	A mixture of at least two (2) materials (i.e. to break up vertical facade)	A mixture of at least three (3) materials (i.e. to break up vertical facade)	A mixture of at least three (3) of the following materials: brick, stone, cultured stone, decorative patterned masonry, wood

Roof Form ²	Flat (no cornice) or single-pitch (no variation)	Distinctive from existing adjacent structures (not applicable to expansion of same building) or either variation in pitch or flat roof with cornice treatment	Distinctive from existing adjacent structures (not applicable to expansion of same building) and either variation in pitch or flat roof with cornice treatment	—	—
Glazing ³	0—20% glazing on street-facing side(s)	>20% glazing on at least one street-facing side (inactive, display or façade windows)	>20% glazing on all street-facing sides (inactive, display or façade windows)	>20% glazing on at least one street-facing side (active glazing—actual windows)	>20% glazing on all street-facing sides (active glazing—actual windows)
Fenestration on street-facing elevation(s)	One distinct "bay" with no vertical building elements	Multiple "bays" with one or more "bay" exceeding 30 feet in width	Vertical building elements with no "bay" exceeding 30 feet in width	Vertical building elements with no "bay" exceeding 20 feet in width	—
Entrance Articulation	No weather protection provided	Weather protection provided via awning, porch, etc.	—	Weather protection provided via awning, porch, etc. and pedestrian amenities such as benches, tables and chairs, etc. provided near the entrance but not covered	Weather protection provided via awning, porch, etc. and pedestrian amenities such as benches, tables and chairs, etc. provided near the entrance and covered
Structure Size ⁴ to discourage "big box" style development	Greater than 80,000 square feet	60,000—79,999 square feet	40,000—59,999 square feet	20,000—39,999 square feet	Less than 20,000 square feet

Staff Analysis for Building Design:

Materials - The buildings will incorporate a mix of several materials, including wood, brick, and cultured stone = **4 pts.**

Roof Form – The buildings incorporate several roof forms, including gabled, shed, and flat roofs with a variety of pitches, heights, parapets, and cornice treatments = **2 pts.**

Glazing – Street-facing sizes will have less than 20% glazing = **0 pts.**

Fenestration – Street-facing facades utilize the arrangement of windows and/or doors to create multiple distinct bays, many with vertical elements. Certain bays exceed 30 feet in width = **1 pt.**

Entrance Articulation – The buildings will provide weather protection using awnings and porches.

Additionally, pedestrian amenities, such as benches, are provided throughout the site, and it's anticipated that tenants will provide outdoor seating and tables near their entrances = **4 pts.**

Structural Size– When multiple buildings are planned, the average building size is used. The total building area, across all six buildings is ± 125,699 square feet. The average is ± 20,949 square feet = **3 pts**

Total points for Building Design 14/21.

Building Location and Orientation (6 Total Points Possible; Minimum 3 Points Required)

Location ⁵	Building(s) not flush to any right-of-way (including required PUE adjacent to ROW, setbacks or visual corridor) (i.e.	Building(s) located flush to right-of-way on at least one side (with the exception of required setbacks,	Buildings flush to all possible right-of-way (with the exception of required setbacks, easements or visual corridors) (i.e. "built to the corner")	—	—
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	parking or drive aisle intervening)	easements or visual corridors)			
Orientation	Single-building site primary entrance oriented to parking lot	—	Single-building site primary entrance oriented to the pedestrian (i.e. entrance is adjacent to public sidewalk or adjacent to plaza area connected to public sidewalk and does not cross a parking area)	—	—
	Multiple building site primary entrance to anchor tenant or primary entrance to development oriented to parking lot	—	Multiple building site primary entrance to anchor tenant or primary entrance to development oriented to the pedestrian	—	—
Secondary Public Entrance ⁶			Secondary public pedestrian entrance provided adjacent to public sidewalk or adjacent to plaza area connected to public sidewalk		

Staff Analysis for Building Location and Orientation:

Location – The site fronts two separate rights-of-way. Both SW Century Drive and SW Langer Farms Parkway both require landscaped visual corridor per 16.142.040 = **2 pts.**

Orientation – The site contains six buildings. The site provides five sidewalk connections to SW Langer Farms Parkway and four sidewalk connections to SW Century Drive. A breezeway – oriented entirely to pedestrians – provides a direct connection from the street to the Fun Center = **2 pts.**

Secondary Public Entrance – As stated above, the primary entrance is oriented to the pedestrian, so these points are automatic = **2 pts.**

Total points for Building Location and Orientation 6/6.

Parking and Loading Areas (13 Total Points Possible; Minimum 7 Points Required)

Location of Parking	Greater than 50 percent of required parking is located between any building and a public street	25—50 percent of required parking is located between any building and a public street	Less than 25 percent of required parking is located between any building and a public street	No parking is located between any building and a public street	—
Loading Areas	Visible from public street and not screened	Visible from public street and screened	Not visible from public street	—	—
Vegetation	At least one "landscaped" island every 13—15 parking spaces in a row	At least one "landscaped" island every 10—12 parking spaces in a row	At least one "landscaped" island every 8—9 parking spaces in a row	At least one "landscaped" island every 6—7 parking spaces in a row	—
Number of Parking Spaces ⁷	>120%	101—120%	100%	<100% (i.e. joint use or multiple reduction) (1 bonus)	—
Parking Surface	Impervious	Some pervious paving (10—25%)	Partially pervious paving (26—50%)	Mostly pervious paving (>50%)	—

Staff Analysis for Parking and Loading Areas

Location – All parking is separated from the street by the planned buildings. No parking is located between a building and the public street = **3 pts.**
Loading – The loading area is set back from the street ± 150 feet and will be screened by building and landscaping = **2 pts.**
Vegetation – The preliminary landscape plans show ± 37,502 square feet of parking lot landscaping (± 12.3% of the parking lot). The largest row of parking without a landscaped island is 10 spaces, and several rows contain only 6-7 spaces = **2 pts.**
Number of Parking spaces – The minimum required parking spaces is 406 and the site plan shows 487 parking spaces; which is ± 120% = **1 pt.**
Parking Surface – No pervious parking spaces are planned = **0 pts.**

Total points for Parking and Loading 8/13.

Landscaping (24 Total Point Possible, Minimum 14 Points Required)

Tree Retention ⁸	Less than 50% of existing trees on-site retained	51—60% of existing trees on-site retained	61—70% of existing trees on-site retained	71—80% of existing trees on-site retained	81—100% of existing trees on-site retained
Mitigation Trees ⁹	Trees mitigated off-site or fee-in-lieu	25—50% of trees mitigated on-site	51—75% of trees mitigated on-site	76—100% of trees mitigated on-site	—
Landscaping Trees ¹⁰	Less than one tree for every 500 square feet of landscaping	1 tree for every 500 square feet of landscaping	2 trees for every 500 square feet of landscaping	3 trees for every 500 square feet of landscaping	4 trees for every 500 square feet of landscaping
Landscaped Areas	Greater than 35% of landscaped areas are less than 100 square feet in size	Less than 25% of landscaped areas are less than 100 square feet in size	No landscaped areas are less than 100 square feet in size	—	—
Landscaping Trees greater than 3-inch Caliper	<25%	25—50%	>50%	—	—
Amount of Grass ^{11,12}	>75% of landscaped areas	50—75% of landscaped areas	25—49% of landscaped areas	<25% of landscaped areas	—
Total Amount of Site Landscaping ¹³	<10% of gross site	10—15% of gross site	16—20% of gross site	21—25% of gross site	>25% of gross site
Automatic Irrigation	No	Partial	Yes	—	—

Staff Analysis for Landscaping

Tree Retention – The preliminary Tree Preservation and Removal Table shows 21 existing trees on site and 3 trees (±14%) to be preserved = **0 pts.**
Mitigation Trees – The Preliminary Tree Preservation and Removal Table show 18 existing trees are planned to be removed and 14 trees (±78%) will be mitigated on-site = **3 pts.**
Landscaping Trees – The Landscaping Plan shows 267 trees will be provided, minus 14 mitigation trees. The resulting 253 net trees and 83,338 square feet of landscaping establishes a ratio of ±1.52 trees per 500 square feet of landscaping = **2 pts.**
Landscaped Areas – All landscaped islands are at least 100 square feet in area = **2 pts.**
Landscaping Trees greater than 3-inch Caliper – Conifers such as Douglas Fir or Cedar are generally not measured by caliper inch until they reach 6-inches in width. 8-10-foot conifers are generally considered equivalent to a 3-inch caliper or larger tree. The Landscaping Plan shows 79 of 267 (±30%) site trees as 3-inch caliper or larger = **1 pt.**

Amount of Grass – The Landscaping Plan shows ±14,923 square feet (±18% of landscaped area) as lawn = **3 pts.**

Total Amount of Site Landscaping – The Landscaping Plan shows ±83,338 square feet of landscaped area, ±16% of the total site = **2 pts.**

Automatic Irrigation – Irrigation to be provided by a full automatic underground system = **2 pts.**

Total points for Landscaping 15/24.

Miscellaneous (10 Total Points Possible; Minimum 5 Points Required)

Equipment Screening (roof)	Equipment not screened	Equipment partially screened	Equipment fully screened	Equipment fully screened by materials matching building architecture/finish	—
Fences and Walls ¹⁴	Standard fencing and wall materials (i.e. wood fences, CMU walls etc.)	—	Fencing and wall materials match building materials	—	—
On-Site Pedestrian Amenities Not Adjacent to Building Entrances	No	Yes; 1 per building	Yes; more than 1 per building	—	—
Open Space Provided for Public Use	No	Yes; <500 square feet	Yes; 500—1,000 square feet	Yes; >1,000 square feet	—
Green Building Certification				LEED, Earth Advantage, etc. (Bonus)	

Staff Analysis for Miscellaneous

Equipment Screening (roof) – All roof equipment will be fully screened by parapets matching the design and/or finish of the building = **3 pts.**

Fences and Walls – Walls and any fencing will match building materials. Walls for the bicycle gazebo and along the entry trellis at the plaza are planned to be cultured stone matching the cultured stone on the buildings. Trash enclosures are planned to be CMU, but will have gray natural finished concrete caps matching the gray natural finished concrete caps that top the cultured stone base of several building facades = **2 pts.**

On-Site Pedestrian Amenities – Pedestrian amenities including plazas, benches, outdoor seating areas, and a water feature are planned near all buildings = **2 pts.**

Open Space provided for public use – The site plan shows plazas larger than 1,000 square feet that will be open space for public use = **3 pts.**

Green Building Certification – LEED, Earth Advantage, etc. will not be utilized = **0 bonus pts.**

Total points for Miscellaneous 10/10.

FINDING: Based on the analysis contained in the staff analysis to the Commercial Design Review Matrix, the project earned 53 (71%) of the available 74 points, as summarized below:

- Total points for Building Design = 14/21 points
- Total points for Building Location and Orientation = 6/6 points
- Total points for Parking and Loading = 8/13 points
- Total points for Landscaping 15/24

Total points for Miscellaneous = 10/10 points

This exceeds the minimum 45 points (60%) required for exemption from the standards in Section 16.90.020.D.6.a-c. These criteria are met.

- 7. Industrial developments provide employment opportunities for citizens of Sherwood and the region as a whole. The proposed industrial development is designed to enhance areas visible from arterial and collector streets by reducing the "bulk" appearance of large buildings. Industrial design standards include the following (a. and b.).**

FINDING: The applicant is proposing commercial development on a site zoned Light Industrial Planned Unit Development (LI-PUD). As stated before, commercial uses were permitted when the original PUD was approved, and the use was vested for a period of 10 years once the subdivision was approved in 2012. Consequently, these industrial design guidelines are not applicable.

- 8. Driveways that are more than twenty-four (24) feet in width shall align with existing streets or planned streets as shown in the Local Street Connectivity Map in the adopted Transportation System Plan (Figure 17), except where prevented by topography, rail lines, freeways, pre-existing development, or leases, easements, or covenants.**

FINDING: All four primary driveways for the development have driveway widths over 24-feet in width. The primary ingress and egress to SW Langer Farms Parkway is aligned with SW Whitestone Way. A secondary access to SW Langer Farms Parkway is considered a service entry access point. The planned primary driveways to SW Century Drive align with existing driveways on the north side of the street. This criterion is met.

V. SUBDIVISION REVIEW REQUIRED FINDINGS (16.120 Subdivisions and 16.128 Land Division Design Standards)

16.120.040- Approval Criteria: Preliminary Plat

No preliminary plat shall be approved unless:

- A. Streets and roads conform to plats approved for adjoining properties as to widths, alignments, grades, and other standards, unless the City determines that the public interest is served by modifying streets or road patterns.**

FINDING: The proposed project abuts SW Langer Farms Parkway and SW Century Drive, both collector streets. These streets are fully improved except for the sidewalk along the south side of SW Century Drive. The preliminary plans show construction of a new 9.5-foot-wide curb tight sidewalk with tree wells along the SW Century Drive frontage matching the improvements on the north side of SW Century Drive. With these planned improvements, adequate pedestrian and bicycle facilities will be provided on both sides of SW Langer Farms Parkway and SW Century Drive. No new public streets are proposed nor necessary. This criterion is met.

- B. Streets and roads held for private use are clearly indicated on the plat and all reservations or restrictions relating to such private roads and streets are set forth thereon.**

FINDING: This criterion is not applicable as the applicant has not proposed any private roads or streets.

- C. The plat complies with applicable zoning district standards and design standards in Division II, and all provisions of Divisions IV, VI, VIII and IX. The subdivision complies with Chapter 16.128 (Land Division Design Standards).**

FINDING: Where applicable, this standard is met and discussed in Divisions IV (Planning Procedures), VI (Public Infrastructure) and VIII (Environmental Resources) of this report. Section IX (Historic Resources) is not addressed as it is not applicable.

- D. Adequate water, sanitary sewer, and other public facilities exist to support the use of land proposed in the plat.**

FINDING: As discussed in Division VI (Public Infrastructure) of this report there are adequate services to support the proposed subdivision. The applicant's exhibits demonstrate that adequate water, sanitary sewer, and other public facilities capacities exist, and facilities will be installed to support the site; and that the proposed public improvements will adequately serve each proposed lot. This standard is met.

- E. Development of additional, contiguous property under the same ownership can be accomplished in accordance with this Code.**

FINDING: Per the applicant's narrative, Lot 1 is reserved for future use and is not included in the concurrent Site Plan Review application. Lot 1 has more than 300 feet of frontage along SW Century Drive, which contains necessary public facilities and could provide adequate access. This criterion is met.

- F. Adjoining land can either be developed independently or is provided access that will allow development in accordance with this Code.**

FINDING: The site is bordered by SW Langer Farms Parkway to the west, SW Century Drive to the north, developed industrial land to the east, and developed industrial land to the south. The developable land contiguous to the subject property is already largely developed and this project does not prevent the future use of adjoining land. This criterion is met.

- G. Tree and woodland inventories have been submitted and approved as per Section 16.142.060.**

FINDING: The applicant provided a Preliminary Tree Preservation and Removal Plan (Sheet P05, Exhibit A) that provides an inventory of the existing trees on site. Based on the analysis identified in Section 16.142 Landscaping, these standards are met.

- H. The plat clearly shows the proposed lot numbers, setbacks, dedications and easements.**

FINDING: Proposed lot numbers, setbacks, dimensions, and easements are shown on Sheet P03 in Exhibit A. This standard is met.

- I. **A minimum of five percent (5%) open space has been provided per § 16.44.B.8 (Townhome- Standards) or §16.142.020 (Parks, Open Spaces and Trees-Single-Family Residential Subdivisions), if applicable.**

FINDING: Neither of these sections applies to the proposed Light Industrial PUD zone subdivision. This standard does not apply.

Chapter 16.128 - LAND DIVISION DESIGN STANDARDS

16.128.010 - Blocks

A. Connectivity

1. Block Size

The length, width, and shape of blocks shall be designed to provide adequate building sites for the uses proposed, and for convenient access, circulation, traffic control and safety.

2. Block Length

Block length standards shall be in accordance with Section 16.108.040. Generally, blocks shall not exceed five-hundred thirty (530) feet in length, except blocks adjacent to principal arterial, which shall not exceed one thousand eight hundred (1,800) feet. The extension of streets and the formation of blocks shall conform to the Local Street Network map contained in the Transportation System Plan.

FINDING: The proposed development does not create new streets and blocks are neither planned nor necessary. The proposal does not affect the ability of surrounding areas to comply with block length requirements. These standards are met.

3. Pedestrian and Bicycle Connectivity. Paved bike and pedestrian accessways shall be provided on public easements or right-of-way consistent with Figure 7.401. Figure 7.401 — Block Connectivity

FINDING: Per the applicant's narrative, SW Langer Farms Parkway and SW Century Drive are collector streets that abut the subject property on two sides. Both streets are fully improved, except for the sidewalk along the south side of SW Century Drive. The preliminary plans show construction of a new 9.5-foot-wide curb tight sidewalk with tree wells along the SW Century Drive frontage matching the improvements on the north side of SW Century Drive. With these planned improvements, adequate pedestrian and bicycle facilities will be provided on both sides of SW Langer Farms Parkway and SW Century Drive. This criterion is met.

B. Utilities Easements for sewers, drainage, water mains, electric lines, or other utilities shall be dedicated or provided for by deed. Easements shall be a minimum of ten (10) feet in width and centered on rear or side lot lines; except for tie-back easements, which shall be six (6) feet wide by twenty (20) feet long on side lot lines at the change of direction.

FINDING: Per the applicant's narrative, the required PUEs were previously dedicated on the original subdivision plat. Installation of the utilities necessary to serve the site will occur with construction of the project as shown on the Preliminary Composite Utility Plan. This criterion is met.

C. Drainages

Where a subdivision is traversed by a watercourse, drainage way, channel or street, drainage easements or rights-of-way shall be provided conforming substantially to the alignment and size of the drainage.

FINDING: The required easements are shown on the Preliminary Plat. This criterion is met.

16.128.020 - Pedestrian and Bicycle Ways

Pedestrian or bicycle ways may be required to connect cul-de-sacs, divide through an unusually long or oddly shaped block, or to otherwise provide adequate circulation.

FINDING: The site does not include a cul-de-sac nor an irregularly shaped block. An on-site private system of pedestrian walkways extends throughout the project and connects to buildings, outdoor spaces, parking, and the public boundary streets. No additional pedestrian or bicycle ways are necessary or required. This criterion is met.

16.128.030 - Lots

A. Size and Shape

Lot size, width, shape, and orientation shall be appropriate for the location and topography of the subdivision or partition, and shall comply with applicable zoning district requirements, with the following exception:

1. Lots in areas not served by public sewer or water supply shall conform to any special County Health Department standards.

FINDING: The Preliminary Subdivision Plat, Sheet P03 of Exhibit A, shows five lots that will comply with the applicable requirements. All lots can be served by public sewer and water facilities within SW Langer Farms Parkway and SW Century Drive. This criterion is met.

B. Access

All lots in a subdivision shall abut a public street, except as allowed for infill development under Chapter 16.68.

STAFF ANALYSIS: Four of the proposed lots (Lots 1, 3-5) abut a public street. Lot 2 has access to a public street (SW Century Drive) through an access easement across Lot 3. Per the applicant's narrative, the easement is an interest in real property that will be recorded in the public records. The easement will be appurtenant to Lot 2 because it is accessory to Lot 2, and the use and enjoyment of Lot 2 is dependent upon the continued existence of the access rights provided by the easement. In this way, the easement is effectively part of Lot 2. Consequently, Lot 2 through its easement, effectively abuts a public street consistent with the standard.

Per SZCDC 16.10.020, a Lot is defined as *A parcel of land of at least sufficient size to meet the minimum zoning requirements of this Code, and with frontage on a public street, or easement approved by the City...* Additionally, the city approved a prior subdivision (Langer Farms Subdivision, SUB 12-02) under the same standards and establishes a precedence for allowing subdividing commercial/industrial lots to provide their frontage and access requirements through the provision of an easement over another lot.

FINDING: Based on the above analysis, this criterion is met.

C. Double Frontage

Double frontage and reversed frontage lots are prohibited except where essential to provide separation of residential development from railroads, traffic arteries, adjacent nonresidential uses, or to overcome specific topographical or orientation problems. A five (5) foot wide or greater easement for planting and screening may be required.

FINDING: Double frontage lots are not proposed, therefore this criterion is not applicable.

D. Side Lot Lines Side lot lines shall, as far as practicable, run at right angles to the street upon which the lots face, except that on curved streets side lot lines shall be radial to the curve of the street.

FINDING: The preliminary plat shows that side lot lines run at right angles to the abutting street frontage as far as practicable. This criterion is met.

E. Grading

Grading of building sites shall conform to the following standards, except when topography of physical conditions warrants special exceptions:

1. Cut slopes shall not exceed one (1) and one-half (1 1/2) feet horizontally to one (1) foot vertically.
2. Fill slopes shall not exceed two (2) feet horizontally to one (1) foot vertically.

STAFF ANALYSIS: The preliminary grading, erosion and sediment control plan shows the project will comply with the applicable grading standards. Furthermore, at time of building permitting, grading of the building sites will be further reviewed and finalized by the city Building Official. The city Engineering Department requires a grading permit for all areas graded as part of the public improvements. The Engineering permit, for grading of the public improvements, is reviewed, approved and released as part of the public improvement plan. The proposed development will disturb in excess of 5 acres.

FINDING: These standards have not been met but can be met as conditioned below.

RECOMMENDED CONDITION: E6. Prior to Sherwood Engineering Department approval of any phase of the public improvement plans and issuance of a Compliance Agreement, the developer shall obtain a DEQ NPDES 1200CN permit.

VI. APPLICABLE CODE PROVISIONS

A. Division II– Land Use and Development Chapter 16.31 INDUSTRIAL LAND USE DISTRICTS

16.31.010 - Purpose

B. Light Industrial (LI) - The LI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products which have been previously prepared from raw materials. Industrial establishments shall not have objectionable external features and shall feature well-landscaped sites and attractive architectural design, as determined by the Commission.

16.31.020- Uses

Applicant's Response: The PUD designation was assigned as part of the Langer Family Planned Unit Development application approved by the City of Sherwood on April 26, 1995. The subject property is included as part of Phase 8 of the PUD. The City approved an application, in January 2008 (PUD 07-01), covering the land uses that are permitted within the PUD. The 2008 City decision was memorialized in the 2010 Development Agreement, which was vested in the subject property when the City approved the Langer Farms subdivision.

The 2010 Development Agreement provided that the uses permitted in the 1995 SZCDC are permitted on the subject property, including, "Uses permitted outright in the GC zone Section 2.109.02..." Section 2.1099.02(B) of the 1995 SZCDC lists "General retail trade" as a permitted use. In April 2017, the City of Sherwood approved a Similar Use Interpretation establishing that the planned Fun Center is a permitted use on the subject property under the 1995 SZCDC. The planned uses are permitted in the zone.

STAFF ANALYSIS: Staff concurs with the applicant's history of the approvals including the assertion that a final development plan for the PUD was approved for the overall site in 1995. The applicant is in error where the narrative identified that the site is part of Phase 8; the site is actually part of Phase 6 of the PUD (the applicant has identified this as a typographical error). The purpose of this specific review is to ensure that the proposed development is consistent with the PUD approval, and the applicable review criteria for Site Plan, Subdivision, and all other applicable sections of the Sherwood Zoning and Community Development Code.

FINDING: Based on the applicant's response and staff analysis, this criterion is met.

16.31.030 Development Standards**A. Generally**

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.84 (Variances and Adjustments).

B. Development Standards

Except as otherwise provided, required minimum lot areas and dimensions and setbacks shall be:

Development Standards	Light Industrial
Lot area - Industrial Uses:	10,000 SF
Lot area – Commercial Uses (subject to Section 16.31.050):	10,000 SF
Lot width at front property line:	100 feet
Lot width at building line:	100 feet
Front yard setback ¹¹	20 feet
Side yard setback ¹⁰	None
Rear yard setback ¹¹	None

Development Standards	Light Industrial
Corner lot street side ¹¹	20 feet
Height ¹¹	50 feet
<p>¹⁰ When a yard is abutting a residential zone or public park, there shall be a minimum setback of forty (40) feet provided for properties zoned Employment Industrial and Light Industrial Zones, and a minimum setback of fifty (50) feet provided for properties zoned General Industrial.</p> <p>¹¹ Structures located within one-hundred (100) feet of a residential zone shall be limited to the height requirements of that residential zone. (Ord. No. 2016-008, § 2, 6-21-2016)</p>	

Applicant's Response: The Preliminary Plat shows that five planned lots will meet the dimensional standards for the LI zone listed in the table above. The subdivision will comply with the applicable dimensional standards for lots in the LI zone.

The project will establish commercial uses consistent with the 2010 Development Agreement and 1995 SZCDC. The standard setbacks for the LI zone conflict with provisions of the Design Standards for commercial projects, and generally require buildings to be flush with the right-of-way or as close to the front property line as practicable. In approving SP 12-05/CUP 12-02, the City established a precedent that the Design Standards should supersede because they contribute to a more visually-appealing and pedestrian-friendly built environment. The buildings along SW Langer Farms Parkway and SW Century Drive are planned to be set back from the right-of-way at least 10 feet to comply with the requirements for landscaped visual corridors.

The maximum height of structures in the LI zone is 50 feet, subject to footnote 11, which limits the portions of buildings within 100 feet of a residential zone to the height requirements of that residential zone. The land across SW Langer Farms Parkway is zoned High Density Residential with a maximum height of 40 feet (60 feet or more for certain chimneys, aerials, and towers). The Fun Center is the only building with a planned height of more than 40 feet. The plat of Langer Farms shows a Langer Farms Parkway half street width of 41 feet (west) and 39 feet (east) along the Fun Center frontage. The Site Plan shows the 39-foot half street and a ± 24-foot Fun Center building setback, which would put the building more than 100 feet from a residential zone. Therefore, the buildings meet the applicable dimensional standards.

STAFF ANALYSIS: Staff concurs with the applicant's response above. Based on established commercial uses consistent with the 2010 Development Agreement and 1995 SZCDC, along with the precedent established in SP 12-05 / CUP 12-02, proposed development can be built to commercial standards where typical buildings setbacks are at zero (flushed with the street – when not abutting residential zones). The proposed buildings are set 10 feet or more from the street meeting the visual corridor requirement for collector streets.

FINDING: Based on the applicant's response and staff analysis above, these standards are met.

16.40 PLANNED UNIT DEVELOPMENT (PUD)

16.40.030 - Final Development Plan

A. Generally

Upon approval of the PUD overlay zoning district and preliminary development plan by the Council, the applicant shall prepare a detailed Final Development Plan as per this

Chapter, for review and approval of the Commission. The Final Development Plan shall comply with all conditions of approval as per Section 16.40.020. In addition, the applicant shall prepare and submit a detailed site plan for any non-single-family structure or use not addressed under Section 16.40.020(B)(6), for review and approval, pursuant to the provisions of Chapter 16.90. The site plan shall be processed concurrently with the Final Development Plan.

Applicant's Response: The subject property is a ± 15.67 acre parcel approved by the City of Sherwood in 2016 (MLP 16-02), and finalized by Partition Plat 2017-019 which was recorded in June 2017. Site Plan Review applies to planned Lots 2 through 5. Planned Lot 1 is reserved for future use and is not included in the Site Plan Review application. The subject property is zoned LI-PUD.

The PUD designation was initially assigned as part of the Langer Family PUD. Preliminary and Final Development Plans were approved by the City in 1995. The subject property is included as part of Phase 8 of the PUD. Phases 1, 2, 3, and 5 are located off site to the west and have already been developed in accordance with the City approval. Phases 4, 6, and 7 are located to the north of this property and are not included in this application.

Consistent with the PUD approval and the 2010 Development Agreement (included as Exhibit I), this Site Plan Review application provides specific details for land uses, buildings, landscaping, site circulation, and access. The project complies with the PUD conditions and Development Agreement as stated below.

Finding: Staff concurs with the applicant's history of the approvals including the assertion that a final development plan for the PUD was approved for the overall site in 1995. The purpose of this specific review is to ensure that the proposed development is consistent with the PUD approval, and the applicable review criteria for Site Plan, Subdivision, and all other applicable sections of the Sherwood Zoning and Community Development Code. The applicant identified the site as Phase 8, this is a typographical error and the site is actually Phase 6. Phase 8 is located to the south of the site and is not included as part of this application.

The proposed development of Phase 6 complies with the applicable PUD conditions and Development Agreement as discussed below:

2010 Development Agreement

A. PUD USES

- 1. Applicable Code. ZCDC 16.32.020.H, provides that "Approved PUDs may elect to establish uses which are permitted or conditionally permitted under the base zone text at the time of final approval of the PUD." The Langer PUD was approved and Phases 4, 6, 7 and 8 were assigned the Light Industrial ("LI") base zone designation on August 3, 1995.**
- 2. Permitted and Conditional Uses. Accordingly, Langer elects to establish uses on the LI-designated phases of the PUD that were permitted or conditionally permitted under the LI base zone text applicable on August 3, 1995, including: "Uses permitted outright in the GC zone Section 2.109.02, except for adult entertainment businesses, which are prohibited." A copy of the uses permitted**

in the LI and GC zones on August 3, 1995 is set forth in Attachment A, attached hereto and incorporated herein by reference.

3. **Election of Uses and Acceptance.** The City acknowledges and accepts Langer's decision to elect to develop Phases 4, 6, 7 and 8 under ZCDC 16.32.020.H, including the ability to develop those phases for General Retail Trade under Section 2.109.02 of the 1995 ZCDC. Accordingly, the current provisions of ZCDC 16.32.030.K, which restrict retail uses in the LI zone to a maximum of 60,000 square feet, will not apply to site plan review of the PUD.

Applicant's Response: This project includes improvements and uses permitted under the 2010 Development Agreement and applicable sections of the 1995 SZCDC, as described in the response to Section 16.31.020. Section 2.109.02(B) of the 1995 SZCDC lists "General retail trade" as a permitted use. The City of Sherwood approved a Similar Use Interpretation in April 2017 establishing that the planned Fun Center is a permitted use on the subject property under the 1995 SZCDC.

FINDING: The applicant's response is accurate and consistent with the PUD.

B. ADAMS DRIVE SOUTH EXTENSION

Applicant's Response: The southerly extension of SW Adams Drive, now SW Langer Farms Parkway, was completed in the fall of 2011.

FINDING: Staff concurs. This condition has been previously met.

C. ADAMS DRIVE NORTH EXTENSION

Applicant's Response: The northerly extension of SW Adams Drive, now SW Langer Farms Parkway, was completed in 2014.

FINDING: Staff concurs. This condition has been previously met.

D. RAIL CROSSING

Applicant's Response: The railroad crossing at the southerly end of SW Adams Drive, now SW Langer Farms Parkway, was completed in the fall of 2011/

FINDING: Staff concurs. This condition has been previously met.

E. CENTURY DRIVE

Applicant's Response: The SW Century Drive extension was completed in 2014.

FINDING: Staff concurs. This condition has been previously met.

F. STORMWATER FACILITY

1. **Langer Commitments.** Prior to issuance of final occupancy permits for all structures located in Phase 6 or Phase 7, Langer will design and substantially construct a stormwater facility ("Stormwater Facility") on Phase 8 (including any necessary portions of Phase 6), to accommodate existing stormwater detention and treatment for the PUD, any additional detention and treatment associated with development of Phases 6, 7 and 8, and any detention and treatment associated with the South Extension and the Century Drive Connection. In conjunction with this construction, Langer retains the right to terminate use of the existing stormwater facilities currently located on Phase 7 and Phase 8 ("Existing Facilities"), provided the stormwater detention and treatment functions of the Existing Facilities are incorporated into the Stormwater Facility. Langer retains the right to expand the Stormwater Facility to serve other public rights-of-way and uses outside the PUD in Langer's sole discretion, provided such expansion otherwise complies with City standards, including without limitation, awarding credits for SDC's.
2. **City Commitments.** The City agrees to work with Langer, to the extent allowed by law, to issue any land use approvals related to termination of the Existing Facilities through an administrative process and to facilitate any related process for the vacation of any prior public dedications associated with the Existing Facilities.

Applicant's Response: The regional stormwater facility was completed in 2013.

FINDING: Staff concurs. This condition has been previously met.

1995 Design Guidelines

Applicant's Response: The approval established design guidelines for the PUD in 1995. Based on previous discussions with City staff and review of past decisions, the design standards entail a two page undated documents entitled "Sherwood Village Retail/Commercial Design Guidelines." The guidelines have four headings: 1. Retail Building Construction, 2. Landscaping, 3. Signage, and 4. Lighting. Only 1. Retail Building Construction and 2. Landscaping are applicable to this Site Plan Review.

1. RETAIL BUILDING CONSTRUCTION

A. Exterior materials and treatment (trim, etc.)

- 1) Predominantly wood exterior.
- 2) Exterior windows and doors will have minimum 1 inch x 3 inch surrounds painted white.
- 3) Paint: Light tone palettes (white, off-white, grey, beige, tan), or similar as per Design Review Committee's approval.

B. Shapes of openings

- 1) Arched openings and bays encouraged.

C. Storefronts

- 1) Storefronts should have trimmed openings similar to above A.2.).

D. Roofs

- 1) Pitched roof forms are encouraged
- 2) Large amounts of flat roof are discouraged.

Applicant's Response: The criteria listed above are "guidelines" and not mandatory "standards." Therefore, the Applicant only needs to show general conformance with the applicable guidelines rather than strict adherence to them. City approvals of previous phases of the Langer PUD have provided wide latitude and flexibility in the application of these design guidelines. Specifically, City approval of the Target shopping center (Phase 5) in the early

2000s and the Parkway Village (Phase 7) in 2012 were evaluated against the intent of these guidelines.

Page 10 of the Staff Report for the Parkway Village approval (SP 12-05/CUP 12-02) includes the finding:

The applicant is correct in that the guidelines are not intended to be prescriptive, and to the extent that the other phases of the Langer PUD has been developed with these standards, it is clear that a lot of latitude and flexibility has been provided to prior approvals. Arguably, the presence of the gabled roofs, addition of exposed wood, stone, and glass will provide a development that is much closer to achieving the guidelines than prior decisions.

Page 28 of the July 10, 2001 Revised Staff Report for the Target shopping center approval provides the following finding related to the guideline to provide a “predominantly wood exterior”:

Does not comply in the strict sense. The applicant states that wood exteriors are not typically used for such large buildings due to difficulty of maintenance and concern for fire safety. Therefore, the exterior is proposed, instead, to consist primarily of smooth face block that is accented with trim of darker split face block. The only glass is on the entry doors and windows at the NW corner of the store. The door and window surrounds are an industry standard size and the applicant states that the trim will be natural aluminum, which will be light-toned similar to white to provide similar contrast. Exterior building colors are proposed as a light tone palette (white, off-white, gray, beige or tan in accordance with the Design Guidelines.

Color elevations submitted with this application show building exteriors that incorporate board and batten, lap siding, wood columns, wood decking and canopies, and shingles. Other materials used include brick veneer, stone veneer, split-face CMU, and metal roofing. While not all the materials are wood, they are natural materials which reflect that vernacular and style of the region and create a similar visual appeal. Robust Northwest appropriate materials will weather well, and last long-term in the damp Pacific Northwest climate.

Brick and ledgerstone create a solid and timeless look, and the incorporation of siding with horizontal lap evokes a classic storefront look consistent with the guidelines. All windows will include trim of a color compatible with the external building materials. The second story pitched roofs contain board and batten siding, shingles, wood eaves and trimmed square windows with grids. The project provides building exteriors that incorporate wood, light window surrounds, light or natural earth-tone colors, bays, storefronts, and pitched roofs. The ultimate result is a welcoming residential or village feel that meets the intent of the guidelines.

FINDING: The applicant is correct in that the guidelines are not intended to be prescriptive, and to the extent that the other phases of the Langer PUD has been developed with these standards, it is clear that a lot of latitude and flexibility has been provided to prior approvals. Arguably, the presence of the gabled roofs, addition of exposed wood, stone, and glass will provide a development that is much closer to achieving the guidelines than prior decisions. Staff believes that the applicant has complied with the intent of the guidelines to the extent that it is practical.

2. LANDSCAPING

- A. Barkdust is not to be substituted as grass in front yards.**
- B. All driveways and vehicular storage areas shall be paved with asphalt, gravel or other dust minimizing material.**
- C. Trash and service areas must be screened from public view.**

Applicant's Response: Project landscaping includes a mixture of shrubs, trees and groundcover designed to complement the site, buildings and hardscapes. The preliminary Landscape Plan shows that barkdust is not planned, except perhaps in conjunction with plantings. Several types of vegetative groundcover are listed on the preliminary Landscape Plan in Exhibit B.

All driveways and vehicle use areas will be paved and dust will be minimized. Walls and plantings will be utilized to screen trash enclosures. The guidelines are met.

FINDING: The applicant's landscape plans support this statement, and staff is confident that the proposal satisfies the intent of the landscape design guidelines.

16.58.010 Clear Vision Areas

- A. A clear vision area shall be maintained on the corners of all property at the intersection of two (2) streets, intersection of a street with a railroad, or intersection of a street with an alley or private driveway.**
- B. A clear vision area shall consist of a triangular area, two (2) sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation; or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection, and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two (2) sides.**
- C. A clear vision area shall contain no planting, sight obscuring fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half (2½) feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to the height of seven (7) feet above the ground on the sidewalk side and ten (10) feet on the street side.**
The following requirements shall govern clear vision areas:
 - 1. In all zones, the minimum distance shall be twenty (20) feet.**
 - 2. In all zones, the minimum distance from corner curb to any driveway shall be twenty-five (25) feet.**
 - 3. Where no setbacks are required, buildings may be constructed within the clear vision area.**

Applicant's Response: Two driveways provide ingress and egress to SW Century Drive and two driveways provide ingress and egress to SW Langer Farms Parkway. The preliminary plans show there will not be any obstructions within the 20-foot clear vision triangles abutting the four driveway/street intersections.

Per Section 16.142.040, a 10-foot-wide landscaped visual corridor is required along both SW Century Drive and SW Langer Farms Parkway. The preliminary Landscape Plan shows that landscaping within the clear vision triangles is planned to be low ground cover shrubs, and pedestrian hardscape. Landscaping in these areas can be maintained to prevent any conflicts with clear vision requirements. Therefore, the applicable clear vision requirements are met.

STAFF ANALYSIS: Staff concurs with the applicant's statement above.

FINDING: Based on the applicant's response and staff analysis above, these standards are met.

Chapter 16.70 General Provisions

16.70.010 Pre-Application Conference

Pre-application conferences are encouraged and shall be scheduled to provide applicants with the informational and procedural requirements of this Code; to exchange information regarding applicable policies, goals and standards of the Comprehensive Plan; to provide technical and design assistance; and to identify opportunities and constraints for a proposed land use action. An applicant may apply at one time for all permits or zone changes needed for a development project as determined in the pre-application conference.

STAFF ANALYSIS: Although not a requirement, the applicant requested and attended a pre-application conference (PAC 16-08) with City staff on January 4, 2017 to discuss developing the property with several retail buildings including a daycare, fitness and fun center on individual lots within the Langer PUD lot 4.

16.70.020 Neighborhood Meeting

- A. The purpose of the neighborhood meeting is to solicit input and exchange information about the proposed development.
- B. Applicants of Type III, IV and V applications are required to hold a meeting, at a public location for with adjacent property owners and recognized neighborhood organizations that are within 1,000 feet of the subject application, prior to submitting their application to the City. Affidavits of mailing, sign-in sheets and a summary of the meeting notes shall be included with the application when submitted. Applicants for Type II land use action are encouraged, but not required to hold a neighborhood meeting.

STAFF ANALYSIS: The applicant held a neighborhood meeting on May 15, 2017 at Sherwood Middle School to discuss the overall development of the PUD site including a partition, a subdivision, and potential development of the site. Six attendees signed the attendance roster, and the applicant has provided a summary of the meeting and the items raised by the public. Concerns included the following:

- Need for activities for kids/families
- Parking
- Planned Landscaping
- Location of buildings, building height, setbacks
- Planned exterior lighting, problems with existing street lights
- Questions about the planned fun center
- Questions about potential retail uses / businesses
- Concerns about traffic and congestion
- Concerns about safety, crime, litter, drugs
- Concerns about headlights from buses and cars hitting nearby homes
- Concerns about increased noise from new buildings
- Concerns regarding vehicles currently speeding on SW Langer Farms Parkway
- Desire to have more stop signs installed in area
- Pedestrian improvements including crosswalks and sidewalks

To the extent that the development code addresses any of the concerns, staff has taken them into consideration in this decision.

FINDING: The applicant held a neighborhood meeting on May 15, 2017 and provided the materials along with this application that demonstrate that they complied with the requirements for neighborhood meetings. This criterion is met.

B. Division V. Community Design

16.92-LANDSCAPING

16.92.010-Landscaping Plan Required

All proposed developments for which a site plan is required pursuant to Section 16.90.020 shall submit a landscaping plan that meets the standards of this Chapter. All areas not occupied by structures, paved roadways, walkways, or patios shall be landscaped or maintained according to an approved site plan.

FINDING: The proposed landscaping plans show planting areas on the site in areas which are not paved. The proposal includes the submission of a very detailed landscape plan. This standard is met.

16.92.020 Landscaping Materials

A. Type of Landscaping

Required landscaped areas shall include an appropriate combination of native evergreen or deciduous trees and shrubs, evergreen ground cover, and perennial plantings. Trees to be planted in or adjacent to public rights-of-way shall meet the requirements of this Chapter. Plants may be selected from the City's "Suggested Plant Lists for Required Landscaping Manual" or suitable for the Pacific Northwest climate and verified by a landscape architect or certified landscape professional.

1. Ground Cover Plants

- a. All of the landscape that is not planted with trees and shrubs must be planted in ground cover plants, which may include grasses. Mulch is not a substitute for ground cover, but is allowed in addition to the ground cover plants.**
- b. Ground cover plants other than grasses must be at least the four-inch pot size and spaced at distances appropriate for the plant species. Ground cover plants must be planted at a density that will cover the entire area within three (3) years from the time of planting.**

2. Shrubs

- a. All shrubs must be of sufficient size and number to be at full growth within three (3) years of planting.**
- b. Shrubs must be at least the one-gallon container size at the time of planting.**

3. Trees

- a. Trees at the time of planting must be fully branched and must be a minimum of two (2) caliper inches and at least six (6) feet in height.**
- b. Existing trees may be used to meet the standards of this chapter, as described in Section 16.92.020.C.2.**

STAFF ANALYSIS: The landscaping plans (Sheets L1- L5, Exhibit A) show that all areas not devoted to other uses are landscaped. The plans illustrate a diverse mix of ground cover, shrubs, and trees.

FINDING: These standards are met.

B. Plant Material Selection and Preparation

1. **Required landscaping materials shall be established and maintained in a healthy condition and of a size sufficient to meet the intent of the approved landscaping plan. Specifications shall be submitted showing that adequate preparation of the topsoil and subsoil will be undertaken.**
2. **Landscape materials should be selected and sited to produce a hardy and drought-resistant landscape area. Selection of the plants should include consideration of soil type, and depth, the amount of maintenance required, spacing, exposure to sun and wind, the slope and contours of the site, and compatibility with existing native vegetation preserved on the site.**

STAFF ANALYSIS: The proposed landscaping plan discusses plant spacing and calls out a fully automatic underground irrigation system. The plans have been prepared by Christopher Freshley, a licensed landscape architect in the state of Oregon. The plans demonstrate that it is feasible based on his prescribed spacing and irrigation method for the proposed landscape materials to be established and maintained in a healthy condition and sufficient size. It is typical that the specifications and details for top soil or subsoil preparation is completed with the construction documents for the project as this information is not needed to demonstrate that the plan can be feasibly implemented.

FINDING: This standard is not met, but can be met as conditioned below.

RECOMMENDED CONDITION: F4. Prior to Issuance of a Building Permit, the applicant shall submit construction documents that provide additional information on the proposed plantings and maintenance of the plants to ensure that the landscaping will be appropriately maintained. The construction plans shall include specifications for the adequate preparation of the soils.

C. Existing Vegetation

1. **All developments subject to site plan review per Section 16.90.020 and required to submit landscaping plans per this section shall preserve existing trees, woodlands and vegetation on the site to the maximum extent possible, as determined by the Review Authority, in addition to complying with the provisions of Section 16.142.(Parks, Trees and Open Space) and Chapter 16.144 (Wetland, Habitat, and Natural Resources).**
2. **Existing vegetation, except those plants on the Nuisance Plants list as identified in the "Suggested Plant Lists for Required Landscaping Manual" may be used to meet the landscape standards, if protected and maintained during the construction phase of the development.**
 - a. **If existing trees are used, each tree six (6) inches or less in diameter counts as one (1) medium tree.**
 - b. **Each tree that is more than six (6) inches and up to nine (9) inches in diameter counts as two (2) medium trees.**
 - c. **Each additional three (3) inch diameter increment above nine (9) inches counts as an additional medium tree.**

STAFF ANALYSIS: The applicant provided a Preliminary Tree Protection and Removal Plan and Table (Exhibit A, Sheets P05 and P06) that provides an inventory of the existing trees on site. A total of 21 trees exist onsite. Of the 21 trees, 3 will be retained and 18 will be removed. The applicant states that the trees planned for removal conflict with required parking, internal circulation, infrastructure, and future construction. The preliminary Landscape Plan reflects the applicable requirements in Section 16.142, which will be discussed later in this report.

FINDING: These criteria have been met.

D. Non-Vegetative Features

1. Landscaped areas as required by this Chapter may include architectural features interspersed with planted areas, such as sculptures, benches, masonry or stone walls, fences, rock groupings, bark dust, semi-pervious decorative paving, and graveled areas.
2. Impervious paving shall not be counted toward the minimum landscaping requirements unless adjacent to at least one (1) landscape strip and serves as a pedestrian pathway.
3. Artificial plants are prohibited in any required landscaped area.

FINDING: The proposed plans show landscaped areas that include trees, shrubs, grasses, and low growing ground cover. It is likely that there is mulch or barkdust in addition to the proposed landscaping. The site includes a mix of landscaped areas, and hardscape plazas that are intended to include benches, fences, walls, and decorative paving. This criterion is satisfied.

16.92.030 Site Area Landscaping and Perimeter Screening Standards

A. Perimeter Screening and Buffering

1. Perimeter Screening Separating Residential Zones:

A minimum six-foot high sight-obscuring wooden fence, decorative masonry wall, or evergreen screen, shall be required along property lines separating single and two-family uses from multi-family uses, and along property lines separating residential zones from commercial, institutional/public or industrial zones subject to the provisions of Chapter 16.48.020 (Fences, Walls and Hedges).

FINDING: The site is not directly adjacent to residential zones. The nearest residential zones are west of SW Langer Farms Road. Therefore, these criteria do not apply.

2. Perimeter Landscaping Buffer

- a. A minimum ten (10) foot wide landscaped strip comprised of trees, shrubs and ground cover shall be provided between off-street parking, loading, or vehicular use areas on separate, abutting, or adjacent properties.

FINDING: The boundary streets (SW Langer Parkway and SW Century Drive) of the project site are both collector streets. As such, a 10-foot-wide landscaped visual corridor is required along both street frontages. The preliminary landscape Plans (L1-L5) shows eastern and southern boundaries of the site. This criterion is met.

3. Perimeter Landscape Buffer Reduction

If the separate, abutting property to the proposed development contains an existing perimeter landscape buffer of at least five (5) feet in width, the applicant may reduce the proposed site's required perimeter landscaping up to five (5) feet maximum, if the development is not adjacent to a residential zone. For example, if the separate abutting perimeter landscaping is five (5) feet, then applicant may reduce the perimeter landscaping to five (5) feet in width on their site so there is at least five (5) feet of landscaping on each lot.

FINDING: The boundary streets (SW Langer Parkway and SW Century Drive) of the project site are both collector street. As such, a 10-foot-wide landscaped visual corridor is required along both street frontages. The preliminary landscape Plans (L1-L5) shows eastern and southern boundaries of the site. This criterion is met.

16.92.030 Site Area Landscaping and Perimeter Screening Standards

B. Parking Area Landscaping

3. Required Landscaping

There shall be at least forty-five (45) square feet parking area landscaping for each parking space located on the site. The amount of required plant materials are based on the number of spaces as identified below.

FINDING: The preliminary plans identify 487 parking spaces, which requires 21,915 square feet of landscaping. The preliminary plans show 35,782 square feet of interior landscaping and 1,720 square feet of perimeter landscaping. This criterion is met.

4. Amount and Type of Required Parking Area Landscaping

a. Number of Trees required based on Canopy Factor

Small trees have a canopy factor of less than forty (40), medium trees have a canopy factor from forty (40) to ninety (90), and large trees have a canopy factor greater than ninety (90);

(1) Any combination of the following is required:

(i) One (1) large tree is required per four (4) parking spaces;

(ii) One (1) medium tree is required per three (3) parking spaces; or

(iii) One (1) small tree is required per two (2) parking spaces.

(iv) At least five (5) percent of the required trees must be evergreen.

(2) Street trees may be included in the calculation for the number of required trees in the parking area.

b. Shrubs:

(1) Two (2) shrubs are required per each space.

(2) For spaces where the front two (2) feet of parking spaces have been landscaped instead of paved, the standard requires one (1) shrub per space. Shrubs may be evergreen or deciduous.

c. Ground cover plants:

(1) Any remainder in the parking area must be planted with ground cover plants.

(2) The plants selected must be spaced to cover the area within three (3) years. Mulch does not count as ground cover.

FINDING: With 487 parking spaces the following minimums are required: 122 large trees; 974 shrubs; and ground cover plants for the remainder in the parking area. The preliminary landscape plans identify 136 large trees, 2,309 shrubs, and ground cover for the remainder of the parking area landscaping. The criteria are met.

5. Individual Landscape Islands Requirements

a. Individual landscaped areas (islands) shall be at least ninety (90) square feet in area and a minimum width of five (5) feet and shall be curbed to protect the landscaping.

b. Each landscape island shall be planted with at least one (1) tree.

c. Landscape islands shall be evenly spaced throughout the parking area.

d. Landscape islands shall be distributed according to the following:

(1) Residential uses in a residential zone: one (1) island for every eight (8) contiguous parking spaces.

- (2) Multi or mixed-uses, institutional and commercial uses: one (1) island for every ten (10) contiguous parking spaces.**
- (3) Industrial uses: one (1) island for every twelve (12) contiguous parking spaces.**

Finding: The preliminary landscape plan shows individual landscaped areas (islands) being at least 90 square feet in area with a minimum width of five feet. Each island will contain at least one tree and will be curbed to protect the landscaping. The landscape islands are evenly spaced with no more than 6-10 parking spaces between them. The criteria are met.

- e. Storm water bio-swales may be used in lieu of the parking landscape areas and may be included in the calculation of the required landscaping amount.**

FINDING: There are no bio-swales proposed. This criterion is not applicable.

f. Exception to Landscape Requirement

Linear raised or marked sidewalks and walkways within the parking areas connecting the parking spaces to the on-site buildings may be included in the calculation of required site landscaping provide that it:

- (1) Trees are spaced a maximum of thirty (30) feet on at least one (1) side of the sidewalk.**
- (2) The minimum unobstructed sidewalk width is at least six (6) feet wide.**
- (3) The sidewalk is separated from the parking areas by curbs, bollards, or other means on both sides.**

FINDING: Per the applicant's narrative, a breezeway is planned to connect from SW Century Drive south through the parking area to the Fun Center. The preliminary landscape plan shows trees spaced less than 30 feet on both sides of the 10-foot-wide sidewalk. The sidewalk separated from the parking and vehicle use areas by curbs and the stone and timber frame of the breezeway structure. The criteria are met.

6. Landscaping at Points of Access

When a private access-way intersects a public right-of-way or when a property abuts the intersection of two (2) or more public rights-of-way, landscaping shall be planted and maintained so that minimum sight distances shall be preserved pursuant to Section 16.58.010.

FINDING: The proposed plantings near the planned access points have been designed not to obstruct minimum sight distances. This criterion is met.

7. Exceptions

- a. For properties with an environmentally sensitive area and/or trees or woodlands that merit protection per Chapters 16.142 (Parks, Trees and Open Space) and 16.144 (Wetland, Habitat and Natural Areas) the landscaping standards may be reduced, modified or "shifted" on-site where necessary in order to retain existing vegetation that would otherwise be removed to meet the above referenced landscaping requirements.**

- b. The maximum reduction in required landscaping buffer permitted through this exception process shall be no more than fifty (50) percent. The resulting landscaping buffer after reduction may not be less than five (5) feet in width unless otherwise permitted by the underlying zone. Exceptions to the required landscaping may only be permitted when reviewed as part of a land use action application and do not require a separate variance permit.**

FINDING: The applicant is not requesting any reduction to the site landscaping requirements. This standard is not applicable.

16.92.030 Site Area Landscaping and Perimeter Screening Standards

C. Screening of Mechanical Equipment, Outdoor Storage, Service and Delivery Areas

All mechanical equipment, outdoor storage and manufacturing, and service and delivery areas, shall be screened from view from all public streets and any adjacent residential zones. If unfeasible to fully screen due to policies and standards, the applicant shall make efforts to minimize the visual impact of the mechanical equipment.

FINDING: The preliminary landscape plans shows that all mechanical equipment, outdoor storage, and service and delivery areas will be sited and/or sufficiently screened to restrict their visibility from SW Century Drive and SW Langer Farms Parkway. This criterion is met.

D. Visual Corridors

Except as allowed by subsection 6. above, new developments shall be required to establish landscaped visual corridors along Highway 99W and other arterial and collector streets, consistent with the Natural Resources and Recreation Plan Map, Appendix C of the Community Development Plan, Part II, and the provisions of Chapter 16.142 (Parks, Trees, and Open Space). Properties within the Old Town Overlay are exempt from this standard.

FINDING: Per Section 16.142.040. a landscaped visual corridor is required along SW Century Drive and SW Langer Farms Parkway (both collector streets). Per the applicant's narrative, the preliminary landscape plans show multiple layers of trees, combined with shrubs and groundcover, providing a continuous visual and/or acoustical buffer between the collector street and the planned buildings and vehicle use area. Section 16.142.040 is further discussed in this report. This criterion is met.

16.92.040 Installation and Maintenance Standards

A. Installation

All required landscaping must be in-ground, except when in raised planters that are used to meet minimum Clean Water Services storm water management requirements. Plant materials must be installed to current nursery industry standards. Plant materials must be properly supported to ensure survival. Support devices such as guy wires or stakes must not interfere with vehicular or pedestrian movement.

B. Maintenance and Mitigation of Landscaped Areas

- 1. Maintenance of existing non-invasive native vegetation is encouraged within a development and required for portions of the property not being developed.**
- 2. All landscaping shall be maintained in a manner consistent with the intent of the approved landscaping plan.**
- 3. Any required landscaping trees removed must be replanted consistent with the approved landscaping plan and comply with § 16.142, (Parks, Trees and Open Space).**

C. Irrigation

The intent of this standard is to ensure that plants will survive the critical establishment period when they are most vulnerable due to lack of watering. All landscaped areas must provide an irrigation system, as stated in Option 1, 2, or 3.

1. **Option 1: A permanent built-in irrigation system with an automatic controller installed.**
2. **Option 2: An irrigation system designed and certified by a licensed landscape architect or other qualified professional as part of the landscape plan, which provides sufficient water to ensure that the plants become established. The system does not have to be permanent if the plants chosen can survive independently once established.**
3. **Option 3: Irrigation by hand. If the applicant chooses this option, an inspection will be required one (1) year after final inspection to ensure that the landscaping has become established.**

FINDING: The preliminary landscape plans noted that irrigation will be provided by a fully automatic underground system and plans will be submitted at time of building permit. These standards have not been met but can be met as conditioned below.

RECOMMENDED CONDITION: B1. Prior to Final Site Plan approval, submit a final landscape plan that addresses the installation and maintenance standards of Section 16.92.040 to the Planning Department for review and approval.

16.94 Off-Street Parking and Loading**16.94.010 General Requirements****A. Off-Street Parking Required**

No site shall be used for the parking of vehicles until plans are approved providing for off-street parking and loading space as required by this Code. Any change in uses or structures that reduces the current off-street parking and loading spaces provided on site, or that increases the need for off-street parking or loading requirements shall be unlawful and a violation of this Code, unless additional off-street parking or loading areas are provided in accordance with Section 16.94.020, or unless a variance from the minimum or maximum parking standards is approved in accordance with Chapter 16.84 Variances.

FINDING: The applicant has submitted a Site Plan (Exhibit A, Sheet SPL 1.1) that accommodate off-street parking as required by the Zoning and Community Development Code. This standard is met.

16.94.010 General Requirements**B. Deferral of Improvements**

Off-street parking and loading spaces shall be completed prior to the issuance of occupancy permits, unless the City determines that weather conditions, lack of available surfacing materials, or other circumstances beyond the control of the applicant make completion impossible. In such circumstances, security equal to one hundred twenty five (125) percent of the cost of the parking and loading area is provided the City. "Security" may consist of a performance bond payable to the City, cash, certified check, or other assurance of completion approved by the City. If the installation of the parking or loading area is not completed within one (1) year, the security may be used by the City to complete the installation.

FINDING: The applicant is not seeking to defer any required improvements. This standard is not applicable.

16.94.010 General Requirements

C. Options for Reducing the Required Parking Spaces

1. **Two (2) or more uses or, structures on multiple parcels of land may utilize jointly the same parking and loading spaces when the peak hours of operation do not substantially overlap, provided that satisfactory evidence is presented to the City, in the form of deeds, leases, or contracts, clearly establishing the joint use.**
 - a. **Within commercial, institutional and public, or industrial zones, shared parking may be provided on lots that are within five hundred (500) feet of the property line of the use to be served.**
 - b. **Shared parking is allowed if the application can show that the combined peak use is available by a parking study that demonstrates:**
 - (1) **There is a sufficient number of parking spaces to accommodate the requirements of the individual businesses; or**
 - (2) **That the peak hours of operation of such establishments do not overlap, and**
 - (3) **That an exclusive permanent easement over a delineated area has been granted for parking space use.**
2. **Mixed use projects are developments where a variety of uses occupies a development project or complex. For example, an eating establishment, professional office building and movie theater are all components of a mixed use site. It does not include a secondary use within a primary use such as an administrative office associated with a retail establishment. In mixed-use projects, the required minimum vehicle parking shall be determined using the following formula:**
 - a. **Primary use: i.e. that with the largest proportion of total floor area within the development at one hundred (100) percent of the minimum vehicle parking required for that use.**
 - b. **Secondary Use: i.e. that with the second largest percentage of total floor area within the development, at ninety (90) percent of the vehicle parking required for that use.**
 - c. **Subsequent use or uses, at eighty (80) percent of the vehicle parking required for that use.**

FINDING: The Site Plan, Sheet SP 1.1 of Exhibit A, shows that required off-street parking for the planned commercial project can be accommodated entirely on site. The applicant is not seeking reducing required parking space requirements. Therefore, this standard is not applicable.

16.94.010 General Requirements

D. Prohibited Uses

Required parking, loading and maneuvering areas shall not be used for long-term storage or sale of vehicles or other materials, and shall not be rented, leased or assigned to any person or organization not using or occupying the building or use served.

FINDING: No long term storage, sale of vehicles or other materials, or rented or leased parking spaces is proposed. This standard is met.

16.94.010 General Requirements

E. Location

1. **Residential off-street parking spaces:**

- a. Shall be located on the same lot or development as the residential use.
 - b. Shall not include garages or enclosed buildings with the exception of a parking structure in multifamily developments where three (3) or more spaces are not individually enclosed. (Example: Underground or multi-level parking structures).
2. For other uses, required off-street parking spaces may include adjacent on-street parking spaces, nearby public parking and shared parking located within five hundred (500) feet of the use. The distance from the parking, area to the use shall be measured from the nearest parking space to a building entrance, following a sidewalk or other pedestrian route. The right to use private off-site parking must be evidenced by a recorded deed, lease, easement, or similar written notarized letter or instrument.
 3. Vehicle parking is allowed only on improved parking shoulders that meet City standards for public streets, within garages, carports and other structures, or on driveways or parking lots that have been developed in conformance with this code. Specific locations and types of spaces (car pool, compact, etc.) for parking shall be indicated on submitted plans and located to the side or rear of buildings where feasible.
 - a. All new development with forty (40) employees or more shall include preferential spaces for carpool/vanpool designation. Carpool and vanpool parking spaces shall be located closer to the main employee entrance than all other parking spaces with the exception of ADA parking spaces. Carpool/vanpool spaces shall be clearly marked as reserved for carpool/vanpool only.
 - b. Existing development may redevelop portions of designated parking areas for multi-modal facilities (transit shelters, park and ride, and bicycle parking), subject to meeting all other applicable standards, including minimum space standards.

FINDING: The Site Plan, Sheet SP 1.1 of Exhibit A, shows that required off-street parking for the planned commercial project can be accommodated entirely on site. Per the applicant's narrative, there is area available for future businesses with 40 or more employees to provide carpool/vanpool parking. Therefore, the applicable criterion can be met.

16.94.010 General Requirements

F. Marking

All parking, loading or maneuvering areas shall be clearly marked and painted. All interior drives and access aisles shall be clearly marked and signed to show the direction of flow and maintain vehicular and pedestrian safety.

Findings: The Site Plan, Sheet SP 1.1 of Exhibit A, identifies clearly marked and painted areas consisting of parking, loading, and maneuvering spaces. The planned markings clearly show the direction of flow, and maintain safety for vehicles and pedestrians. This criterion is met.

16.94.010 General Requirements

G. Surface and Drainage

1. **All parking and loading areas shall be improved with a permanent hard surface such as asphalt, concrete or a durable pervious surface. Use of pervious paving material is encouraged and preferred where appropriate considering soils, location, anticipated vehicle usage and other pertinent factors.**
2. **Parking and loading areas shall include storm water drainage facilities approved by the City Engineer or Building Official.**

STAFF ANALYSIS: The parking lot will be improved with an asphalt surface. As discussed in the Public Infrastructure section below, the City Engineering Department has stated that the nearest public storm water systems available to the site area is an 18-inch line within Century Drive and a 36-inch main line running north to south along the eastern edge of the site. The existing regional storm water treatment facility was designed and constructed to incorporate the impervious surface area runoff from the proposed site development. For the purposes of this site development, the existing regional storm water treatment facility will provide the treatment capacity and, if necessary, detention capacity for the site's storm water discharge.

FINDING: This standard can be met as conditioned in the Public Infrastructure section below.

16.94.010 General Requirements

H. Repairs

Parking and loading areas shall be kept clean and in good repair. Breaks in paved surfaces shall be repaired. Broken or splintered wheel stops shall be replaced. Painted parking space boundaries and directional symbols shall be maintained in a readable condition.

FINDING: The property owner will be responsible for proper maintenance of the parking and loading areas. Violations are subject to Code Enforcement action. This standard is met.

16.94.010 General Requirements

I. Parking and Loading Plan

An off-street parking and loading plan, drawn to scale, shall accompany requests for building permits or site plan approvals, except for single and two-family dwellings, and manufactured homes on residential lots. The plan shall show but not be limited to:

- 1. Delineation of individual parking and loading spaces and dimensions.**
- 2. Circulation areas necessary to serve parking and loading spaces.**
- 3. Location of accesses to streets, alleys and properties to be served, and any curb cuts.**
- 4. Landscaping as required by Chapter 16.92.**
- 5. Grading and drainage facilities.**
- 6. Signing and bumper guard specifications.**
- 7. Bicycle parking facilities as specified in Section 16.94.020.C.**
- 8. Parking lots more than one (1) acre in size shall provide street-like features including curbs, sidewalks, and street trees or planting strips.**

FINDING: Preliminary plans submitted provided all the information listed above. This standard is met.

16.94.010 General Requirements

J. Parking Districts

The City may establish a parking district (i.e., permits or signage) in residential areas in order to protect residential areas from spillover parking generated by adjacent commercial, employment or mixed-use areas, or other uses that generate a high demand for parking. The district request shall be made to the City Manager, who will forward a recommendation to the City Council for a decision.

L. Structured parking and on-street parking are exempt from the parking space maximums in Section 16.94.020.A.

FINDING: No parking districts or structured parking are proposed. This standard is not applicable.

16.94.020 Off-Street Parking Standards**A. Generally**

Where square feet are specified, the area measured shall be the gross building floor area primary to the functioning of the proposed use. Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Fractional space requirements shall be counted as a whole space. The Review Authority may determine alternate off - street parking and loading requirements for a use not specifically listed in this Section based upon the requirements of comparable uses.

**Table 1: Minimum and Maximum Parking Standards
(Metro spaces are based on 1 per 1,000 sq. ft. of gross leasable area)**

	Minimum Parking Standard	Maximum Permitted Parking Zone A ¹	Maximum Permitted Parking Zone B ²
General retail or personal service	4.1 (244 sf)	5.1	6.2
Sports club/recreation facility	4.3 (233 sf)	5.4	6.5

¹ Parking Zone A reflects the maximum number of permitted vehicle parking spaces allowed for each listed land use. Parking Zone A areas include those parcels that are located within one-quarter ($\frac{1}{4}$) mile walking distance of bus transit stops, one-half ($\frac{1}{2}$) mile walking distance of light rail station platforms, or both, or that have a greater than twenty-minute peak hour transit service.

² Parking Zone B reflects the maximum number of permitted vehicle parking spaces allowed for each listed land use. Parking Zone B areas include those parcels that are located at a distance greater than one-quarter ($\frac{1}{4}$) mile walking distance of bus transit stops, one-half ($\frac{1}{2}$) mile walking distance of light rail station platforms, or both.

Applicant's Response: The table on the Site Plan shows that a minimum of 406 parking spaces are required based on the gross floor area of the buildings, the planned uses, and the ratios listed above. Due to the operational characteristics of the sub-use and the large area required to serve relatively few users at one time, the Applicant anticipates that the \pm 40,035 gross square feet of racing within the Fun Center can be adequately served by 40 parking spaces. The Site Plan shows 487 parking spaces are planned. This is less than the maximum 497 parking spaces permitted for Zone A. The criteria are met.

STAFF ANALYSIS: The table on the Site Plan, Sheet SP 1.1 of Exhibit A, show below identifies the above calculations. Staff concurs with the applicant's response.

SITE DATA								
SEE: CITY OF SHERWOOD MUNICIPAL CODE - SECTION 16.94.020, FOR PARKING RATIOS.								
BUILDING	AREA	PARKING RATIO (PER 1,000 SF.)		PARKING STALLS			BICYCLE PARKING (TABLE 4)	
		MIN	MAX	MIN	5 PER	MAX		
FUN CENTER:		52,864 SF.	4.3	5.4	228	265	286	16
FIRST FLOOR:	43,929 SF.							
SECOND FLOOR:	8,935 SF.							
RACING:		40,035 SF.	ASSUMED 40		40	40	40	2
COMBINED FUN CENTER AND RACING:		92,899 SF.	4.3	5.4	268	305	326	18
BUILDING A - RETAIL:		6,086 SF.	4.1	5.1	25	31	32	2
BUILDING B - RETAIL:		10,445 SF.	4.1	5.1	43	53	54	3
BUILDING C - RETAIL:		5,877 SF.	4.1	5.1	25	30	30	2
PAD A:		10,000 SF.	4.1	5.1	41	50	51	3
COFFEE KIOSK:		392 SF.	1 PER 101 SF.	4	4	1		1
TOTAL BUILDING AREA:		125,699 SF.	PARKING TOTALS:		406	473	491	TOTAL: 29
BUILDING COVERAGE, OVERALL (116,764 SF.):		22.32%	OVERALL RATIO:		3.23	3.76	3.95	PROVIDED: 56
PARKING, FUN CENTER:	352 STALLS	3.8	PER 1,000 SF. (92,899 SF.) - GROSS					
PARKING, RETAIL:	135 STALLS	4.1	PER 1,000 SF. (32,800 SF.)					
PARKING, TOTAL:	487 STALLS	3.9	PER 1,000 SF. (125,699 SF.)					

FINDING: Based on applicant's response and staff analysis above, this standard is met.

16.94.020 Off-Street Parking Standards

B. Dimensional and General Configuration Standards

1. Dimensions for the purpose of this Chapter, a "parking space" means a stall nine (9) feet in width and twenty (20) feet in length. Up to twenty five (25) percent of required parking spaces may have a minimum dimension of eight (8) feet in width and eighteen (18) feet in length so long as they are signed as compact car stalls.

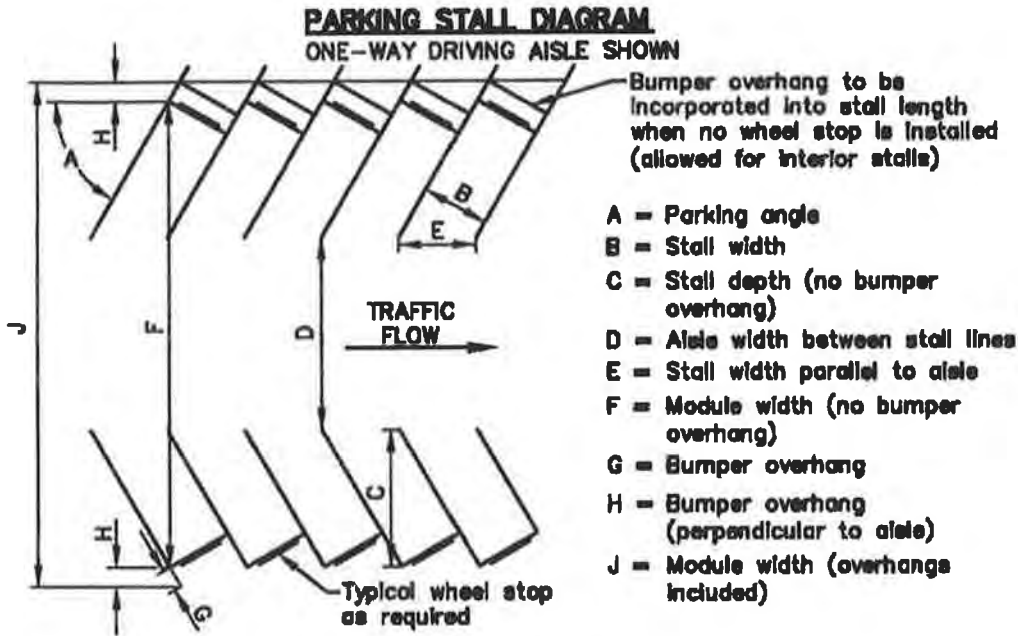
STAFF ANALYSIS: The applicant's narrative states that all parking spaces planned are 20-feet long and 9-feet wide. However, reviewing the proposed plans identified some parking spaces to be 8-feet in width and 18-feet in length. A revised site plan must be submitted identifying the compact car stalls and calculations meeting the maximum 25 percent requirement for compact car stalls.

FINDING: This standard is not met, but can be met as conditioned below.

RECOMMENDED CONDITION: B2. Prior to Site Plan approval, a revised site plan must be submitted identifying the compact car stalls and calculations meeting the maximum 25 percent compact car stall requirement.

2. Layout

Parking space configuration, stall and access aisle size shall be of sufficient width for all vehicle turning and maneuvering. Groups of more than four (4) parking spaces shall be served by a driveway so as to minimize backing movements or other maneuvering within a street, other than an alley. All parking areas shall meet the minimum standards shown in the following table and diagram.



**Table 3: Two-Way Driving Aisle
(Dimensions in Feet)**

A	B	C	D	E	F	G	H	J
45°	8.0	16.5	24.0	11.3	57.0	3.0	2.5	62.0
	9.0	18.5	24.0	12.7	61.0	3.0	2.5	66.0
60°	8.0	17.0	24.0	9.2	58.0	3.0	2.5	63.0
	9.0	19.5	24.0	10.4	63.0	3.0	2.5	68.0
75°	8.0	16.5	26.0	8.3	59.0	3.0	3.0	65.0
	9.0	19.0	24.0	9.3	62.0	3.0	3.0	68.0
90°	8.0	15.0	26.0	8.0	56.0	3.0	3.0	62.0
	9.0	17.0	24.0	9.0	58.0	3.0	3.0	64.0

FINDING: As proposed, all spaces meet the minimum standards identified above and will be accessed internally and served by on-site drive aisles. This standard is met.

3. Wheel Stops

- a. Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least four (4) inches high, located three (3) feet back from the front of the parking stall as shown in the above diagram.
- b. Wheel stops adjacent to landscaping, bio-swales or water quality facilities shall be designed to allow storm water runoff.
- c. The paved portion of the parking stall length may be reduced by three (3) feet if replaced with three (3) feet of low lying landscape or hardscape in lieu of a wheel stop; however, a curb is still required. In other words, the traditional three-foot vehicle overhang from a wheel stop may be low-lying landscaping rather than an impervious surface.

Applicant’s Response: Wheel stops are not planned. Parking stalls are planned to have limited overhang onto sidewalks and landscaped areas, which have been widened sufficiently to accommodate any necessary overhang. The applicable criteria are met.

STAFF ANALYSIS: Staff concurs with the applicant’s response.

FINDING: Based on the applicant’s response and staff analysis, the applicable standards are met.

16.94.020 Off-Street Parking Standards

C. Bicycle Parking Facilities

1. General Provisions

- a. **Applicability.** Bicycle parking spaces shall be provided for new development, changes of use, and major renovations, defined as construction valued at twenty-five (25) percent or more of the assessed value of the existing structure.
- b. **Types of Spaces.** Bicycle parking facilities shall be provided in terms of short-term bicycle parking and long-term bicycle parking. Short-term bicycle parking is intended to encourage customers and other visitors to use bicycles by providing a convenient and readily accessible place to park bicycles. Long-term bicycle parking provides employees, students, residents, commuters, and others who generally stay at a site for at least several hours a weather-protected place to park bicycles.
- c. **Minimum Number of Spaces.** The required total minimum number of bicycle parking spaces for each use category is shown in Table 4, Minimum Required Bicycle Parking Spaces.
- d. **Minimum Number of Long-term Spaces.** If a development is required to provide eight (8) or more required bicycle parking spaces in Table 4, at least twenty-five (25) percent shall be provided as long-term bicycle with a minimum of one (1) long-term bicycle parking space.
- e. **Multiple Uses.** When there are two or more primary uses on a site, the required bicycle parking for the site is the sum of the required bicycle parking for the individual primary uses.

Table 4: Minimum Required Bicycle Parking Spaces	
Commercial Use Categories	Minimum Required Spaces
Retail sales/service office	2 or 1 per 20 auto spaces, whichever is greater
Commercial parking facilities, commercial, outdoor recreation, major event entertainment	4 or 1 per 20 auto spaces, whichever is greater

Applicant’s Response: The table on the Site Plan in Exhibit B shows that a minimum of 29 bicycle parking spaces are required, per Table 4, including 8 long-term spaces. The Site Plan shows 56 bicycle spaces are planned. The applicable criteria are met.

STAFF ANALYSIS: Staff concurs with the applicant’s response and as shown below and on the preliminary site plan, Sheet SP 1.1 of Exhibit A.

FINDING: Based on the applicant’s response and staff analysis, the applicable criteria are met.

SITE DATA								
SEE: CITY OF SHERWOOD MUNICIPAL CODE - SECTION 16.94.020, FOR PARKING RATIOS.								
BUILDING	AREA	PARKING RATIO (PER 1,000 SF.)		PARKING STALLS			BICYCLE PARKING (TABLE 4)	
		MIN	MAX	MIN	5 PER	MAX		
FUN CENTER:	52,864 SF.	4.3	5.4	228	265	286	16	
FIRST FLOOR:	43,929 SF.							
SECOND FLOOR:	8,935 SF.							
RACING:	40,035 SF.	ASSUMED 40		40	40	40	2	
COMBINED FUN CENTER AND RACING:	92,899 SF.	4.3	5.4	268	305	326	18	
BUILDING A - RETAIL:	6,086 SF.	4.1	5.1	25	31	32	2	
BUILDING B - RETAIL:	10,445 SF.	4.1	5.1	43	53	54	3	
BUILDING C - RETAIL:	5,877 SF.	4.1	5.1	25	30	30	2	
PAD A:	10,000 SF.	4.1	5.1	41	50	51	3	
COFFEE KIOSK:	392 SF.	1 PER 101 SF.	4	4	4	1	1	
TOTAL BUILDING AREA:	125,699 SF.	PARKING TOTALS:		406	473	491	TOTAL: 29	
BUILDING COVERAGE, OVERALL (116,764 SF.):	22.32%	OVERALL RATIO:		3.23	3.76	3.95	PROVIDED: 56	
PARKING, FUN CENTER:	352 STALLS	3.8	PER 1,000 SF.	(92,899 SF.) - GROSS				
PARKING, RETAIL:	135 STALLS	4.1	PER 1,000 SF.	(32,800 SF.)				
PARKING, TOTAL:	487 STALLS	3.9	PER 1,000 SF.	(125,699 SF.)				

16.94.020 Off-Street Parking Standards

C. Bicycle Parking Facilities

2. Location and Design.

a. General Provisions

- (1) Each space must be at least two (2) feet by six (6) feet in area, be accessible without moving another bicycle, and provide enough space between the rack and any obstructions to use the space properly.
- (2) There must be an aisle at least five (5) feet wide behind all required bicycle parking to allow room for bicycle maneuvering. Where the bicycle parking is adjacent to a sidewalk, the maneuvering area may extend into the right-of-way.
- (3) Lighting. Bicycle parking shall be at least as well lit as vehicle parking for security.
- (4) Reserved Areas. Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.
- (5) Bicycle parking in the Old Town Overlay District can be located on the sidewalk within the right-of-way. A standard inverted "U shaped" or staple design is appropriate. Alternative, creative designs are strongly encouraged.
- (6) Hazards. Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as to not conflict with vision clearance standards.

FINDING: The proposed bicycle parking spaces are located and designed to accommodate the design standards listed above. Sheet SA1.1 of Exhibit A identifies a conceptual design for the proposed bicycle racks. The applicable criteria are met.

b. Short-term Bicycle Parking

- (1) Provide lockers or racks that meet the standards of this section.

- (2) **Locate inside or outside the building within thirty (30) feet of the main entrance to the building or at least as close as the nearest vehicle parking space, whichever is closer.**

FINDING: The proposed bicycle parking spaces are reflected on Sheet SP 1.1 of Exhibit A and meet the distance/location standards. Sheet SA1.1 of Exhibit A identifies a conceptual design for the proposed bicycle racks. The applicable criteria are met.

c. Long-term Bicycle Parking

- (1) **Provide racks, storage rooms, or lockers in areas that are secure or monitored (e.g., visible to employees or customers or monitored by security guards).**
- (2) **Locate the outside bicycle parking spaces within one hundred (100) feet of the entrance that will be accessed by the intended users.**
- (3) **All of the spaces shall be covered.**

d. Covered Parking (Weather Protection)

- (1) **When required, covered bicycle parking shall be provided in one (1) of the following ways: inside buildings, under roof overhangs or awnings, in bicycle lockers, or within or under other structures.**
- (2) **Where required covered bicycle parking is not within a building or locker, the cover must be permanent and designed to protect the bicycle from rainfall and provide seven-foot minimum overhead clearance.**
- (3) **Where required bicycle parking is provided in lockers, the lockers shall be securely anchored.**

FINDING: The proposed bike gazebo (long-term bicycle parking area) is reflected on Sheet SP 1.1 of Exhibit A, along with elevations on Sheet BR 1.2 of Exhibit A. Sheet SA1.1 of Exhibit A identifies a conceptual design for the proposed bicycle racks. Per the applicant's narrative, at least 8 long-term spaces can be provided. The covered bicycle parking standards are met.

16.94.030 - Off-Street Loading Standards

A. Minimum Standards

1. **A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers shall be located on the site of any school, or other public meeting place, which is designed to accommodate more than twenty five (25) persons at one time.**
2. **The minimum loading area for non-residential uses shall not be less than ten (10) feet in width by twenty-five (25) feet in length and shall have an unobstructed height of fourteen (14) feet.**
3. **Multiple uses on the same parcel or adjacent parcels may utilize the same loading area if it is shown in the development application that the uses will not have substantially overlapping delivery times.**
4. **The following additional minimum loading space is required for buildings in excess of twenty thousand (20,000) square feet of gross floor area:**
 - a. **Twenty thousand (20,000) to fifty (50,000) sq. ft. - five hundred (500) sq. ft.**
 - b. **Fifty (50,000) sq. ft. or more - seven hundred fifty (750) sq. ft.**

FINDING: The preliminary site plan, Sheet SP 1.1 of Exhibit A, shows a large loading zone area behind the Fun Center building. In this location, adequate space is provided to meet the minimum 10-foot-wide by 25-foot-long loading zone, plus the additional 750 square feet of area required for

buildings in excess of 50,000 square feet. The applicant's narrative states that deliveries to the retail spaces are planned to be accommodated within the parking area, consistent with both standard practices in the retail industry and past City approval. The applicable criteria are met.

B. Separation of Areas

Any area to be used for the maneuvering of delivery vehicles and the unloading or loading of materials shall be separated from designated off-street parking areas and designed to prevent the encroachment of delivery vehicles onto off-street parking areas or public streets. Off-street parking areas used to fulfill the requirements of this Chapter shall not be used for loading and unloading operations.

FINDING: The preliminary site plan, Sheet SP 1.1 of Exhibit A, shows a large loading zone area behind the Fun Center building. This area is separated from designated off-street parking spaces and deliveries to the retail spaces are planned to be accommodated within the parking area. The proposed parking area provides 81 additional parking spaces more than the minimum required - adequate surplus to accommodate loading for the small retail buildings. This criterion is met.

16.96 ONSITE CIRCULATION

16.92.010 – On-Site Pedestrian and Bicycle Circulation

A. Purpose

On-site facilities shall be provided that accommodate safe and convenient pedestrian access within new subdivisions, multi-family developments, planned unit developments, shopping centers and commercial districts, and connecting to adjacent residential areas and neighborhood activity centers within one-half mile of the development. Neighborhood activity centers include but are not limited to existing or planned schools, parks, shopping areas, transit stops or employment centers. All new development, (except single-family detached housing), shall provide a continuous system of private pathways/sidewalks.

FINDING: The Site Plan (Exhibit A, Sheet SP 1.1) shows two existing pedestrian connections (one on SW Century Drive and another on SW Langer Farms Parkway) to the interior of the site. City of Sherwood Engineering Department also requires an additional pedestrian crossing on the south side of the intersection of SW Langer Farms Parkway and Whetstone Way. These three pedestrian connections will ensure safe and convenient access between the proposed commercial uses and residences. This standard is met.

C. Joint Access

Two (2) or more uses, structures, or parcels of land may utilize the same ingress and egress when the combined ingress and egress of all uses, structures, or parcels of land satisfied the other requirements of this Code, provided that satisfactory legal evidence is presented to the City in the form of deeds, easements, leases, or contracts to clearly establish the joint use.

Applicant's Response: The Preliminary Plat shows the configuration of the five planned lots. Lots range in size from ± 0.50 acres (Lot5) to ± 8.24 acres (Lot3). Lot 1 at ± 3.60 acres is reserved for future use, and is not included in the concurrent Site Plan Review application. Consequently, four of the planned lots will contain buildings and share access to the abutting public streets. The Applicant will prepare covenants, conditions and restrictions (CC&Rs) for the project as well as shared access easements. These agreements will be provided to the City following land use

approval and will allow for shared parking and access across the project site. The criteria can be met.

STAFF ANALYSIS: Staff concurs with the applicant's response.

FINDING: This standard is not met, but can be satisfied as conditioned below.

RECOMMENDED CONDITION: B3. Prior to Final Plat approval, submit a copy of the covenants, conditions and restrictions (CC&Rs) for the project including shared access easements.

16.96 ONSITE CIRCULATION

D. Connection to Streets

- 1. Except for joint access per this Section, all ingress and egress to a use or parcel shall connect directly to a public street, excepting alleyways with paved sidewalk.**
- 2. Required private sidewalks shall extend from the ground floor entrances or the ground floor landing of stairs, ramps or elevators to the public sidewalk or curb of the public street which provides required ingress and egress.**

FINDING: Joint Access is address above and vehicular and pedestrian access will be provided to SW Langer Farms Parkway and SW Century Drive. Internal walkways will connect all buildings to the public sidewalk. This standard is met.

F. Access to Major Roadways

Points of ingress or egress to and from Highway 99W and arterials designated on the Transportation Plan Map, attached as Appendix C of the Community Development Plan, Part II, shall be limited as follows:

- 1. Single and two-family uses and manufactured homes on individual residential lots developed after the effective date of this Code shall not be granted permanent driveway ingress or egress from Highway 99W and arterial roadways. If alternative public access is not available at the time of development, provisions shall be made for temporary access which shall be discontinued upon the availability of alternative access.**
- 2. Other private ingress or egress from Highway 99W and arterial roadways shall be minimized. Where alternatives to Highway 99W or arterials exist or are proposed, any new or altered uses developed after the effective date of this Code shall be required to use the alternative ingress and egress.**
- 3. All site plans for new development submitted to the City for approval after the effective date of this Code shall show ingress and egress from existing or planned local or collector streets, consistent with the Transportation Plan Map and Section VI of the Community Development Plan.**

FINDING: Access will be provided via SW Langer Farms Parkway and SW Century Drive, both collector streets. Nearby arterial roadways are not accessible from the site. These standards are not applicable.

G. Service Drives

Service drives shall be provided pursuant to Section 16.94.030.

FINDING: Section 16.94.030 is addressed above. This criterion is met.

16.96.030 - Minimum Non-Residential Standards

Minimum standards for private, on-site circulation improvements in non-residential developments:

A. Driveways

1. Commercial: Improved hard surface driveways are required as follows:

Required		Minimum Width	
Parking Spaces	# Driveways	One-Way Pair	Two-Way
1 - 49	1	15 feet	24 feet
50 & above	2	15 feet	24 feet

3. Surface materials are encouraged to be pervious when appropriate considering soils, anticipated vehicle usage and other pertinent factors.

FINDING: The Site Plan, Sheet SP1.1 of Exhibit A, shows commercial driveways meeting or exceeding the minimum 24-foot width requirement. Per the applicant’s narrative, based on anticipated vehicle usage and soil conditions, there are no plans to utilize pervious surfaces. This standard is met.

B. Sidewalks and Curbs

- 1. A private pathway/sidewalk system extending throughout the development site shall be required to connect to existing development, to public rights-of-way with or without improvements, to parking and storage areas, and to connect all building entrances to one another. The system shall also connect to transit facilities within five hundred (500) feet of the site, future phases of development, and whenever possible to parks and open spaces.**
- 2. Curbs shall also be required at a standard approved by the Hearing Authority. Private pathways/sidewalks shall be connected to public rights-of-way along driveways but may be allowed other than along driveways if approved by the Hearing Authority.**
- 3. Private Pathway/Sidewalk Design. Private pathway surfaces shall be concrete, asphalt, brick/masonry pavers, or other pervious durable surface. Primary pathways connecting front entrances to the right of way shall be at least 6 feet wide and conform to ADA standards. Secondary pathways between buildings and within parking areas shall be a minimum of four (4) feet wide and/or conform to ADA standards. Where the system crosses a parking area, driveway or street, it shall be clearly marked with contrasting paving materials or raised crosswalk (hump). At a minimum all crosswalks shall include painted striping.**
- 4. Exceptions. Private pathways/sidewalks shall not be required where physical or topographic conditions make a connection impracticable, where buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or pathways would violate provisions of leases, restrictions or other agreements.**

STAFF ANALYSIS: As proposed, the proposal includes a system of private sidewalks that connect to public sidewalks, outdoor spaces, to each of the buildings, between building entrances, and public boundary streets. The sidewalks are to be constructed of concrete, exceed four feet in width and are required to be ADA compliant. ADA compliant routes are provided to

each building entrance and the public sidewalk. Driveway crossings are marked on the plans, and the site is provided with curbs in all required locations.

FINDING: The applicant is providing clearly marked and identified pedestrian amenities that are protected by curbs, or in the case of drive aisle crossings, clearly marked crossings. As discussed above, this criterion is satisfied.

16.98 ONSITE STORAGE

16.98.020 Solid Waste and Recycling Storage

All uses shall provide solid waste and recycling storage receptacles which are adequately sized to accommodate all solid waste generated on site. All solid waste and recycling storage areas and receptacles shall be located out of public view. Solid waste and recycling receptacles for multi-family, commercial, industrial and institutional uses shall be screened by six (6) foot high sight-obscuring fence or masonry wall and shall be easily accessible to collection vehicles.

STAFF ANALYSIS: Five solid waste and recycling storage receptacles have been identified throughout the parking area of the project site. The enclosures will be screened with 6-foot tall masonry walls and surrounding landscaping. Kristen Tabscott, Pride Disposal comments (**Exhibit E**), states that these five enclosures meet the required 10-foot deep by 20-foot wide standard, allowing straight on access. She also stated that the applicant's engineer, John Christiansen via email, will be modifying the gates to be two 10-foot swinging gates on all enclosures and all enclosures will have the required 20-foot enclosure opening and 75-foot of straight on access. The following details were not identified on the site plan and will need to be met prior to Final Site Plan approval:

- The gates need to be hinged in front of the enclosure walls to allow for the full 20-foot width. This will also allow for the 120 degree opening angle that is required.
- No center post at the gate access point.
- The gates need cane bolts and holes put in place for the gates to be locked in the open and closed position. The holes for the gates to be held open need to be at the full 120 degree opening angle.
- There must be 25-feet of overhead clearance.

FINDING: This standard is not met, but can be satisfied as conditioned below.

RECOMMENDED CONDITION: B4. Prior to Final Plat and Site Plan approval, provide a revised solid waste and recycling storage receptacles plan meeting Pride Disposal requirement.

RECOMMENDED CONDITON: H3. Prior to Final Occupancy, solid waste and recycling storage receptacles must be constructed to Pride Disposal standard.

16.98.040 - Outdoor Sales and Merchandise Display

A. Sales Permitted

Outdoor sales and merchandise display activities, including sales and merchandise display that is located inside when the business is closed but otherwise located outside, shall be permitted when such activities are deemed by the Commission to be a customary and integral part of a permitted commercial or industrial use.

- 1. Permanent outdoor sales and merchandise display are in use year round or in excess of four (4) months per year and require the location to be reviewed through a site plan review. They will be reviewed as conditional uses in accordance with Chapter 16.82.**

Permanent outdoor and merchandise display are subject to the standards outlined in subsection B, below.

2. Temporary outdoor sales and merchandise display are seasonal and are not displayed year round and must meet the requirements of Chapter 16.86 (temporary uses). When the temporary use is not occurring the site shall return to its original state.
3. Food vendors including food carts, ice cream trucks, hotdog stands or similar uses are only permitted as a permanent outdoor sale use as described in A.1 above.

B. Standards

1. Outdoor sales and merchandise display areas shall be kept free of debris. Merchandise shall be stacked or arranged, or within a display structure. Display structures shall be secured and stable.
2. Outdoor sales and merchandise display shall not be located within required yard, building, or landscape setbacks, except where there is intervening right-of-way of a width equal to or greater than the required setback; and shall not interfere with on-site or off-site pedestrian or vehicular circulation.
3. Outdoor retail sales and merchandise display areas for vehicles, boats, manufactured homes, farm equipment, and other similar uses shall be improved with asphalt surfacing, crushed rock, or other dust-free materials.
4. Additional standards may apply to outdoor sales and merchandise display dependent on specific restrictions in the zone.

FINIDINGS: Per the applicant's narrative, outdoor sales and merchandise displays are not planned. Any future external material storage will comply with the applicable requirements. These conditions are not applicable.

C. Division VI – PUBLIC IMPROVEMENTS

Chapter 16.106 TRANSPORTATION FACILITIES

16.106.020 Required Improvements

A. Generally

Except as otherwise provided, all developments containing or abutting an existing or proposed street, that is either unimproved or substandard in right-of-way width or improvement, shall dedicate the necessary right-of-way prior to the issuance of building permits and/or complete acceptable improvements prior to issuance of occupancy permits. The following figure provides the depiction of the functional classification of the street network as found in the Transportation System Plan, Figure 8-1.

B. Existing Streets

Except as otherwise provided, when a development abuts an existing street, the improvements requirement shall apply to that portion of the street right-of-way located between the centerline of the right-of-way and the property line of the lot proposed for development. In no event shall a required street improvement for an existing street exceed a pavement width of thirty (30) feet.

STAFF ANALYSIS: The subject property has street frontages along SW Langer Farms Parkway (to the west) and SW Century Drive (to the north) both classified as Collector streets. Both streets are fully improved except for the sidewalk along the south side of SW Century Drive. The preliminary plans show construction of a new 9.5-foot-wide curb tight sidewalk with tree wells along the SW Century Drive frontage matching the improvements on the north side of SW Century Drive. With these planned improvements adequate pedestrian and bicycle facilities will be provided on both sides of SW Langer Farms Parkway and SW Century Drive.

The preliminary plans indicate several types widths and extents of public and private utility easements necessary for site development with separate lots. Engineering Department proposes conditions that clearly identify these easements and the plat and all public and private easements necessary for site development shall be recorded with Washington County Recorder.

All street infrastructures shall be designed to meet the approval of the City of Sherwood Engineering Department prior to issuance of an Engineering Compliance Agreement.

FINDING: This standard is not met but can be met as conditioned below.

RECOMMENDED CONDITION: B5. Prior to Final Plat Approval, the plat and site development drawings shall show and identify the type, width and extent of each public and private utility easement necessary for site development meeting Sherwood Engineering Department standards.

RECOMMENDED CONDITION: H10. Prior to a Grant of Occupancy for any building constructed on site, the plat and all public and private easements necessary for site development shall be recorded with the Washington County Recorder with copies of the recorded documents provided to the City of Sherwood.

RECOMMENDED CONDITION: E1. Prior to Sherwood Engineering Department approval of the public improvement plans, all public transportation infrastructure shall meet City of Sherwood standards and be approved by the Sherwood Engineering Department.

Chapter 16.106 TRANSPORTATION FACILITIES

16.106.040 - Design

Standard cross sections showing street design and pavement dimensions are located in the City of Sherwood's Engineering Design Manual.

H. Buffering of Major Streets

Where a development abuts Highway 99W, or an existing or proposed principal arterial, arterial or collector street, or neighborhood route, adequate protection for residential properties must be provided, through and local traffic be separated, and traffic conflicts minimized. In addition, visual corridors pursuant to Section 16.142.040, and all applicable access provisions of Chapter 16.96, are to be met. Buffering may be achieved by: parallel access streets, lots of extra depth abutting the major street with frontage along another street, or other treatment suitable to meet the objectives of this Code.

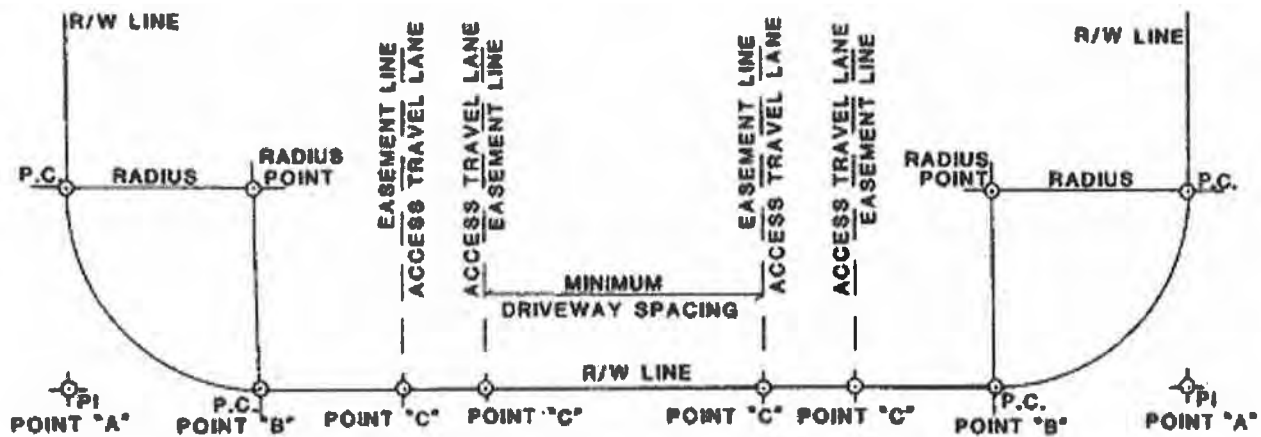
FINDING: The subject property has street frontages along SW Langer Farms Parkway (to the west) and SW Century Drive (to the north) both classified as Collector streets. Both streets are fully improved except for the sidewalk along the south side of SW Century Drive. The preliminary plans show construction of a new 9.5-foot-wide curb tight sidewalk with tree wells along the SW Century Drive frontage matching the improvements on the north side of SW Century Drive. The preliminary plans also show a 10-foot-wide landscaped visual corridor pursuant to Section 16.142.040. Applicable access provisions are addressed in the responses to Chapter 16.96. The applicable standards are met.

Chapter 16.106 TRANSPORTATION FACILITIES 16.106.040 - Design

M. Vehicular Access Management

All developments shall have legal access to a public road. Access onto public streets shall be permitted upon demonstration of compliance with the provisions of adopted street standards in the Engineering Design Manual.

1. **Measurement:** See the following access diagram where R/W = Right-of-Way; and P.I. = Point-of-Intersection where P.I. shall be located based upon a 90 degree angle of intersection between ultimate right-of-way lines.
 - a. Minimum right-of-way radius at intersections shall conform to City standards.
 - b. All minimum distances stated in the following sections shall be governed by sight distance requirements according to the Engineering Design Manual.
 - c. All minimum distances stated in the following sections shall be measured to the nearest easement line of the access or edge of travel lane of the access on both sides of the road.
 - d. All minimum distances between accesses shall be measured from existing or approved accesses on both sides of the road.
 - e. Minimum spacing between driveways shall be measured from Point "C" to Point "C" as shown below:



FINDING: The preliminary plans show driveways that conform to all applicable geometric requirements. The applicable standards are met.

2. Roadway Access

No use will be permitted to have direct access to a street or road except as specified below. Access spacing shall be measured from existing or approved accesses on either side of a street or road. The lowest functional classification street available to the legal lot, including alleys within a public easement, shall take precedence for new access points.

c. Collectors:

All commercial, industrial and institutional uses with one-hundred-fifty (150) feet or more of frontage will be permitted direct access to a Collector. Uses

with less than one-hundred-fifty (150) feet of frontage shall not be permitted direct access to Collectors unless no other alternative exists.

Where joint access is available it shall be used, provided that such use is consistent with Section 16.96.040, Joint Access. No use will be permitted direct access to a Collector within one-hundred (100) feet of any present Point "A." Minimum spacing between driveways (Point "C" to Point "C") shall be one-hundred (100) feet. In all instances, access points near an intersection with a Collector or Arterial shall be located beyond the influence of standing queues of the intersection in accordance with AASHTO standards. This requirement may result in access spacing greater than one hundred (100) feet.

FINDING: The site has more than 150 feet of street frontage on two collector streets. Joint accesses are planned, as discussed in the response to Section 16.96.040. The three driveways are shown on the preliminary plans and comply with the applicable spacing requirement. The applicable standards are met.

Chapter 16.106 TRANSPORTATION FACILITIES

16.106.060 - Sidewalks

A. Required Improvements

1. Except as otherwise provided, sidewalks shall be installed on both sides of a public street and in any special pedestrian way within new development.
2. For Highway 99W, arterials, or in special industrial districts, the City Manager or designee may approve a development without sidewalks if alternative pedestrian routes are available.
3. In the case of approved cul-de-sacs serving less than fifteen (15) dwelling units, sidewalks on one side only may be approved by the City Manager or designee.

B. Design Standards

1. Arterial and Collector Streets

Arterial and collector streets shall have minimum eight (8) foot wide sidewalks/multi-use path, located as required by this Code.

2. Local Streets

Local streets shall have minimum five (5) foot wide sidewalks, located as required by this Code.

3. Handicapped Ramps

Sidewalk handicapped ramps shall be provided at all intersections.

C. Pedestrian and Bicycle Paths

Provide bike and pedestrian connections on public easements or right-of-way when full street connections are not possible, with spacing between connections of no more than 330 feet except where prevented by topography, barriers such as railroads or highways, or environmental constraints such as rivers and streams.

FINDING: The subject property has street frontages along SW Langer Farms Parkway (to the west) and SW Century Drive (to the north) both classified as Collector streets. Both streets are fully improved except for the sidewalk along the south side of SW Century Drive. The preliminary plans show construction of a new 9.5-foot-wide curb tight sidewalk with tree wells along the SW Century Drive frontage matching the improvements on the north side of SW Century Drive. With these planned improvements adequate pedestrian and bicycle facilities will be provided on both sides of SW Langer Farms Parkway and SW Century Drive.

Chapter 16.106 TRANSPORTATION FACILITIES

16.106.080 Traffic Impact Analysis (TIA)

C. Requirements

The following are typical requirements that may be modified in coordination with Engineering Staff based on the specific application.

1. **Pre-application Conference.** The applicant shall meet with the City Engineer prior to submitting an application that requires a TIA. This meeting will be coordinated with Washington County and ODOT when an approach road to a County road or Highway 99W serves the property, so that the TIA will meet the requirements of all relevant agencies.
2. **Preparation.** The TIA shall be prepared by an Oregon Registered Professional Engineer qualified to perform traffic Engineering analysis and will be paid for by the applicant.
3. **Typical Average Daily Trips and Peak Hour Trips.** The latest edition of the Trip Generation Manual, published by the Institute of Transportation Engineers (ITE), shall be used to gauge PM peak hour vehicle trips, unless a specific trip generation study that is approved by the City Engineer indicates an alternative trip generation rate is appropriate.
4. **Intersection-level Analysis.** Intersection-level analysis shall occur at every intersection where the analysis shows that fifty (50) or more peak hour vehicle trips can be expected to result from the development.
5. **Transportation Planning Rule Compliance.** The requirements of OAR 660-012-0060 shall apply to those land use actions that significantly affect the transportation system, as defined by the Transportation Planning Rule.

F. Approval Criteria

When a TIA is required, a proposal is subject to the following criteria, in addition to all criteria otherwise applicable to the underlying land use proposal:

1. The analysis complies with the requirements of 16.106.080.C;
2. The analysis demonstrates that adequate transportation facilities exist to serve the proposed development or identifies mitigation measures that resolve identified traffic safety problems in a manner that is satisfactory to the City Engineer and, when County or State highway facilities are affected, to Washington County and ODOT;
3. For affected non-highway facilities, the TIA demonstrates that mobility and other applicable performance standards established in the adopted City TSP have been met; and
4. Proposed public improvements are designed and will be constructed to the street standards specified in Section 16.106.010 and the Engineering Design Manual, and to the access standards in Section 16.106.040.
5. Proposed public improvements and mitigation measures will provide safe connections across adjacent right-of-way (e.g., protected crossings) when pedestrian or bicycle facilities are present or planned on the far side of the right-of-way.

FINDING: Kittelson & Associates prepared a detailed traffic impact analysis that was included as part of the applicant's submittal (Exhibit A). Per the applicant's narrative, the scope of the traffic analysis was developed in consultation with the City of Sherwood and based on the estimated trip generation and assignment patterns specific intersections and the site accesses were analyzed. This standard is met.

Chapter 16.106 TRANSPORTATION FACILITIES**16.106.080 Traffic Impact Analysis (TIA)****G. Conditions of Approval**

The City may deny, approve, or approve a development proposal with conditions needed to meet operations and safety standards and provide the necessary right-of-way and improvements to ensure consistency with the future planned transportation system. Improvements required as a condition of development approval, when not voluntarily provided by the applicant, shall be roughly proportional to the impact of the development on transportation facilities, pursuant to Section 16.106.090. Findings in the development approval shall indicate how the required improvements are directly related to and are roughly proportional to the impact of development.

STAFF ANALYSIS: Per City Engineering Department Comments dated November 14, 2017, Kittelson & Associates prepared a TIS dated July 18, 2017. As described in the TIS and plans, the proposed site development includes public street frontage improvements along Century Drive, excluding Lot 1. These public improvements consist of sidewalks, streetlights, planter strip and street trees, and site driveway accesses. A third site driveway access is proposed on Langer Farms Parkway.

The proposed driveway accesses spacing distance on Langer Farms Parkway measures out to approximately 290-feet, which exceeds the City Municipal Code standard for a collector street of 100-feet. However, since the main access drive also corresponds to with the intersection of Whetstone Way, the service entry access drive will need to meet the spacing standards based on queuing distance in accordance with AASHTO for a collector road with a speed limit of 25 mph. The TIS indicates an available queue length of 100-feet for a required queue length of 75-feet.

The TIS presented ITE Code 495 (Recreational Community Center) for the proposed development activities. Upon request, the applicant provided data from three facilities currently under operation within the region that are similar in services provided, size, and operation. These sites included: 1) John's Incredible Pizza Company; 2) Family Fun Center & Bullwinkles Restaurant; and 3) Park Lanes Family Entertainment Center.

The resulting analysis confirmed that the application of Recreational Community Center use listing was conservative and acceptable for the TIS analysis.

There was discussion of the applicable v/c ratio assigned to Hwy 99W intersections located within the Sherwood Town Center. The City Engineer has made a determination that the v/c ratio of 1.10 being applied based on Metro designations of developments within the Town Center impacting Hwy 99W intersections that also reside within the Town Center designation limits, does not apply to developments located outside the Town Center limits which impact intersections within the Town Center limits. The v/c ratio in this case will be $v/c = 0.99$.

The impacts of this determination can be mitigated through proportionate share cost payment to Washington County for the Tualatin-Sherwood Road project improvements.

Within the TIS analysis findings, mitigation recommendations included:

- 1) Maintaining sight distance standards as part of the landscaping requirements
- 2) Providing pedestrian connectivity between the proposed site development and existing commercial and residential developments.

Since the main site access driveway off Langer Farms Parkway is located at the existing intersection of Langer Farms Parkway and Whetstone Way, for the purposes of pedestrian

crossing safety, a Rectangular Rapid Flashing Beacon (RRFB) will be installed on the south side of this intersection on Langer Farms Parkway.

In a letter dated October 19th, 2017, ODOT requested inclusion of the Sherwood Boulevard (Edy Road) / Highway 99W intersection in the TIA analysis. The original scoping for intersection analysis did not extend this far to include this intersection, and hence impacts to the intersection were not included in the TIA analysis. However, in the trip assessment analysis (Figure 6 of the TIA analysis), it is shown that 56 AM and 69 PM peak hour additional trips would proceed west along Century Drive. In an email dated October 10, 2017 from Brian Dunn (Kittelson) discussing this item, he states that the assumption is made that most of those trips would end within local residential and shopping sites along Century Drive. Dunn concludes that since the number of end trips along Century Drive is so small, impacts to the Sherwood Boulevard (Edy Road) / Highway 99W intersection does not warrant further analysis as no impacts would be realized.

FINDING: This standard is not met but can be met as conditioned below.

RECOMMENDED CONDITION: C1. Prior to issuance of a Compliance Agreement the Applicant shall be held responsible for the following:

- a) The Applicant's fee in-lieu-of construction financial contribution shall be based on the ratio of the development's trip generation increase to the Tualatin-Sherwood Road / Hwy 99W intersection compared to the non-developed level.
- b) The Applicant's financial contribution shall be limited to proportionate share funding of the physical capacity improvement needs for the Tualatin-Sherwood Road/Hwy 99W intersection, as defined by the Washington County MSTIP project scope.
- c) The Applicant shall not be responsible for financial contributions related to the remaining roadway improvements along the Tualatin-Sherwood Road corridor, or the infrastructure improvements related to the Willamette River Water Supply project, which is being made part of the Washington County MSTIP project.
- d) The Applicant shall be entitled to receive TDT credits for any required roadway improvements along Tualatin-Sherwood Road that are above their proportionate share mitigation costs.

RECOMMENDED CONDITION: H4. Prior to a Grant of Occupancy for any buildings constructed under this site development plan, a Rectangular Rapid Flashing Beacon (RRFB) pedestrian crossing system shall be installed on Langer Farms Parkway on the south side of the Langer Farms Parkway and Whetstone Way intersection, and be fully operational.

RECOMMENDED CONDITION: C2. Prior to issuance of a Compliance Agreement the Sherwood Engineering Department shall provide review and approval of the related public transportation improvement plans. The public transportation infrastructure plans shall meet City of Sherwood standards.

RECOMMENDED CONDITION: H5. Prior to a Grant of Occupancy for any building(s) constructed under this site development plan, frontage improvements along the entirety of Century Drive shall be installed. This includes the undeveloped Lot 1.

16.110 – SANITARY SEWERS

Sanitary sewers shall be installed to serve all new developments and shall connect to existing sanitary sewer mains. Sanitary Sewers shall be constructed, located, sized and installed at standards consistent 16.110.

STAFF ANALYSIS: Per City Engineering Department Comments dated November 14, 2017, there are currently two public mainlines which border the project site. An 8-inch public main located within Langer Farms Parkway, and an 8-inch public main located within Century Drive. Both of these public mains have the capacity to provide service to the proposed site development.

The plans indicate that proposed Lots 1, 2 and 3 take sanitary sewer service off the conversion of a 6-inch private sanitary line which currently serves the Sentinel Self Storage Annex site into a public main. The plans indicate that this lateral will be reconstructed to an 8-inch sanitary main meeting City standards and dedicated to the City. The proposed sanitary line will reside within an existing 20-foot wide sanitary sewer and storm drainage easement, which is dedicated to the City of Sherwood per the "Langer Farms" plat.

Lot 4 which includes buildings "Retail A", "Retail B" and "Retail C", takes sanitary sewer service off an existing 8-inch sanitary service lateral from the Langer Farms Parkway public sanitary main. The on-site extension of this lateral is considered private utilities.

Lot 5 is dedicated to the Coffee Kiosk, and will take sanitary service off an existing 8-inch lateral from the Century Drive public sanitary main. The on-site extension of this lateral is considered private utilities.

FINDING: This standard is not met but can be met as conditioned below.

RECOMMENDED CONDITION: A8. Only the portion of a sanitary line that conveys sanitary flow from multiple lots will be accepted as a public line. Sanitary lines that only serve one lot shall remain as private sanitary sewer laterals.

RECOMMENDED CONDITION: A9. Extension of private sanitary sewer lines within the site shall provide service to all facilities constructed on-site.

RECOMMENDED CONDITION: A10. The proposed development shall supply public sanitary service to all parcels of the development meeting Sherwood Engineering standards.

RECOMMENDED CONDITION: A11. Private sanitary sewer laterals shall be installed in compliance with the current Oregon Plumbing Specialty Code.

RECOMMENDED CONDITION: C3. Prior to issuance of a Compliance Agreement, the Sherwood Engineering Department shall provide review and approval of the related public sanitary sewer improvements plans. The public sanitary sewer infrastructure plans shall meet City of Sherwood standards.

RECOMMENDED CONDITION: G1. Prior to Sherwood Engineering Department final acceptance of the constructed public improvements, any public sanitary sewer to be located on private property shall have a recorded public sanitary sewer easement encompassing the related public sanitary sewer improvements meeting Sherwood Engineering standards.

16.112– WATER SUPPLY

16.112.010 Required Improvements

Water lines and fire hydrants conforming to City and Fire District standards shall be installed to serve all building sites in a proposed development. All waterlines shall be

connected to existing water mains or shall construct new mains appropriately sized and located in accordance with the Water System Master Plan.

STAFF ANALYSIS: Per City Engineering Department Comments dated November 14, 2017, Public water mains exist within Langer Farms Parkway and Century Drive. The Langer Farms Parkway system is a 16-inch diameter water main, and the Century Drive system is a 12-inch diameter water main.

There is an existing 8-inch diameter service line off the Langer Farms Parkway system located at the intersection of Whetstone Way. The plans indicate that Lots 3 and 4 will take water service from this line, with separate 2-inch meter and 8-inch double check detector valve assemblies for each lot.

Lot 2 will take service off the Century Drive system with a 2-inch meter and 6-inch double check detector valve assembly.

Lot 5 will take service off the Century Drive system with a ¾-inch meter and backflow assembly. Private fire mains are shown looped within the proposed site development (Lots 2 through 5). Fire protection for the individual buildings on site shall meet requirements specified by Tualatin Valley Fire & Rescue.

FINDING: This standard is not met, but can be met as conditioned below.

RECOMMENDED CONDITION: H6. Prior to a Grant of Occupancy for any buildings, the proposed development shall supply domestic, irrigation and fire water to each parcel of the development as needed meeting Sherwood Engineering standards.

RECOMMENDED CONDITION: H7. Prior to a Grant of Occupancy for each building, domestic water service for each building shall have a backflow device or reduced pressure backflow assembly installed meeting the approval of the Sherwood Public Works Department.

RECOMMENDED CONDITION: F3. Prior to issuance of a Building Permit for each building, water flows calculations (domestic, irrigation and fire) for the building seeking a permit shall be provided by the developer to the Building Department. Approval of the water flows calculations by Sherwood Public Works is required prior to issuance of a Building Permit.

RECOMMENDED CONDITION: H8. Prior to a Grant of Occupancy for each building, if on-site fire protection is required, backflow protection meeting Sherwood Engineering Department standards shall be installed by developer, and inspected and approved by Public Works

RECOMMENDED CONDITION: A12. Private water service laterals shall be installed in compliance with the current Oregon Plumbing Specialty Code.

RECOMMENDED CONDITION: C5. Prior to issuance of a Compliance Agreement for any phase of development, the Sherwood Engineering Department shall provide review and approval of the related public water improvement plans. The public water infrastructure plans shall meet City of Sherwood standards.

RECOMMENDED CONDITION: D2. Prior to Sherwood Engineering Department final acceptance of the constructed public improvements, any public water line to be located on private property shall have a recorded public water line easement encompassing the related public water improvements meeting Sherwood Engineering standards.

16.114 – STORM WATER

Storm water facilities, including appropriate source control and conveyance facilities, shall be installed in new developments and shall connect to the existing downstream drainage systems consistent with the Comprehensive Plan and the requirements of the Clean Water Services water quality regulations contained in their Design and Construction Standards R&O 04-9, or its replacement.

STAFF ANALYSIS: Per City Engineering Department Comments dated November 14, 2017, the nearest public storm water systems available to the site are an 18-inch main line within Century Drive, and a 36-inch main line running north to south along the eastern edge of the site. The existing regional storm water treatment facility was designed and constructed to incorporate the impervious surface area runoff from the proposed site develop. Conditions for the regional storm water treatment facility were specified under Langer Farms Planned Unit Development improvements (Case File No. MLP 16-02). For the purposes of this site development, the regional storm water treatment facility will provide the treatment capacity and, if necessary, detention capacity for the site's storm water discharge.

Clean Water Services comments dated September 28, 2017 requires a CWS Storm Water Connection Permit Authorization prior to plat approval and recordation. Application for CWS Permit Authorization must be in accordance with the requirements of the Design and Construction Standards, Resolution and Order No. 17-5, (or current R&O in effect at time of Engineering plan submittal), and specific standards are identified within the September 28, 2017 CWS Comments.

FINDING: This standard is not met but can be met as conditioned below.

RECOMMENDED CONDITION: H9. Prior to a Grant of Occupancy, any private storm sewer services shall be installed in compliance with the current Oregon Plumbing Specialty Code.

RECOMMENDED CONDITION: C4. Prior to issuance of a Compliance Agreement for any phase of development, the Sherwood Engineering Department shall provide review and approval of the related public storm sewer improvement plans. The public storm sewer infrastructure plans shall meet City of Sherwood standards.

RECOMMENDED CONDITION: G3. Prior to Sherwood Engineering Department final acceptance of the constructed public improvements, any public storm sewer to be located on private property shall have a recorded public storm sewer easement encompassing the related public storm sewer improvements meeting Sherwood Engineering standards.

RECOMMENDED CONDITION: B8. Prior to final plat approval and recordation, a Clean Water Services Storm Water Connection Permit Authorization must be obtained.

16.116 FIRE PROTECTION**16.116.010 Required Improvements**

When land is developed so that any commercial or industrial structure is further than two hundred and fifty (250) feet or any residential structure is further than five hundred (500) feet from an adequate water supply for fire protection, as determined by the Fire District, the developer shall provide fire protection facilities necessary to provide adequate water supply and fire safety.

STAFF ANALYSIS: Tom Mooney, Deputy Fire Marshall, provided a review letter dated September 13, 2017 (Exhibit D). A condition is proposed requiring compliance with the Fire Marshall's letter.

FINDING: This standard is not met but can be met as conditioned below.

RECOMMENDED CONDITION: B6. Prior to Site Plan approval, submit revised plans demonstrating compliance with the Fire Marshall's letter dated September 13, 2017.

16.118 PUBLIC AND PRIVATE UTILITIES

16.118.010 Purpose

Public telecommunication conduits as well as conduits for franchise utilities including, but not limited to, electric power, telephone, natural gas, lighting, and cable television shall be installed to serve all newly created lots and developments in Sherwood.

16.118.020 Standard

- A. Installation of utilities shall be provided in public utility easements and shall be sized, constructed, located and installed consistent with this Code, Chapter 7 of the Community Development Code, and applicable utility company and City standards.**
- B. Public utility easements shall be a minimum of eight (8) feet in width unless a reduced width is specifically exempted by the City Engineer. An eight-foot wide public utility easement (PUE) shall be provided on private property along all public street frontages. This standard does not apply to developments within the Old Town Overlay.**

Applicant's Response: The required 8-foot PUE was previously dedicated on the original subdivision plat. Installation of the utilities necessary to serve this project will occur with construction of this project, as shown on the Preliminary Composite Utility Plan. No deficiencies have been identified. This standard is met.

STAFF ANALYSIS: Per City Engineering Department, the proposed plans identify several types, widths and extents of public and private utility easements necessary for site development with separate lots.

FINDING: These standards are not met but can be met as conditioned below.

RECOMMENDED CONDITION: B7. The plat and site development drawings shall show and identify the type, width and extent of each public and private utility easement necessary for site development.

RECOMMENDED CONDITION: H2. Prior to a Grant of Occupancy for any building constructed on site, that the plat and all public and private easements necessary for site development shall be recorded with the Washington County Recorder, with copies of the recorded documents provided to the City of Sherwood.

RECOMMENDED CONDITION: H12. Prior to a Grant of Occupancy for any buildings, Sherwood Boardband utilities (vaults and conduits) shall be installed along the subject property's frontage per requirements set forth in City Ordinance 2005-017 and City Resolution 2005-074.

**Division VIII. Environmental Resources
16.142 Parks, Trees and Open Space**

16.142.040 - Visual Corridors

A. Corridors Required

New developments located outside of the Old Town Overlay with frontage on Highway 99W, or arterial or collector streets designated on Figure 8-1 of the Transportation System Plan shall be required to establish a landscaped visual corridor according to the following standards:

	Category	Width
1.	Highway 99W	25 feet
2.	Arterial	15 feet
3.	Collector	10 feet

In residential developments where fences are typically desired adjoining the above described major street the corridor may be placed in the road right-of-way between the property line and the sidewalk. In all other developments, the visual corridor shall be on private property adjacent to the right-of-way.

FINDING: SW Langer Farms Parkway and SW Century Drive are both collector streets requiring 10-foot-wide landscaped visual corridor along their frontages. The preliminary landscape plans show 10-foot-wide landscaped visual corridor abutting both roadways. This standard is met.

B. Landscape Materials

The required visual corridor areas shall be planted as specified by the review authority to provide a continuous visual and/or acoustical buffer between major streets and developed uses. Except as provided for above, fences and walls shall not be substituted for landscaping within the visual corridor. Uniformly planted, drought resistant street trees and ground cover, as specified in Section 16.142.060, shall be planted in the corridor by the developer. The improvements shall be included in the compliance agreement. In no case shall trees be removed from the required visual corridor.

C. Establishment and Maintenance

Designated visual corridors shall be established as a portion of landscaping requirements pursuant to Chapter 16.92. To assure continuous maintenance of the visual corridors, the review authority may require that the development rights to the corridor areas be dedicated to the City or that restrictive covenants be recorded prior to the issuance of a building permit.

D. Required Yard

Visual corridors may be established in required yards, except that where the required visual corridor width exceeds the required yard width, the visual corridor requirement shall take precedence. In no case shall buildings be sited within the required visual corridor, with the exception of front porches on townhomes, as permitted in Section 16.44.010(E)(4)(c).

FINDING: The preliminary landscape plans (Sheets L1-L5 of Exhibit A) identify multiple layers of trees, combined with shrubs and groundcover, providing a continuous visual and/or acoustical buffer between the collector streets and the planning buildings and vehicle use area. A 10-foot-wide landscaped visual corridor is proposed abutting SW Langer Farms Parkway and SW Century Drive. The applicable standards are met.

16.142 Parks, Trees and Open Space**16.142.060: STREET TREES****A. Installation of Street Trees on New or Redeveloped Property.**

Trees are required to be planted to the following specifications along public streets abutting or within any new development or re-development. Planting of such trees shall be a condition of development approval. The City shall be subject to the same standards for any developments involving City-owned property, or when constructing or reconstructing City streets. After installing street trees, the property owner shall be responsible for maintaining the street trees on the owner's property or within the right-of-way adjacent to the owner's property.

1. **Location:** Trees shall be planted within the planter strip along a newly created or improved streets. In the event that a planter strip is not required or available, the trees shall be planted on private property within the front yard setback area or within public street right-of-way between front property lines and street curb lines or as required by the City.
2. **Size:** Trees shall have a minimum trunk diameter of two (2) caliper inches, which is measured six inches above the soil line, and a minimum height of six (6) feet when planted.
3. **Types:** Developments shall include a variety of street trees. The trees planted shall be chosen from those listed in 16.142.080 of this Code.
4. **Required Street Trees and Spacing:**
 - a. The minimum spacing is based on the maximum canopy spread identified in the recommended street tree list in section 16.142.080 with the intent of providing a continuous canopy without openings between the trees. For example, if a tree has a canopy of forty (40) feet, the spacing between trees is forty (40) feet. If the tree is not on the list, the mature canopy width must be provided to the planning department by a certified arborist.
 - b. All new developments shall provide adequate tree planting along all public streets. The number and spacing of trees shall be determined based on the type of tree and the spacing standards described in a. above and considering driveways, street light locations and utility connections. Unless exempt per c. below, trees shall not be spaced more than forty (40) feet apart in any development.
 - c. A new development may exceed the forty-foot spacing requirement under section b. above, under the following circumstances:
 - (1) Installing the tree would interfere with existing utility lines and no substitute tree is appropriate for the site; or
 - (2) There is not adequate space in which to plant a street tree due to driveway or street light locations, vision clearance or utility connections, provided the driveways, street light or utilities could not be reasonably located elsewhere so as to accommodate adequate room for street trees; and
 - (3) The street trees are spaced as close as possible given the site limitations in (1) and (2) above.
 - (4) The location of street trees in an ODOT or Washington County right-of-way may require approval, respectively, by ODOT or Washington County and are subject to the relevant state or county standards.
 - (5) For arterial and collector streets, the City may require planted medians in lieu of paved twelve-foot wide center turning lanes, planted with trees to the specifications of this subsection.

STAFF ANALYSIS: The site has frontages along SW Langer Farms Parkway and SW Century Drive. Both streets are fully improved except for the sidewalk and street trees along the south side of SW Century Drive. Street trees are absent along these areas; however, the preliminary plans (Sheets L1-L5) identify installation of new street trees in these areas.

FINDING: This standard is not met but can be met as conditioned below.

RECOMMENDED CONDITION: E5. Prior to Sherwood Engineering Department approval of the public improvement plans, provide street trees in graded tree wells in the public sidewalk consistent with the requirements of Section 16.142.060.

B. Removal and Replacement of Street Trees.

The removal of a street tree shall be limited and in most cases, necessitated by the tree. A person may remove a street tree as provided in this section. The person removing the tree is responsible for all costs of removal and replacement. Street trees less than five (5) inches DBH can be removed by right by the property owner or his or her assigns, provided that they are replaced. A street tree that is removed must be replaced within six (6) months of the removal date.

1. **Criteria for All Street Tree Removal for trees over five (5) inches DBH. No street tree shall be removed unless it can be found that the tree is:**
 - a. Dying, becoming severely diseased, or infested or diseased so as to threaten the health of other trees, or
 - b. Obstructing public ways or sight distance so as to cause a safety hazard, or
 - c. Interfering with or damaging public or private utilities, or
 - d. Defined as a nuisance per City nuisance abatement ordinances.
2. **Street trees between five (5) and ten (10) inches DBH may be removed if any of the criteria in 1. above are met and a tree removal permit is obtained.**
 - a. **The Tree Removal Permit Process is a Type I land use decision and shall be approved subject to the following criteria:**
 - (1) The person requesting removal shall submit a Tree Removal Permit application that identifies the location of the tree, the type of tree to be removed, the proposed replacement and how it qualifies for removal per Section 1. above.
 - (2) The person shall post a sign, provided by the City, adjacent to the tree for ten (10) calendar days prior to removal that provides notice of the removal application and the process to comment on the application.
 - (3) If an objection to the removal is submitted by the City or to the City during the ten (10) calendar day period, an additional evaluation of the tree will be conducted by an arborist to determine whether the tree meets the criteria for street tree removal in Section 1. above. The person requesting the Tree Removal Permit shall be responsible for providing the arborist report and associated costs.
 - (4) Upon completion of the additional evaluation substantiating that the tree warrants removal per Section 1. above or if no objections are received within the ten-day period, the tree removal permit shall be approved.
 - (5) If additional evaluation indicates the tree does not warrant removal, the Tree Removal Permit will be denied.
3. **Street trees over ten (10) inches DBH may be removed through a Type I review process subject to the following criteria.**
 - a. **The applicant shall provide a letter from a certified arborist identifying:**
 - (1) The tree's condition,

- (2) How it warrants removal using the criteria listed in Section 1. above, and identifying any reasonable actions that could be taken to allow the retention of the tree.
- b. The applicant shall provide a statement that describes whether and how the applicant sought assistance from the City, HOA or neighbors to address any issues or actions that would enable the tree to be retained.
 - c. The person shall post a sign, provided by the City, adjacent to the tree for ten (10) calendar days prior to removal that provides notice of the removal application and the process to comment on the application.
 - d. Review of the materials and comments from the public confirm that the tree meets the criteria for removal in Section 1. above.

STAFF ANALYSIS: The site has frontages along SW Langer Farms Parkway and SW Century Drive. The proposed development requires the creation of a southern driveway on Langer Farms Parkway. This will eliminate two existing street trees due to the proposed commercial driveway. To fully develop the site, the elimination of the two existing trees is necessary.

FINDING: Based on the above discussion, the applicable standards are met.

16.142 Parks, Trees and Open Space

16.142.070 Trees on Property Subject to Certain Land Use Applications

C. Inventory

1. To assist the City in making its determinations on the retention of trees and woodlands, land use applications including Type II - IV development shall include a tree and woodland inventory and report. The report shall be prepared by a qualified professional and must contain the following information:
 - a. Tree size (in DBH and canopy area)
 - b. Tree species
 - c. The condition of the tree with notes as applicable explaining the assessment
 - d. The location of the tree on the site
 - e. The location of the tree relative to the planned improvements
 - f. Assessment of whether the tree must be removed to accommodate the development
 - g. Recommendations on measures that must be taken to preserve trees during the construction that are not proposed to be removed.

STAFF ANALYSIS: The applicant provided a Preliminary Tree Protection and Removal Table (Sheet P06, Exhibit A) that provides an inventory of the existing trees on site. There are 21 onsite trees and 18 are proposed to be removed for development. Three on-site trees will be retained and preserved.

FINDING: These standards are met.

16.142.070 Trees on Property Subject to Certain Land Use Applications

D. Retention requirements

1. Trees may be considered for removal to accommodate the development including buildings, parking, walkways, grading etc., provided the development satisfies of D.2 or D.3, below.

3. Required Tree Canopy - Non-Residential and Multi-family Developments

Each net development site shall provide a variety of trees to achieve a minimum total tree canopy of 30 percent. The canopy percentage is based on the expected mature canopy of each tree by using the equation πr^2 to calculate the expected square footage of each tree. The expected mature canopy is counted for each tree even if there is an overlap of multiple tree canopies.

The canopy requirement can be achieved by retaining existing trees or planting new trees. Required landscaping trees can be used toward the total on site canopy required to meet this standard. The expected mature canopy spread of the new trees will be counted toward the required canopy cover. A certified arborist or other qualified professional shall provide an estimated tree canopy for all proposed trees to the planning department for review as a part of the land use review process.

	Residential (single family & two family developments)	Old Town & Infill developments	Commercial, Industrial, Institutional Public and Multi-family
Canopy Requirement	40%	N/A	30%
Counted Toward the Canopy Requirement			
Street trees included in canopy requirement	Yes	N/A	No
Landscaping requirements included in canopy requirement	N/A	N/A	Yes
Existing trees onsite	Yes x2	N/A	Yes x2
Planting new trees onsite	Yes	N/A	Yes
Mature Canopy in Square Feet Equation πr^2 or $(3.14159 * \text{radius}^2)$ (This is the calculation to measure the square footage of a circle. The Mature Canopy is given in diameter. In gardening and horticulture reference books, therefore to get the radius you must divide the diameter in half.			
Canopy Calculation Example: Pin Oak Mature canopy = 35' $(3.14159 * 17.5^2) = 962$ square feet			

FINDINGS: The applicant provided an Overall Landscape Plan (Sheet L1, Exhibit A) that shows expected tree canopy coverage of 191,110 square feet or 36.5% of the total site area. The standards applicable for this commercial project are met.

16.142.070 Trees on Property Subject to Certain Land Use Applications

G. Tree Protection During Development

The applicant shall prepare and submit a final Tree and Woodland Plan prior to issuance of any construction permits, illustrating how identified trees and woodlands will be retained, removed or protected as per the Notice of Decision. Such plan shall specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, selective pruning and root treatments, excavation techniques, temporary drainage systems, and like methods. At a minimum, trees to be protected shall have the area within the drip line of the tree protected from grading, stockpiling, and all other construction related activity unless

specifically reviewed and recommended by a certified arborist or other qualified professional. Any work within the dripline of the tree shall be supervised by the project arborist or other qualified professional onsite during construction.

FINDING: The Preliminary Tree Protection and Removal Table (Sheet P06, Exhibit A) provides an inventory of the existing trees on site. As previously discussed, there are 21 onsite trees and 18 are proposed to be removed for development. Three on-site trees will be retained and preserved. Prior to construction, the applicant will submit a final tree preservation plan consistent with this section.

FINDING: These standards are not met but can be met as conditioned below.

RECOMMENDED CONDITION: D1. Prior to issuance of a grading permit, a final tree preservation plan consistent with the requirements of Section 16.142.070.G. will be submitted.

16.146. Noise

16.146.020 - Noise Sensitive Uses

When proposed commercial and industrial uses do not adjoin land exclusively in commercial or industrial zones, or when said uses adjoin special care, institutional, or parks and recreational facilities, or other uses that are, in the City's determination, sensitive to noise impacts, then:

- A. The applicant shall submit to the City a noise level study prepared by a professional acoustical engineer. Said study shall define noise levels at the boundaries of the site in all directions.**
- B. The applicant shall show that the use will not exceed the noise standards contained in OAR 340-35-035, based on accepted noise modeling procedures and worst case assumptions when all noise sources on the site are operating simultaneously.**
- C. If the use exceeds applicable noise standards as per subsection B of this Section, then the applicant shall submit a noise mitigation program prepared by a professional acoustical engineer that shows how and when the use will come into compliance with said standards.**

FINDING: The site adjoins land with commercial and industrial uses. Noise levels would be expected similar to the commercial area to the north. Commercial uses do not typically generate noise beyond that associated with traffic entering and leaving the site, along with other activities typical of what could be expected to occur in an urban area. The proposed use will be within required standards and there will be no adverse impact. This standard is met.

16.148 Vibrations

16.148.010 - Vibrations

All otherwise permitted commercial, industrial, and institutional uses shall not cause discernible vibrations that exceed a peak of 0.002 gravity at the property line of the originating use, except for vibrations that last five (5) minutes or less per day, based on a certification by a professional engineer.

FINDING: The site does include commercial uses and vibration levels would be expected similar to the commercial area to the north. Elevated levels of vibration, beyond what is expected in an urban area, are not anticipated. The proposed use will be within the required standards and there will be no adverse impact. This standard is met.

16.150 Air Quality**16.150.010 – Air Quality**

All otherwise permitted commercial, industrial, and institutional uses shall comply with applicable State air quality rules and statutes:

- A. All such uses shall comply with standards for dust emissions as per OAR 340-21-060.
- B. Incinerators, if otherwise permitted by Section 16.140.020, shall comply with the standards set forth in OAR 340-25-850 through 340-25-905.
- C. Uses for which a State Air Contaminant Discharge Permit is required as per OAR 340-20-140 through 340-20-160 shall comply with the standards of OAR 340-220 through 340-20-276.

FINDING: Per the applicant's narrative, air quality impacts would be expected similar to the commercial area to the north. Levels of emissions, beyond what is expected in an urban area, are not anticipated. The proposed use will be within required standards and there will be no adverse impacts. This standard is met.

16.152 Odors**16.152.010 - Odors**

All otherwise permitted commercial, industrial, and institutional uses shall incorporate the best practicable design and operating measures so that odors produced by the use are not discernible at any point beyond the boundaries of the development site.

FINDING: Per the applicant's narrative, odor impacts would be expected similar to the commercial area to the north. Odorous or unusual emissions, beyond what is expected in an urban area, are not anticipated. The proposed use will be within required standards and there will be no adverse impact. This standard is met.

16.154 Heat and Glare**16.154.010 – Heat and Glare**

Except for exterior lighting, all otherwise permitted commercial, industrial, and institutional uses shall conduct any operations producing excessive heat or glare entirely within enclosed buildings. Exterior lighting shall be directed away from adjoining properties, and the use shall not cause such glare or lights to shine off site in excess of one-half (0.5) foot candle when adjoining properties are zoned for residential uses.

FINDING: The site does include commercial uses and the western boundary of SW Langer Farms Parkway is zoned for residential uses. A Photometric Plan (Exhibit A, Sheet ELC 1.0) has been submitted showing compliance with this standard. This standard is met.

Chapter 16.156 Energy Conservation**16.156.020 Standards**

- A. **Building Orientation** - The maximum number of buildings feasible shall receive sunlight sufficient for using solar energy systems for space, water or industrial process heating or cooling. Buildings and vegetation shall be sited with respect to each other and the topography of the site so that unobstructed sunlight reaches the south wall of the greatest possible number of buildings between the hours of 9:00 AM and 3:00 PM, Pacific Standard Time on December 21st.
- B. **Wind** - The cooling effects of prevailing summer breezes and shading vegetation shall be accounted for in site design. The extent solar access to adjacent sites is not impaired vegetation shall be used to moderate prevailing winter wind on the site.

Applicant's Response: The planned buildings will be oriented in several different directions in order to meet Community Design standards referenced above in the responses to Division V. Buildings B and C are oriented on a generally north-south axis parallel and flush to SW Langer Farms Parkway. Building C is located south of Building B, but they are separated by ± 60 feet and the northern portion of Building C is a single story, which will allow solar access to the southern wall of Building B. The planned Fun Center, Building A, and the coffee kiosk are generally oriented along an east west axis which maximizes southern solar exposure. Buildings are generally positioned to allow unobstructed sunlight access to their southern wall.

Historically, the subject property was used for agricultural purposes, so few trees currently exist for shading future buildings or moderating winter winds. The majority of existing trees on the subject property are in poor health and/or have poor structure, per the Detailed Tree Inventory in the preliminary plans, and are designated for removal. However, the Landscape Plan shows 267 trees will be planted and, at maturity, will provide shade and a buffer to winter winds on the site. The criteria are met.

STAFF ANALYSIS: Staff concurs with the applicant's statement above.

FINDING: Based on the applicant's response, this criterion is met.

Based upon review of the applicant's submittal information, review of the code, agency comments and consideration of the applicant's submittal, staff finds that the proposed site plan does not fully comply with the standards but can be conditioned to comply. Therefore, staff recommends Approval of the **Parkway Village South (SP 17-01 / SUB 17-03)** with the following conditions of approval:

VI. CONDITIONS OF APPROVAL

A. General Conditions

1. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
2. This land use approval shall substantially comply with the submitted preliminary site plans and narrative dated July 17, 2017 and prepared by AKS Engineering and Forestry, except as indicated in the following conditions of the Notice of Decision. Additional development or change of use may require a new development application and approval.
3. The developer/owner/applicant is responsible for all costs associated with private/public facility improvements.
4. This approval is valid for a period of two (2) years from the date of the decision notice. Extensions may be granted by the City as afforded by the Sherwood Zoning and Community Development Code.
5. The continual operation of the property shall comply with the applicable requirements of the Sherwood Zoning and Community Development Code and Municipal Code.
6. This approval does not negate the need to obtain permits, as appropriate from other local, state or federal agencies even if not specifically required by this decision.
7. Prior to commencement of the design, the developer shall attend a predesign meeting with the Sherwood Engineering Department.

8. Only the portion of a sanitary line that conveys sanitary flow from multiple lots will be accepted as a public line. Sanitary lines that only serve one lot shall remain as private sanitary sewer laterals.
9. Extension of private sanitary sewer lines within the site shall provide service to all facilities constructed on-site.
10. The proposed development shall supply public sanitary service to all parcels of the development meeting Sherwood Engineering standards.
11. Private sanitary sewer laterals shall be installed in compliance with the current Oregon Plumbing Specialty Code.
12. Private water service laterals shall be installed in compliance with the current Oregon Plumbing Specialty Code.
13. The developer shall adhere to the conditions of the Clean Water Services Provider Letter (CWS File Number 16-001228) dated March 30, 2016.
14. The proposed development shall supply domestic, irrigation and fire water to the development as needed meeting Sherwood Engineering standards.
15. Water meters located on site shall have a public water line easement meeting the approval of the Sherwood Public Works Department.
16. Water flows calculations (domestic, irrigation and fire) shall be provided by the developer.
17. If on-site fire protection is connected to the public water system, backflow protection meeting Sherwood Engineering Department standards shall be installed with a public water line easement as necessary.
18. All new utilities to be installed for the development of the subject property shall be underground.
19. The proposed development shall provide storm sewer improvements and service to the development as needed meeting Sherwood Engineering standards.

B. Prior to Final Plat or Final Site Plan Approval:

1. Prior to Final Site Plan approval, submit a final landscape plan that addresses the installation and maintenance standards of Section 16.92.040 to the Planning Department for review and approval.
2. Prior to Final Site Plan approval, a revised site plan must be submitted identifying the compact car stalls and calculations meeting the maximum 25 percent compact car stall requirement.
3. Prior to Final Plat approval, submit a copy of the covenants, conditions and restrictions (CC&Rs) for the project including shared access easements.
4. Prior to Final Site Plan approval, provide a revised solid waste and recycling storage receptacles plan meeting Pride Disposal requirement.
5. Prior to Final Plat Approval, the plat and site development drawings shall show and identify the type, width and extent of each public and private utility easement necessary for site development meeting Sherwood Engineering Department standards.
6. Prior to Final Site Plan approval, submit revised plans demonstrating compliance with the Fire Marshall's letter dated September 13, 2017.

7. Prior to Final Plat approval, the plat and site development drawings shall show and identify the type, width and extent of each public and private utility easement necessary for site development.
8. Prior to Final Plat approval and recordation, a Clean Water Services Storm Water Connection Permit Authorization must be obtained.

C. Prior to Issuance of City of Sherwood Engineering Compliance Agreement

1. Prior to issuance of a Compliance Agreement the Applicant shall be held responsible for the following:
 - a. The Applicant's fee in-lieu-of construction financial contribution shall be based on the ratio of the development's trip generation increase to the Tualatin-Sherwood Road / Hwy 99W intersection compared to the non-developed level.
 - b. The Applicant's financial contribution shall be limited to proportionate share funding of the physical capacity improvement needs for the Tualatin-Sherwood Road/Hwy 99W intersection, as defined by the Washington County MSTIP project scope.
 - c. The Applicant shall not be responsible for financial contributions related to the remaining roadway improvements along the Tualatin-Sherwood Road corridor, or the infrastructure improvements related to the Willamette River Water Supply project, which is being made part of the Washington County MSTIP project.
 - d. The Applicant shall be entitled to receive TDT credits for any required roadway improvements along Tualatin-Sherwood Road that are above their proportionate share mitigation costs.
2. Prior to issuance of a Compliance Agreement the Sherwood Engineering Department shall provide review and approval of the related public transportation improvement plans. The public transportation infrastructure plans shall meet City of Sherwood standards.
3. Prior to issuance of a Compliance Agreement, the Sherwood Engineering Department shall provide review and approval of the related public sanitary sewer improvements plans. The public sanitary sewer infrastructure plans shall meet City of Sherwood standards.
4. Prior to issuance of a Compliance Agreement for any phase of development, the Sherwood Engineering Department shall provide review and approval of the related public storm sewer improvement plans. The public storm sewer infrastructure plans shall meet City of Sherwood standards.
5. Prior to issuance of a Compliance Agreement for any phase of development, the Sherwood Engineering Department shall provide review and approval of the related public water improvement plans. The public water infrastructure plans shall meet City of Sherwood standards.

D. Prior to Issuance of a Grading Permit:

1. Prior to issuance of a grading permit, a final tree preservation plan consistent with the requirements of Section 16.142.070.G. will be submitted.

E. Prior to Engineering Approval of the Public Improvement Plans:

1. Prior to Sherwood Engineering Department approval of the public improvement plans, all public transportation infrastructure shall meet City of Sherwood standards and be approved by the Sherwood Engineering Department.

2. Prior to Sherwood Engineering Department approval of the public improvement plans, all public sanitary sewer infrastructure shall meet City of Sherwood standards and be approved by the Sherwood Engineering Department.
3. Prior to Sherwood Engineering Department approval of the public improvement plans, all public water infrastructure shall meet City of Sherwood standards and be approved by the Sherwood Engineering Department.
4. Prior to Sherwood Engineering Department approval of the public improvement plans, a Clean Water Services Storm Water Connection Permit Authorization must be obtained in accordance with the comments submitted by Clean Water Services dated September 28, 2017.
5. Prior to Sherwood Engineering Department approval of the public improvement plans, provide street trees in graded tree wells in the public sidewalk consistent with the requirements of Section 16.142.060.
6. Prior to Sherwood Engineering Department approval of any phase of the public improvement plans and issuance of a Compliance Agreement, the developer shall obtain a DEQ NPDES 1200CN permit.

F. Prior to Issuance of Building Permits:

1. Obtain Final Site Plan approval prior to issuance of any building permits in any phase of development.
2. Obtain Final Plat approval, prior to issuance of any building permits in any phase of development.
3. Prior to issuance of a Building Permit for each building, water flows calculations (domestic, irrigation and fire) for the building seeking a permit shall be provided by the developer to the Building Department. Approval of the water flows calculations by Sherwood Public Works is required prior to issuance of a Building Permit.
4. Prior to Issuance of a Building Permit, the applicant shall submit construction documents that provide additional information on the proposed plantings and maintenance of the plants to ensure that the landscaping will be appropriately maintained. The construction plans shall include specifications for the adequate preparation of the soils.
5. Prior to issuing any Building Permit, the developer shall execute an Engineering Compliance Agreement for the construction of the public improvements, unless otherwise approved by the City Engineer.

G. Prior to Acceptance of Public Improvements:

1. Prior to Sherwood Engineering Department final acceptance of the constructed public improvements, any public sanitary sewer to be located on private property shall have a recorded public sanitary sewer easement encompassing the related public sanitary sewer improvements meeting Sherwood Engineering standards.
2. Prior to Sherwood Engineering Department final acceptance of the constructed public improvements, any public water line to be located on private property shall have a recorded public water line easement encompassing the related public water improvements meeting Sherwood Engineering standards.
3. Prior to Sherwood Engineering Department final acceptance of the constructed public improvements, any public storm sewer to be located on private property shall have a

recorded public storm sewer easement encompassing the related public storm sewer improvements meeting Sherwood Engineering standards.

H. Prior to Receiving Occupancy

1. Prior to Occupancy, all site improvements, including but not limited to landscaping, parking and site lighting shall be installed per the approved final site plan and inspected and approved by the Planning Department.
2. Prior to Final of Occupancy for any building constructed on site, the plat and all public and private easements necessary for site development shall be recorded with the Washington County Recorder with copies of the recorded documents provided to the City of Sherwood.
3. Prior to Final Occupancy, solid waste and recycling storage receptacles must be constructed to Pride Disposal standard.
4. Prior to Final Occupancy for any buildings constructed under this site development plan, a Rectangular Rapid Flashing Beacon (RRFB) pedestrian crossing system shall be installed on Langer Farms Parkway on the south side of the Langer Farms Parkway and Whetstone Way intersection, and be fully operational.
5. Prior to Final Occupancy for any building(s) constructed under this site development plan, frontage improvements along the entirety of Century Drive shall be installed. This includes the undeveloped Lot 1.
6. Prior to Final Occupancy for any buildings, the proposed development shall supply domestic, irrigation and fire water to each parcel of the development as needed meeting Sherwood Engineering standards.
7. Prior to Final Occupancy for each building, domestic water service for each building shall have a backflow device or reduced pressure backflow assembly installed meeting the approval of the Sherwood Public Works Department.
8. Prior to Final Occupancy for each building, if on-site fire protection is required, backflow protection meeting Sherwood Engineering Department standards shall be installed by developer, and inspected and approved by Public Works.
9. Prior to Final Occupancy, any private storm sewer services shall be installed in compliance with the current Oregon Plumbing Specialty Code.
10. Prior to Final Occupancy for any building constructed on site, the plat and all public and private easements necessary for site development shall be recorded with the Washington County Recorder, with copies of the recorded documents provided to the City of Sherwood.
11. Prior to Final Occupancy for any building(s), final acceptance of the constructed public improvements shall be obtained from the City of Sherwood Engineering Department.
12. Prior to Final Occupancy for any buildings, Sherwood Broadband utilities (vaults and conduits) shall be installed along the subject property's frontage per requirements set forth in City Ordinance 2005-017 and City Resolution 2005-074.

VII. Exhibits

- A. Applicant's submittal with narrative and supporting documents dated July 17, 2017
- B. REVISED Engineering comments dated December 5, 2017

- C. Clean Water Services comments dated September 28, 2017
- D. Tualatin Valley Fire & Rescue comments dated September 13, 2017
- E. Pride Disposal comments dated September 14, 2017
- F. ODOT comments dated October 19, 2017
- G. Written Comments from Leann Bennett dated November 13, 2017
- H. 120-Day Extension
- I. Written Comments from Gramor Development dated December 11, 2017
- J. AKS email request dated November 22, 2017
- K. Internal Memo from City Engineer dated November 27, 2017

The site plan approval is valid for a period of two (2) years from the date of the decision, per Section 16.90.020.

Exhibit A



**Exhibit H: Amended and Restated
Development Agreement (2010)**

EXHIBIT H: Amended and Restated Development Agreement (2010)

CURRENTLY IN-USE 5-4-11
AMENDED AND RESTATED DEVELOPMENT AGREEMENT

PARTIES

The Parties to this Amended and Restated Development Agreement ("Agreement") are the City of Sherwood, Oregon ("City") and Pamela and Clarence Langer, as to Phase 4, and the Langer Family, LLC, as to the remainder of the PUD (collectively, "Langer").

RECITALS

1. On April 26, 1995, the City approved a Preliminary Development Plan for a Planned Unit Development ("PUD") on property owned by Langer. The subject property is located generally southeast of Hwy 99W and south of the Tualatin-Sherwood Road, in the City.
2. The decision approved development of the property in eight (8) separate phases. The decision contemplated and assigned specific uses to each phase, including High Density Residential, Retail/Commercial, and Light Industrial (LI).
3. The portions of the PUD designated LI have not yet developed, except for a portion of Phase 4, which was developed as a mini-warehouse use under the General Retail Trade category of allowed uses in the LI zone. Since the approval of the PUD, the City has amended its list of permitted and conditional uses in the LI zone, subject to the City's Zoning and Community Development Code ("ZCDC") 16.32.020.H, which provides the following: "Approved PUDs may elect to establish uses which are permitted or conditionally permitted under the base zone text at the time of final approval of the PUD."
4. The PUD approval contained conditions of approval including: a requirement for a wetlands delineation prior to development of Phase 8; the construction of Adams Drive at the time of development of Phase 6; and the elimination of the then-proposed extension of Century Drive east of Adams Drive.
5. The Final Development Plan was approved August 3, 1995. Neither the Preliminary Development Plan nor the Final Development Plan approvals related to a site plan. Thus, site plan review is required for each phase as development is proposed for that phase.
6. Phases 1 through 3 and 5 have been developed, and a portion of Phase 4 was developed as above-described and is anticipated for future redevelopment. The purpose of this Agreement is to clarify and refine the intent of the Parties regarding the following issues (collectively, the "PUD Issues"):

- (a) The allowed uses of Phases 4, 6, 7 and 8 of the PUD, all of which are designated for LI uses;
 - (b) The timing of related improvements, including the construction of Adams Drive and Century Drive;
 - (c) The cost-sharing of public improvements, including the construction of Adams Drive and Century Drive; and
 - (d) Certain related matters.
7. The City and Langer previously set forth their respective commitments relative to the PUD Issues in that certain Development Agreement dated January 3, 2008 ("2008 Agreement"), which was a condition of approval to a companion Minor Change to the PUD approved contemporaneously by the City.
 8. Subsequent to entering into the 2008 Agreement, economic conditions have changed such that the Parties find it necessary to re-evaluate their respective commitments under the 2008 Agreement. The City and Langer now desire to amend and restate their commitments relative to the PUD Issues set forth below.
 9. This Agreement represents the only Agreement between the City and Langer with respect to the PUD Issues and does not preclude or require any conditions that may arise from a subsequent application for site plan review. It is the intent of the parties that the site plan review conditions should not be inconsistent with this Agreement.
 10. This Agreement is only between the City and Langer and does not affect any conditions or improvements that may be required by other jurisdictions.

AGREEMENT

A. PUD USES

1. Applicable Code. ZCDC 16.32.020.H, provides that "Approved PUDs may elect to establish uses which are permitted or conditionally permitted under the base zone text at the time of final approval of the PUD." The Langer PUD was approved and Phases 4, 6, 7 and 8 were assigned the Light Industrial ("LI") base zone designation on August 3, 1995.
2. Permitted and Conditional Uses. Accordingly, Langer elects to establish uses on the LI-designated phases of the PUD that were permitted or conditionally permitted under the LI base zone text applicable on August 3, 1995, including: "Uses permitted outright in the GC zone Section 2.109.02, except for adult entertainment businesses, which are prohibited." A copy of the uses permitted in the LI and GC zones on August 3, 1995 is set forth in Attachment A, attached hereto and incorporated herein by reference.

3. **Election of Uses and Acceptance.** The City acknowledges and accepts Langer's decision to elect to develop Phases 4, 6, 7 and 8 under ZCDC 16.32.020.H, including the ability to develop those phases for General Retail Trade under Section 2.109.02 of the 1995 ZCDC. Accordingly, the current provisions of ZCDC 16.32.030.K, which restrict retail uses in the LI zone to a maximum of 60,000 square feet, will not apply to site plan review of the PUD.

B. **ADAMS DRIVE SOUTH EXTENSION**

1. **City Commitments.** Except as otherwise provided in this section, as soon as reasonably practicable and in any event prior to Langer's construction of any portion of Adams Drive south of the PUD's southern boundary, the City, at the City's sole cost and expense, will take the following actions:
- a. Acquire the necessary right-of-way and complete the design and engineering for construction of the extension of Adams Drive ("South Extension") south from its present terminus up to but not including the railroad crossing between the southern PUD boundary and Oregon Street ("Rail Crossing");
 - b. Obtain all necessary permits for the construction and operation of the South Extension, including without limitation, all permits associated with allowing impacts to wetlands;
 - c. Provide for the mitigation of any impacts to wetlands related to the alignment and construction of the South Extension; and
 - d. Pursuant to the City's standard timeline and procedure in such instances, accept Langer's dedication of that portion of the South Extension located within the boundaries of the PUD following final inspection approval and thereupon assume maintenance obligations for all of the South Extension.
2. **Langer Commitments.** Subsequent to the City's performance of its obligations set forth in Section B.1.a. to B.1.c. of this Agreement but prior to issuance of final occupancy permits for any structures included in Phases 6 or 7, Langer will substantially construct the South Extension, including the traffic circle and island at the intersection with Century Drive and the twelve-foot (12') wide multi-use path extending the length of the South Extension as identified in the City Transportation Systems Plan (the "Path"). The street will be aligned and constructed in a manner consistent with the "90-percent drawings" prepared by Hopper Dennis Jellison, PLLC dated April 2008 and on file with the City (the "South Extension Plans"). Upon completion of the construction of the South Extension, Langer will dedicate and record a public right-of-way easement to the City for Adams Drive south from its present terminus to the southern boundary of the PUD (the "South Extension Right-of-Way").

3. Alternative Commitments.
- a. Alternatively, in the event the City has completed the obligations set forth in Section B.1.a. to B.1.c. of this Agreement and the City receives or accrues funding equal to the cost estimate for the construction of the South Extension prior to the time Langer has substantially commenced the obligations set forth in Section B.2. of this Agreement, the City may, in its sole discretion, elect to construct the South Extension, including the traffic circle and island at the intersection with Century Drive, the Path, and if warranted, the traffic signal at Tualatin-Sherwood Road, at the City's sole expense. In the event the City undertakes construction of the South Extension, the City will deliver written notice ("Written Election") to Langer of the City's intent in accordance with Section I.7. of this Agreement prior to undertaking construction of the South Extension.
- b. The City will issue a Notice to Proceed to the selected bidder(s) ("Contractor") for completion of the physical construction of the South Extension within ninety (90) days after delivery of the Written Election to Langer ("Commencement Date"). In the event the City fails to issue the Notice to Proceed by the Commencement Date and Langer has obtained final site plan approval for either Phases 6 and/or 7 by said date, the City will forfeit its right to undertake construction of the South Extension, and Langer will re-assume the obligation to substantially construct the South Extension in accordance with Section B.2. of this Agreement, unless Langer agrees in writing to extend the Commencement Date. If the City has not forfeited its right to undertake construction of the South Extension, the City will substantially complete the construction of the South Extension within fourteen (14) months after the Commencement Date ("Completion Date"), and in any event, prior to the issuance of an occupancy permit for any structure included in Phases 6 or 7.
- c. To ensure the Completion Date is met, the City will include the required Completion Date and penalties for late completion in the contract ("Contract") the City enters with the Contractor. The penalties shall be an amount calculated to reimburse Langer for any losses incurred by Langer due to Contractor's failure to substantially complete construction by the Completion Date when such failure prevents the reasonable use of Phases 6 or 7 for retail commercial purposes, but in any event not less than \$10,000.00 per day Langer is unable to make reasonable use of Phases 6 or 7 for commercial retail purposes. The City shall take all necessary and appropriate action to enforce the penalty provision in the Contract and forward any amounts collected to Langer within 30 days of the date the City receives payment.
- d. If the City elects to construct the South Extension under this Section B.3, the City will perform its construction activities in a manner that minimizes obstruction or interference with access to, from, or within the PUD and

Exhibit A

Langer's construction, if any, and use of the subject property in accordance with the PUD. The City will mobilize, conduct, and maintain all construction activities, equipment and materials on and around the PUD in such manner to allow use of the South Extension and access between the PUD and the South Extension through all access driveways. The City's agreement to perform its construction activities consistent with this section is a material inducement for Langer to enter this Agreement as it will facilitate Langer's timely completion of the PUD in accordance with Langer's agreement with its end users of the PUD.

- e. If the City elects to construct the South Extension, Langer will take the following actions prior to the City's commencement of construction:

(A) Grant the South Extension Right-of-Way to the City, provided the City shall bear the expense of preparing the legal description for the South Extension Right-of-Way.

(B) Grant to the City reasonable temporary construction easement(s) to allow the City to complete its construction commitments, provided Langer's grant of an easement(s) may be conditioned to ensure that the City's use of the PUD property does not unreasonably interfere with Langer's use and development of the PUD.

(C) If Langer has not yet constructed the stormwater facility on Phase 8 as provided in Section F.1 of this Agreement ("Stormwater Facility"), allow temporary location of stormwater detention and treatment from the South Extension on Phase 8 in either a temporary facility ("Temporary Facility") or the existing stormwater facilities located on Phase 7 and Phase 8 ("Existing Facilities"). To the extent that the Temporary Facility or the Existing Facilities will require any expenses for engineering, construction, design, maintenance, or modification to existing land use approvals, the City will bear the expenses. If applicable, Langer and the City shall execute and record appropriate easement documents or amendments to the existing easement for the Existing Facilities to formalize the parties' respective obligations under this subsection (C).

(D) Use reasonable best efforts to avoid damaging the Path during construction and development of the PUD, provided that if Langer causes any such damage, Langer shall, at its sole expense, repair and replace the Path back to its original condition.

C. ADAMS DRIVE NORTH EXTENSION

1. City Commitments. Except as otherwise provided in this section, as soon as reasonably practicable and in any event prior to Langer's construction of any portion of Adams Drive north of the PUD's northern boundary, the City, at the City's sole cost and expense, will take the following actions:

- a. Acquire the necessary right-of-way for and complete the surveying, design, and engineering for construction of an extension of Adams Drive ("North Extension") from the north side of the intersection with Tualatin-Sherwood Road, north to the existing stub road connecting to Highway 99W, with the alignment to curve east around the PGE substation and connect to the east end of the Home Depot stub road. The street will be aligned and constructed in a manner consistent with the "60-percent drawings" prepared by Harper Hoff Peterson Righellis Inc, dated February 2010 and on file with the City (the "North Extension Plans"). The right-of-way, design and engineering shall anticipate and include at least 43 p.m. peak-hour vehicle trips per acre from Phase 4 to accommodate redevelopment of Phase 4.

Any substantial changes to the alignment and cross-section shall require an amendment to this Agreement. Such amendment shall only relate to this section of the Agreement, and all other terms and conditions of this Agreement shall remain in full force and effect. A "substantial change" may include but is not limited to an increase in the number of lanes, an increase in the right-of-way width by 10 or more feet, requiring additional landscaping, medians, or pedestrian paths, shifting the alignment east or west by fifty (50) or more feet, and/or any other changes that will substantially increase the cost of construction.

- b. Obtain all necessary permits for the construction and operation of the North Extension, including without limitation, all permits associated with impacts to wetlands, all approach and/or signal permits required by the Oregon Department of Transportation for the intersection of Highway 99W and the existing stub road, and all approach permits required by Washington County for the connection of the North Extension and Tualatin-Sherwood Road.
- c. Provide for the mitigation of any impacts to wetlands associated with the alignment and construction of the North Extension.
- d. Otherwise remove any legal or planning constraints to the construction of the North Extension.
- e. Pay any extraordinary labor costs associated with Langer's performance of its obligations under Section C.2., where "extraordinary labor costs" means any

Exhibit A

costs required by law to exceed an arms-length privately negotiated rate solely due to the nature of the improvement.

- f. Pay any extraordinary construction costs associated with Langer's performance of its obligations under Section C.2. that are attributable to extraordinary environmental or geographic conditions.
- g. Pursuant to the City's standard timeline and procedure in such instances, assume maintenance obligations for all of the North Extension following the City's final inspection approval of the North Extension.
- h. Permit Langer to assume, for purposes of completing the required traffic study, that the North Extension has been planned and funded for construction prior to development of Phases 6 and 7 pursuant to Langer's alternative commitments to construct the North Extension or make a payment in lieu thereof pursuant to Section C.2. below.
- i. Permit Langer to assume, for purposes of completing the required traffic study, that the North Extension has been planned and funded for construction prior to the redevelopment of Phases 4 pursuant to Langer's alternative commitments to construct the North Extension or make a payment in lieu thereof pursuant to Section C.2. below.
- j. The City will not require the closure of any residential access to Phase 4 from Tualatin-Sherwood Road until redevelopment of Phase 4. The City will reimburse Langer for the cost of relocating and rebuilding any access to and from the existing commercial uses on Phase 4 resulting from the closure of any access due to the construction of the North Extension, including any necessary relocation of administrative facilities associated with the commercial use.
- k. In the event Langer pays a fee in lieu of construction as described in Section C.2. below, the City will:
 - (A) Place the payment into an existing or newly-created interest-bearing City Trust and Agency Fund;
 - (B) Grant credits for transportation System Development Charges ("SDC's") otherwise payable by Langer as if Langer had constructed the North Extension; and
 - (C) Use the payment-in-lieu exclusively for the construction of the North Extension. However, if the City has not entered into a contract for the construction of the North Extension or any portion thereof within five (5) years after Langer deposits the fee with the City, the City shall return the fee-in lieu, together with any interest thereon to Langer, Langer's successor or a

person designated by Langer's successor, minus any amount provided as a credit against transportation SDC's under paragraph (B) above. This Agreement does not constitute a "contract for construction of the North Extension" for purposes of this subsection.

2. Langer Commitments. Langer agrees to take the following actions with respect to the North Extension:
 - a. Subsequent to the City's performance of its obligations set forth in Section C.1. of this Agreement but prior to issuance of the final occupancy permit for any structure included in the development of Phase 6, Langer will substantially construct the North Extension consistent with the alignment and cross-section described in Section C.1.a. of this Agreement. However, in the event the City exercises its option to construct the South Extension under Section B.3. of this Agreement, Langer will substantially construct the North Extension prior to issuance of the final occupancy permit for any structure included in the development of Phases 6 or 7.
 - b. Alternatively, in the event the City has not substantially performed the obligations set forth in Section C. 1.a. to C.1.d. of this Agreement by a date that is sixty (60) days after Langer submits construction drawings for public improvements associated with the development of Phase 6 to the City, Langer shall submit a fee in lieu of construction in an amount equal to the cost estimate for the construction of the North Extension prior to the issuance of an occupancy permit for any structure included in the development of Phase 6. Langer's timely deposit of a fee in lieu under this paragraph shall fully satisfy Langer's obligations under Section C.2.a. of this Agreement and shall trigger the City's performance of its commitments under Section C.1.k. of this Agreement. In the event the City exercises its option to construct the South Extension under Section B.3. of this Agreement, the references to "Phase 6" in this subparagraph b. shall be replaced with "Phases 6 or 7."
 - c. In the event the City refunds the fee-in-lieu as described in Section C.1.k(C) of this Agreement prior to the redevelopment of Phase 4, and subsequent to the performance of the City's other obligations under Section C.1., Langer will substantially construct the North Extension consistent with the alignment and cross-section provided by the City prior to the issuance of an occupancy permit for any structure included in the redevelopment of Phase 4. In the event the City is still in possession of the fee-in-lieu at the time Phase 4 redevelops, the City will refund the fee to Langer, including any interest thereon, or will not require the construction of the North Extension as a condition of redevelopment.

D. RAIL CROSSING

1. **City Commitments.** As soon as reasonably practicable, the City, at the City's sole cost and expense, will take the following actions with respect to the Rail Crossing:
 - a. Acquire the necessary right-of-way for the Rail Crossing;
 - b. Obtain all required crossing or other permits from ODOT Rail and any other applicable agencies associated with the Rail Crossing;
 - c. Complete the design, engineering, and construction of the Rail Crossing; and
 - d. Use all reasonable best efforts to complete these actions and connect the South Extension to Oregon Street via the Rail Crossing no later than the date of issuance of occupancy permits for the development of Phases 6 and 7; provided, however, the failure to complete these actions by such date shall not be grounds to deny the issuance of such occupancy permits.
2. **Langer Commitments.** None.

E. CENTURY DRIVE

1. **Langer Commitments.** Langer agrees to take the following actions with respect to Century Drive:
 - a. Prior to issuance of final occupancy permits for any structure located in Phase 6 or Phase 7, design and substantially construct a reasonably direct vehicular connection between the existing terminus of Century Drive on the western boundary of the PUD and existing City right-of-way at the eastern boundary of the PUD ("Century Drive Connection"). The Century Drive Connection shall be constructed to the adjusted street standard described in Section E.2.a. below.
 - b. Following construction, dedicate a right-of-way easement to the City for the Century Drive Connection.
 - c. Provide the City with copies of receipts of eligible expenses where "eligible expenses" is defined to include all hard and soft costs of labor and materials associated with all aspects of the design, engineering, and construction, including applicable consultant fees, of the Century Drive Connection that exceed the cost of designing and constructing the Century Drive Connection as a standard parking lot drive aisle ("Eligible Expenses").

2. City Commitments. The City agrees to take the following actions with respect to Century Drive:
 - a. To work with Langer to achieve an adjustment to the relevant City street standards so that the nature, location, and design of the Century Drive Connection requires the minimum necessary right-of-way to provide a vehicular connection and includes traffic calming measures such as restrictions on through traffic for trucks.
 - b. Reimburse Langer for all undisputed Eligible Expenses within thirty (30) days after the City receives the receipts described in Section E.1.c.. City will immediately contact Langer regarding any disputed expenses and attempt to resolve the dispute within 90 days of the date the receipt containing the expense is received by the City. Any disputed expense that remains unresolved after 90 days shall be submitted to mediation as provided in Section I.12. of this Agreement; and
 - c. Pursuant to the City's standard timeline and procedure in such instances, accept Langer's dedication of the Century Drive Connection following final inspection approval and thereafter assume maintenance obligations for same.

F. STORMWATER FACILITY

1. Langer Commitments.
 - a. Prior to issuance of a final occupancy permit for the first structures located in Phases 6 or 7, Langer will design and substantially construct the "Stormwater Facility on Phase 8 (including any necessary portions of Phase 6), to accommodate existing stormwater detention and treatment for the PUD (including development of Phases 6, 7 and 8), and any detention and treatment associated with the South Extension and the Century Drive Connection. In conjunction with this construction, Langer retains the right to terminate use of the Existing Facilities and any Temporary Facility constructed pursuant to Section B.3.c. of this Agreement, provided the stormwater detention and treatment functions of the Existing Facilities and any Temporary Facility are incorporated into the Stormwater Facility and subject to any written agreements relating to the Existing Facilities. Langer retains the right to expand the Stormwater Facility to serve other public rights-of-way and uses outside the PUD in Langer's sole discretion, provided such expansion otherwise complies with City standards, including without limitation, awarding credits for SDC's.
 - b. Following construction, Langer will dedicate the Stormwater Facility to the public for use as a stormwater detention and treatment facility.

2. City Commitments.

- a. The City agrees to work with Langer, to the extent allowed by law, to issue any land use approvals related to termination of the Existing Facilities through an administrative process, to facilitate any related process for the vacation of any prior public dedications associated with the Existing Facilities, and to modify the existing recorded easement document among Langer and the City relating to the Existing Facilities.
- b. The City agrees to accept the dedication of the Stormwater Facility following final inspection approval and thereafter assume the maintenance obligations for same.

G. RENAMING OF ADAMS DRIVE

1. Langer Commitments. Prior to Langer's dedication of any portion of Adams Drive as described in this Agreement, Langer will submit a petition to the City to rename the completed portion of Adams Drive in accordance with the street name standards of ZCDC 16.108.010.4.A-C. Langer agrees to select a single name for Adams Drive from the southern end of the South Extension to the northern end of the North Extension.
2. City Commitments.
 - a. Provided the petition is submitted in the manner described in ZCDC 16.108.010.3, the City will support a petition received from Langer to rename the completed portion of Adams Drive.
 - b. If the petition is approved by the City Council, the City shall install standard City street signage identifying Adams Drive by its new name.

H. TRANSPORTATION CHARGES, FEES, AND CREDITS

1. Transportation Development Tax. The calculation and assessment of any Transportation Development Tax ("TDT"), including any TDT credits, will be made according to the Washington County TDT ordinance. Improvements to Tualatin-Sherwood Road will be creditable towards Washington County TDT's as allowed in Washington County's ordinance. It is the parties' mutual understanding that this ordinance provides full TDT credits for turn lanes and 50% or 66.67% for traffic signals for a four- and three-leg intersection, respectively. The City's commitment to this provision is a material inducement for Langer's agreement to complete the various public improvements set forth in this Agreement.

For the purpose of determining the number of weekday trips generated by all commercial land uses in Phases 4, 6, 7, and 8 of the PUD, the land use

category "Shopping Center" from ITE Trip Generation, 7th Edition, shall be applied to the Washington County TDT Ordinance for the calculations of the Washington County TDT.

2. Transportation SDC's.

The City shall calculate and assess the Project with SDC's and credits for SDC's, pursuant to the City's Municipal Code, as it may be amended from time to time, and subject to any resolutions adopted by the City implementing same.

For the purpose of determining the number of weekday trips generated by all commercial land uses in Phases 4, 6, 7, and 8 of the PUD, the land use category "Shopping Center" from ITE Trip Generation, 7th Edition, shall be applied to the City's SDC ordinance for the calculations of the City's SDC's.

3. Credits.

- a. Langer shall be entitled to seek SDC credits from the City and TDT credits from Washington County for all qualifying improvements and right-of-way dedications made by Langer, subject to the then applicable provisions of Oregon law and applicable ordinances. To the extent allowed by law, the City shall apportion SDC and TDT charges in the manner that maximizes the beneficial use of any resulting credits for Langer. In the event the City amends its SDC ordinance to eliminate the Transportation SDC prior to Langer's redemption of otherwise valid SDC credits, the City shall exercise good faith and best efforts to provide Langer a financial benefit in an amount equal to the value of any unredeemed credits in a manner consistent with applicable law, provided the City is not obligated to ensure such benefit or other return on the unredeemed credits.
- b. The City hereby determines that, for purposes of qualifying for and administering SDC and TDT credits, Langer's construction of public improvements and dedication of right-of-way to the City pursuant to this Agreement are existing condition(s) of approval of the PUD, as it has been modified by the Minor Change approved in 2007.

4. Highway 99W Capacity Allocation Program. For purposes of calculating whether the trips associated with the regulated activities in Phases 6, 7, and 8 of the PUD exceed the trip limit of ZCDC 6.306.D.4, the City shall aggregate the trips and acreage of all such phases. As a result, the trips associated with the regulated activities of a single phase may exceed the trip limit that would otherwise apply if that phase were calculated individually, provided that the trips associated with all regulated activities for Phases 6, 7, and 8 do not exceed the trip limit in the aggregate. At each phase of development of the PUD, the number of reserve trips for the remaining phases will be identified in the applicable Trip Allocation Certificate.

I. TERMS AND CONDITIONS

1. Further Assurances. Each party shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder in good faith, to carry out the intent of the parties hereto.
2. Modification of Amendment. No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by the parties hereto.
3. Relationship. Nothing herein shall be construed to create an agency relationship or a partnership or joint venture between the parties.
4. Waiver of Default or Condition. In the event a party defaults in the performance of one or more of its obligations under this Agreement or in the event of the failure of a condition precedent to be satisfied under this Agreement, the nondefaulting party or beneficiary of the condition may, in its discretion, waive, as applicable, the default or satisfaction of condition hereunder and rescind any consequence of such default or failure of a condition, and in case of any such waiver or rescission, the parties shall be restored to their former positions and rights hereunder respectively, but no such waiver or rescission shall extend to or affect any subsequent or other default or condition precedent, or impair any right consequent thereon. No such waiver or rescission shall be in effect unless the same is in writing and signed by the nondefaulting party.
5. Burden and Benefit; Assignment. The covenants and agreements contained herein shall be binding upon and inure to the benefit of the parties and their successors and assigns and shall run with the land. Neither party may assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed.
6. Applicable Law. This Agreement shall be interpreted under the laws of the State of Oregon.
7. Notices. All notices, demands, consents, approvals and other communications which are required or desired to be given by either party to the other hereunder shall be in writing and shall be faxed, hand delivered, or sent by overnight courier or United States mail at its address set forth below, or at such other address as such party shall have last designated by notice to the other. Notices, demands, consents, approvals, and other communications shall be deemed given when delivered, three days after mailing by United States Mail or upon receipt if sent by courier; provided, however, that if any such notice or other communication shall also be sent by telecopy or fax machines,

such notice shall be deemed given at the time and on the date of machine transmittal.

8. Merger. This Agreement contains the entire agreement among the parties hereto with respect to the subject matter hereof and cannot be amended or supplemented except by a written agreement signed by all parties.
9. Rights Cumulative. All rights, remedies, powers and privileges conferred under this Agreement on the parties shall be cumulative of and in addition to, but not restrictive of or in lien of, those conferred by law.
10. No Third Party Beneficiaries. None of the duties and obligations of any party under this Agreement shall in any way or in any manner be deemed to create any rights in, any person or entity other than the parties hereto.
11. Force Majeure. The parties shall use reasonable diligence to accomplish the purpose of this Agreement but shall not be liable to each other, or their successors or assigns, for damages, costs, attorneys' fees (including costs or attorneys' fees on appeal) for breach of contract, or otherwise for failure, suspension, diminution, or other variations of services occasioned by any cause beyond the control and without the fault of the parties. Such causes may include but shall not be limited to acts of God, acts of terrorism or the public enemy, acts of other governments (including regulatory entities or courts) in their sovereign or contractual capacity, fires, floods, epidemics, quarantines, restrictions, strikes, or failure or breakdown of transmission or other facilities ("Force Majeure"). If any party is delayed, hindered, or prevented in or from performing its respective obligations under this Agreement by any occurrence or event of Force Majeure, then the period for such performance shall be extended for that period that such performance is delayed, hindered, or prevented.
12. Mediation. Should the parties arrive at an impasse regarding any of the provisions of this Agreement, the parties agree to submit to the dispute to mediation prior to the commencement of litigation. The mediator shall be an individual mutually acceptable to both parties, but in the absence of agreement, either party may apply to the Presiding Judge, Washington County Circuit for appointment of a mediator. Each party shall share equally in the fees and costs of the mediator. Each party shall be responsible for its own attorneys fees and other expert fees. Mediation shall be at Portland, Oregon unless the parties agree otherwise. Both parties agree to exercise their best effort in good faith to resolve all disputes in mediation. Participation in mediation is a mandatory requirement of both the City and Langer and failure to comply with this requirement is a material breach of this Agreement. The schedule and time allowed for mediation will be mutually acceptable. If the dispute is not resolved by mediation, either party may file a lawsuit to resolve the dispute in a court with proper jurisdiction located in Washington County,

Oregon. Any trial shall be to the court without a jury. In the event of any such mediation or litigation, each party shall bear its own attorneys' fees and costs.

13. Conditions Precedent to Langer's Performance. Langer's commitments set forth in this Agreement are conditioned entirely upon the City's performance of all of its commitments that are precedent to the City's commitments under and in accordance with this Agreement, and the City's timely issuance of a PUD modification for the subject property.
14. Conditions Precedent to City's Performance. City's commitments set forth in this Agreement are conditioned entirely upon Langer's performance of all of its commitments that are precedent to the City's commitments under and in accordance with this Agreement.
15. Nature of Agreement. The City hereby confirms that it has approved and executed this Agreement pursuant to its governing charter and not pursuant to ORS 94.504 *et seq.*, and does further confirm that this Agreement does not constitute or concern the adoption, amendment, or application of the Statewide Planning Goals, a comprehensive plan provision, or a land use regulation, the City and Langer acknowledging and agreeing that any and all land use approvals required for the PUD are to be obtained (or have been obtained) in due course on another date in accordance with all applicable laws and regulations.
16. Amendment and Restatement. The Parties intend that this Agreement acts as a full and amended restatement of the original 2008 Agreement. Upon this Amended and Restated Agreement taking effect, the original 2008 Agreement shall no further force or effect.
17. Duration. This Agreement expires not later than January 1, 2015; provided, however, the expiration date of this Agreement shall be automatically extended to January 1, 2017 in the event that on January 1, 2015, Langer is not in material default of any provisions of this Agreement, has substantially built out Phase 7, and has obtained a certificate of occupancy for at least one (1) structure in Phase 6.

IN WITNESS WHEREOF,

For the City of Sherwood:

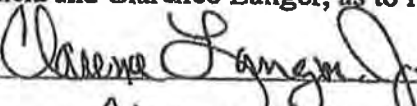

Jim Patterson, City Manager

James A. Patterson
City Manager
Sherwood, Oregon 97140

Date: 8/3/2010

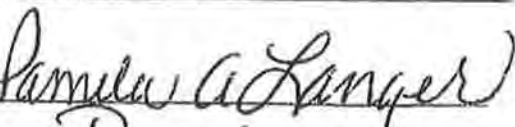
For Langer:

Pamela and Clarence Langer, as to Phase 4:

By: 

Print Name: CLARENCE LANGER JR.

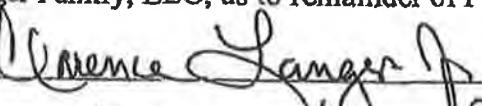
Date: 8-6-10

By: 

Print Name: Pamela A. Langer

Date: August 6, 2010

Langer Family, LLC, as to remainder of PUD:

By: 

Print Name: CLARENCE LANGER JR.

Title: Manager

Date: 8-6-10

R. James Claus, Ph.D.
22211 SW Pacific Highway
Sherwood, OR 97140

RECEIVED
MAY 29 2022

City of Sherwood
Planning Dept.

April 29, 2022

Hand Delivered

City of Sherwood
Planning Department
22560 SW Pine St.
Sherwood, OR 97140

Re: LU 2022-004 MM

Applicant: Sentinel Storage II

Written information for the Planning Commission Public Hearing
Record

1995 Sherwood Planning Code

Please add this document to the record for the LU 2022-004 MM file.

Thank you,

Jim Claus

Jim Claus

RECEIVED
MAY 29 2022

City of Sherwood
Planning Dept.



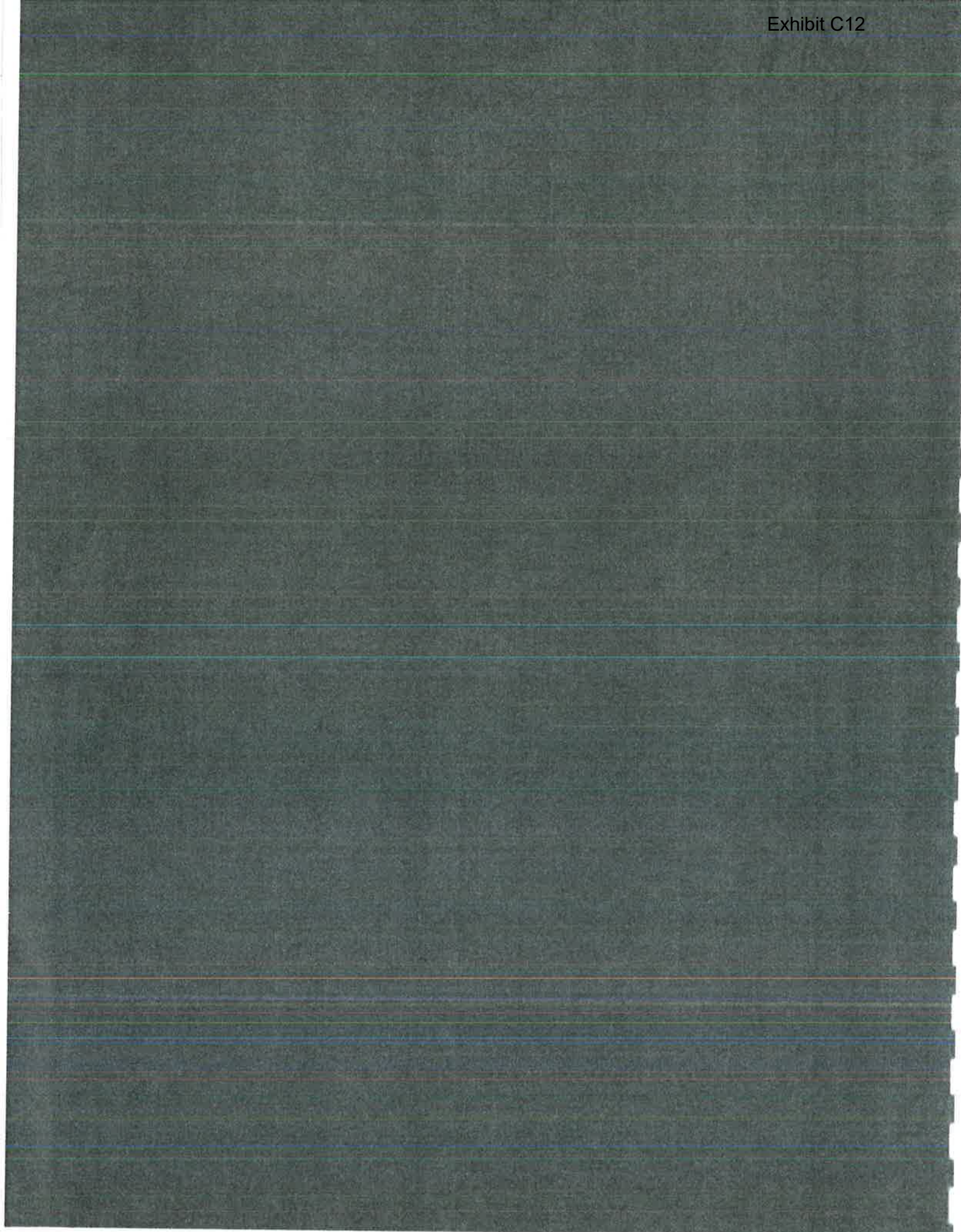
Home of the Tualatin River National Wildlife Refuge

**SHERWOOD
COMPREHENSIVE PLAN
PART 3**

**ZONING & COMMUNITY
DEVELOPMENT CODE**

Prepared by
City of Sherwood, Oregon
20 NW Washington
Sherwood, OR 97140
(503) 625-5522

February 28, 1995



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A RESOLUTION ADOPTING A SCHEDULE OF DEVELOPMENT FEES AS REQUIRED BY THE CITY ZONING AND COMMUNITY DEVELOPMENT CODE, ESTABLISHING FEES FOR MISCELLANEOUS CITY SERVICES AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Zoning Code requires that certain development related fees and charges be established by a separate schedule approved by Resolution of the City Council, and

WHEREAS, the City performs and offers certain other miscellaneous services, the cost of which are most reasonably borne by the recipient, as opposed to paying for said services from general City funds; and

WHEREAS, Washington County and Unified Sewerage Agency have also adopted fees related to system development charges, and these fees are also most conveniently listed on the same schedule; and

WHEREAS, in June 1991, staff prepared and the City Council reviewed a list of such miscellaneous services, which were subsequently adopted as per City Ordinance No. 91-932, and last reviewed June 27, 1995; and

WHEREAS, omission of any City fee or charge from said schedule, that is otherwise authorized by prior City ordinance or resolution, shall not preclude the City from collecting said fees and charges; and

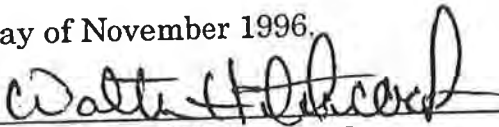
WHEREAS, it is most appropriate that fees and charges for all services be set by the City Council, and at a level whereby reasonable costs are recovered.

NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:

Section 1. Adoption: The City Schedule of Fees, attached hereto as Exhibit A, dated November 12, 1996, is hereby approved and adopted, and supersedes all prior development fee schedules and miscellaneous fee schedules.

Section 2. Effective Date: This Resolution shall become effective November 12, 1996.

Duly passed by the City Council this 12th day of November 1996.


Walter Hitchcock, Mayor

Attest:


Jon Bormet, City Manager-Recorder

FEES AND CHARGES LISTED ON THIS SCHEDULE ARE SUBJECT TO CHANGE. OTHER FEES MAY APPLY. PLEASE CONSULT DIRECTLY WITH THE CITY OF SHERWOOD REGARDING YOUR DEVELOPMENT.

SECTION 1 - PLANNING FEES

LAND USE APPLICATION	FEE
Zoning Text Amendment	\$2,125.00
Zoning Map Amendment	\$1,900.00
Conditional Use	\$1,400.00
<u>Variance:</u>	
Requiring Commission Hearing	\$1,400.00
Administrative	\$ 175.00
Minor Land Partition	\$1,275.00
Subdivision	\$2,125 plus \$14.00/lot
<u>Planned Unit Development (PUD):</u>	
Requiring Supplemental Application(s)	\$2,125 plus \$14.00/lot plus 50% of usual fee per each supplemental application
No Supplemental Application(s)	\$2,125 plus \$14.00/lot
<u>Site Plan Review:</u>	
Under \$49,000.00	\$1,325.00
\$49,000.01 - \$99,999.99	\$1,775.00
\$100,000.01 - \$999,999.99	\$2,300.00
Over \$1,000,000.00	\$2,525.00
Similar Use Interpretation	\$1,275.00
<u>Temporary Use:</u>	
Requiring Commission Hearing	\$1,075.00
Administrative	\$ 175.00
<u>Time Extension:</u>	
Hearing Required	\$ 850.00
No Hearing Required	\$ 175.00

Other Land Use Action: Hearing Required Administrative	\$1,075.00 \$ 175.00
Appeal:	50% of original fee(s)
Miscellaneous Actions: Joint Applications (except PUDs) Amendment(s) to Prior Approval Consultant as Needed	Full fee for primary application plus 50% of usual fee per each supplemental application 50% of original fee(s) Actual Costs

SECTION 2 - ENGINEERING

PUBLIC IMPROVEMENT AND SUBDIVISION PLAN REVIEWS AND INSPECTIONS	
Plan review and inspection fees are based on a percentage of project construction cost as verified by the City.	
Plan Review	4 % of construction cost
Inspection	4 % of construction cost
EROSION CONTROL	
Erosion Control Inspection Fee: Activities requiring an erosion control permit, and which are covered by a building permit:	
<u>Value of Project</u> \$0 to \$2,000.00 \$2,000.01 to \$25,000.00 \$25,000.01 to \$50,000.00 \$50,000.01 to \$100,000.00 \$100,000.01 and up	<u>Fee</u> \$ 5.00 \$15.00 \$26.00 \$40.00 \$40.00 - plus \$24.00 per every \$100,000.00 or fraction thereof over \$100,000.00
Activities requiring an erosion control permit, and which are not covered by a building permit:	
<u>Area</u> 0 to 1 acre 1 acre and up	<u>Fee</u> \$80.00 \$80.00 plus \$20.00 per acre or fraction thereof over an acre.
Erosion Control Plan Check Fee: 65% of the erosion control permit fee.	

MISCELLANEOUS FEES	
Mailing of Plans and Specifications for Capital Projects	\$10.00
Compliance Agreement Fees Traffic and Street Signs Street Trees Street Lights	\$175.00 \$150.00 per tree PGE approved fee plus number of lights times 24 months
Grading & Erosion Permits	Appendix Chapter 33 of 1994 UBC
Right-of-Way Permits	Based on Linear Footage (See Application)
Design and Construction Standards	\$ 25.00

SECTION 3 - PUBLIC WORKS

Street Cut	Actual time and materials
Curb Cut	Actual time and materials
Water Service Connection in ROW	Actual time and materials
Sanitary Service Connection in ROW	Actual time and materials
Hydrant Meter Rental (refundable deposit)	\$350.00
Per Day Rental	\$ 20.00

SECTION 4 - POLICE

Fingerprinting (excluding fingerprinting at special functions such as "Kindergarten Roundup)	\$15.00
Police Report (to insurance companies and individuals)	\$10.00
Police Audio Tapes	\$20.00 per tape
Police Video Tapes	\$25.00 per tape
New Alarm Permits (One-Time Fee)	\$ 15.00
No Parking Anytime	\$ 10.00
Obstructing Streets	\$ 10.00
Double Parking	\$ 10.00
Blocking Driveway	\$ 10.00
Parking in Bus Zone	\$ 10.00
Parking in Loading Zone	\$ 10.00
Parking on Wrong Side of Street	\$ 10.00
Parking Along Yellow Curb or in Crosswalk	\$ 10.00
Parking Over Space Line	\$ 10.00
Parking Over Time Limit	\$ 10.00

SECTION 5 - ADMINISTRATIVE

Lien Search	\$10.00 per lot
Copying	per single side \$0.15 per double side \$0.25
Returned check processing	\$20.00

Notary Fee	\$5.00 per document
Water turn off/on for delinquent water accounts	\$30.00
New Liquor License Application Review	\$25.00
Duplication of tapes from City meetings	\$20.00 each tape
Storm Water Master Plan	\$20.00
Storm Water Management Plan (Murdock and Sunset Basin)	\$20.00
Plan Updates: Sanitary Sewer, Transportation, Water Service, Parks and Open Space)	\$ 5.00 each
Community Development Plan	\$25.00
Zoning Code	\$25.00
Local Wetland Inventory	\$25.00
Plan/Zone Map	\$10.00

SECTION 6 - MUNICIPAL COURT

Court Costs for Failure to Appear - Arraignments	\$10.00
Court Costs for Failure to Appear - Trials	\$25.00
Set-up Fee for Citation Time Payment Plan	\$25.00
Service Charge on Time	1.5% per month

SECTION 7 - BUILDING PERMITS

Inspected and issued by the City of Sherwood. Other fees may apply, see State of Oregon Structural Specialty Code, as adopted. Values are based on the Building Valuation Data published by the State of Oregon Building Codes Division.	
Total Valuation	Fees
\$1.00 to \$500.00	\$10.00
\$501.00 to \$2,000.00	\$10.00 for the first \$500.00 plus \$1.50 for each additional \$100.00 or fraction thereof, to and including \$2,000.00.
\$2,001.00 to \$25,000.00	\$32.50 for the first \$2,000.00 plus \$6.00 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$170.50 for the first \$25,000.00 plus \$4.50 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$283.00 for the first \$50,000.00 plus \$3.00 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
\$100,001.00 and up	\$433.00 for the first \$100,000.00 plus \$2.50 for each additional \$1,000.00 or fraction thereof.

MANUFACTURED HOME INSTALLATION	
Manufactured Home Placements	\$312.20, includes State's fees.
PLUMBING PERMITS: Issued and inspected by the City of Sherwood.	
Base Rate	\$20.00
<u>Residential: New Construction</u>	
One bath	\$156.00
Two Bath	\$216.00
Three Bath	\$276.00
Alterations: Each Fixture	\$15.00
Commercial: New Construction (each fixture)	\$15.00
Alterations (each fixture)	\$15.00
<u>Waterlines:</u>	
For first 100 feet or fraction thereof	\$40.00
For additional 100 feet	\$22.00
<u>Sewer Service Lines</u>	
First 100 feet or fraction thereof	\$40.00
For additional 100 feet	\$22.00
Mobile Home - Sewer/Water connection, each	\$28.00
Lawn Sprinklers	\$15.00
Minimum inspection fee	\$40.00
Re-inspection fee	\$40.00
MECHANICAL PERMITS: Fees based on State of Oregon Mechanical Specialty Code, as adopted.	
FIRE AND LIFE SAFETY REVIEW: (Commercial and Industrial only): 40% of Building Permit Fee.	
ELECTRICAL PERMITS: See Resolution 97-697.	
BUILDING PLAN CHECK: 65% of Building Permit Fee.	

MISCELLANEOUS	
Inspections outside normal business hours (minimum charge two hours)	\$40.00 per hour
Re-inspection Fees	\$35.00 each
Inspection for which no fee is specifically indicated (Minimum charge of one-half hour)	\$40.00 per hour
Additional plan review required by changes, additions or revisions to approved plans (Minimum charge of one-half hour)	\$40.00 per hour
Re-stamp of lost or stolen plans	\$40.00 each set
Fence Permit	\$25.00

City of Sherwood, Oregon
Resolution No. 97-697

A RESOLUTION ADOPTING A SCHEDULE OF ELECTRICAL PERMIT FEES, DEVELOPMENT FEES AS REQUIRED BY THE CITY ZONING AND COMMUNITY DEVELOPMENT CODE, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Zoning Code requires that certain development related fees and charges be established by a separate schedule approved by Resolution of the City Council, and

WHEREAS, the City adopts fees approved by Washington County and Unified Sewerage Agency related to system development charges, and these fees are most conveniently listed on this schedule; and.

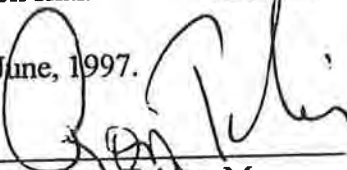
WHEREAS, the City will begin offering services of Electrical Permits previously issued by Washington County, and

NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:

Section 1. Adoption: The City Schedule of Fees, attached hereto as Exhibit A, dated June 24, 1997, is hereby approved and adopted, and supersedes all prior development fee schedules.

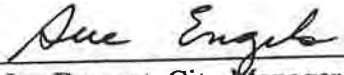
Section 2. Effective Date: This Resolution shall become effective July 1, 1997.

Duly passed by the City Council this 24th day of June, 1997.



Ron Tobias, Mayor

Attest:



~~Jon Bormet, City Manager~~
Sue Engels, Acting

"EXHIBIT A"

ELECTRICAL PERMIT APPLICATION FEE SCHEDULE

A. Residential - per unit		
	1000 sq. ft. or less	\$110.00
	Each additional 500 sq. ft. or portion thereof	\$ 25.00
	Limited Energy	\$ 25.00
	Each Manuf'd Home or Modular Dwelling or Feeder	\$ 68.00
B. Services or Feeders (Installation, alterations, or relocations)		
	200 amps or less	\$ 60.00
	201 amps to 400 amps	\$ 80.00
	401 amps to 600 amps	\$120.00
	601 amps to 1000 amps	\$180.00
	Over 1000 amps or volts	\$340.00
	Reconnect only	\$ 50.00
C. Temporary Services or Feeders (Installation, alterations, relocations)		
	200 amps or less	\$ 50.00
	201 amps to 400 amps	\$ 75.00
	401 maps to 600 amps	\$100.00
	Over 600 amps to 1000 volts see "B" above	
D. Branch Circuits (New, alteration or extension per panel)		
a.)	The fee for branch circuits with purchase of service or feeder fee. Each branch circuit	\$ 5.00
b.)	The fee for branch circuits without purchase of service or feeder fee. First branch circuit	\$ 35.00
	Each additional branch circuit	\$ 5.00
E. Miscellaneous (Service or Feeder not included)		
	Each pump or irrigation circle	\$ 40.00
	Each sign or outline lighting	\$ 40.00
	Signal circuit(s) or a limited energy panel, alternation or extension	\$ 40.00
F. Each additional inspection of the allowable in any of the above		
	Per inspection	\$ 35.00
	Per hour	\$ 55.00
	In Plant	\$ 55.00

SYSTEM DEVELOPMENT CHARGES

SEWER	
Regional Connection Charge: \$2,200.00 per dwelling unit or dwelling unit equivalent.	
City Reimbursement Charge: \$0.083 per each gallon of sewerage flow per day. For single and two-family residences, and manufactured homes on individual lots, the sewerage flow shall be assumed to be 535 gallons per day per dwelling unit. For manufactured home parks, multi-family residential, commercial, industrial, and institutional uses, gallons per day of sewerage flow shall be based on engineer's estimates provided at the time of development or redevelopment of the use, as verified by the City.	
City Improvement Charge: \$0.225 per each gallon of sewerage flow per day. For single and two-family residences, and manufactured homes on individual lots, the sewerage flow shall be assumed to be 535 gallons per day per dwelling unit. For manufactured home parks, multi-family residential, commercial, industrial, and institutional uses, gallons per day of sewerage flow shall be based on engineer's estimates provided at the time of development or redevelopment of the use, as verified by the City.	
Sewer Service connection fees cover the actual costs borne by the City in connecting and inspecting connection to public systems.	
Single-family, two-family, manufactured home on individual lot:	\$50.00.
Multi-family, commercial, industrial, manufactured home park, and institutional:	\$50.00.
Connections involving line taps, line extensions, etc.:	Actual labor and materials.

WATER	
BASED ON METER SIZE, EXCEPT FOR FIRE FLOW CONNECTIONS	
Reimbursement Charge - Meter Size	Charge
5/8 - 3/4"	\$ 160
1"	\$ 256
1-1/2"	\$ 640
2"	\$ 1,040
3"	\$ 2,336
4"	\$ 4,160
6"	\$ 8,896
8"	\$16,672
Improvement Charge - Meter Size	Charge
5/8 - 3/4"	\$ 2,800
1"	\$ 4,480
1-1/2"	\$ 11,200
2"	\$ 18,200
3"	\$ 40,880
4"	\$ 72,800
6"	\$155,680
8"	\$291,760
Administrative Charge	\$ 47
Fire Flow (Sprinkled Buildings Only)	\$ 3,007

Water Service connection fees cover the actual costs borne by the City in connecting and inspecting connection to public systems.	
Single-family, two-family, manufactured home on individual lot, install meter only:	\$40.00 plus cost of meter.
Multi-family, commercial, industrial, manufactured home park, and institutional connections:	Actual labor and materials plus cost of meter.
Connections involving line taps, line extensions, etc.:	Actual labor and materials plus cost of meter.

STORM	
Regional Storm Drainage: Per area of impermeable surface. One Equivalent Service Unit (ESU) equals 2,640 square feet.	
Reimbursement Charge:	None
Improvement Charges:	A. Water Quality: \$210/ESU B. Water Quantity: \$290/ESU
City Storm Drainage: Per area of impermeable surface.	
Reimbursement Charge:	None
Improvement Charge:	\$0.031 per square foot

PARKS	
Parks and Open Space: Applies to residential uses only.	
Reimbursement Charge:	None
Improvement Charge:	\$841.00 per residential dwelling unit

STREETS	
Arterial and Major Collector Streets:	See following "TIF" trip rates. See TIF manual for calculating fees.
Residential	\$179.00 per average weekday trip
Business/Commercial	\$ 45.00 per average weekday trip
Office	\$164.00 per average weekday trip
Industrial Use	\$172.00 per average weekday trip
Institutional	\$ 74.00 per weighted average daily trip
Minor Collector Streets:	See following "TIF" trip rates. Charge is calculated by multiplying generated trip by the following:
Reimbursement Charge	None
Improvement Charge	\$17.90 per average weekday trip

THIS TABLE IS USED TO CALCULATE TIF-SDC FEES

LAND USE CATEGORY/DESCRIPTION	BASIS FOR TRIP DETERMINATION	WEEKDAY AVERAGE TRIP RATE	WEEKEND AVERAGE TRIP RATE
RESIDENTIAL			
210 - Single-Family Detached Housing	# of Units	10.00	
220 - Apartment		6.10	
221 - Low-rise Apartment (2 or fewer stories)		6.60	
222 - High-Rise Apartment (3 or more stories)		4.20	
230 - Residential Condominium		5.86	
231 - Low-Rise Condominium	Not available	*	
232 - High-Rise Condominium	# of Units	4.18	
240 - Mobile Home		4.81	
250 - Retirement Community		3.30	
260 - Recreational Home	# of Units	3.16	
270 - Planned Unit Development			

INSTITUTIONAL			
010 - Waterports	Ship berths	100.00 ³	*
020 - Airport	Not available	*	*
021 - Commercial Airport	Average Flights per day	11.83	*
022 - General Aviation Airport		3.06	*
030 - Truck Terminals	T.G.S.F.	9.86	*
040 - Railroad Terminal	Not available	*	*
410 - Park	Parking spaces	7.58	11.82
411 - City Park	Acres	3.66	33.58
412 - County Park	Acres	2.11	2.26
413 - State Park	Acres	1.05	1.78
420 - Marina	Boat berths	3.00	5.55
430 - Golf Course	Parking spaces	6.62	5.95
440 - Theater	Not available	*	*
441 - Live Theater	Not available	*	*
442 - Music Theater	Not available	*	*
443 - Movie Theater (sit down)	Parking spaces	6.19 ¹	7.18 ¹
444 - Drive-in Theater	Not available	*	*
450 - Stadium	Parking spaces	0.55	*
451 - Baseball/Football	Not available	*	*
452 - Horse Race	Parking spaces	1.08	*
453 - Auto Race	Not available	*	*
454 - Dog Race	Not available	*	*
460 - Camp	Not available	*	*

491 - Tennis Courts	T.G.S.F.	32.93	23.80
492 - Racquet Clubs	T.G.S.F.	15.94	23.85
501 - Military Base	No. of employees	1.78	*
510 - Preschool	Not available	*	*
520 - Elementary School	# of Students	1.03	*
530 - High School		1.39	*
540 - Junior/Community College		1.55	*
550 - University		2.41	*
560 - Church	T.G.S.F.	7.70	18.18
565 - Day Care Center	T.G.S.F.	67.00	6.15
570 - Court	T.G.S.F.	*	*
580 - Museum/Gallery	T.G.S.F.	*	*
590 - Library	T.G.S.F.	45.50	25.39
610 - Hospital	T.G.S.F.	16.69	11.29
620 - Nursing Home	Number of beds	2.60	2.26

BUSINESS AND COMMERCIAL			
310 - Hotel	Number of rooms	8.70	
320 - Motel	Number of rooms	10.19	
330 - Resort Hotel	Number of rooms	18.40	
810 - Retail-General Merchandise	Not available	*	
811 - Specialty Store	Not available	*	
812 - Building Materials/Lumber	T.G.S.F.	30.56	
813 - Lumber	Not available	*	
814 - Specialty Retail Center	T.G.L.S.F.	40.68	
815 - Discount Stores	T.G.L.S.F.	70.16	
816 - Hardware/Paint Store	T.G.S.F.	53.21	
817 - Nursery	T.G.S.F.	36.17	
820 - Shopping Center under 50,000 Gr. Sq. ft.	T.G.L.S.F.	94.71	
821 - Shopping Center 50,000 - 99,999 Gr. Sq. ft.	T.G.L.S.F.	84.51 ²	
822 - Shopping Center 100,000 - 199,999 Gr. Sq. ft.	T.G.L.S.F.	66.62 ²	
823 - Shopping Center 200,000 - 299,999 Gr. Sq. ft.	T.G.L.S.F.	53.62 ²	
824 - Shopping Center 300,000 - 399,999 Gr. Sq. ft.	T.G.L.S.F.	45.66 ²	
825 - Shopping Center 400,000 - 499,999 Gr. Sq. ft.	T.G.L.S.F.	41.41 ²	
826 - Shopping Center 500,000 - 999,999 Gr. Sq. ft.	T.G.L.S.F.	36.63 ²	

827 - Shopping Center, 1,000,000 - \$1,200,000 Gr. Sq. ft.	T.G.L.S.F.	32.82 ²	
828 - Shopping Center over 1,200,000 Gr. Sq. ft.	T.G.L.S.F.	32.38 ²	
831 - Quality Restaurant	T.G.S.F.	95.62 ²	
832 - High-Turnover, Sit-Down Restaurant	T.G.S.F.	100.00 ³	
833 - Drive-in Restaurant	T.G.S.F.	100.00 ³	
834 - Drinking Place	Not available	*	
841 - New Car Sales	T.G.S.F.	47.52	
842 - Used Car Sales	Not available	*	
843 - Auto Parts Sale	Not available	*	
844 - Service Station	Number of Pumps	100.00 ³	
845 - Tire, Battery and Accessory	Not available	*	
846 - Car Wash	Number of wash stalls	100.00 ³	
847 - Auto Repair	Not available	*	
848 - Highway Oasis (including truck fuel, minimal trucker and mechanical services)	Not available	*	
849 - Truck Stop (including food, auto and truck mechanical services, trucker supplies and trucker overnight sleeping accommodations)	Not available	*	
850 - Supermarket	T.G.S.F.	100.00 ³	
851 - Convenience Market	T.G.S.F.	100.00 ³	
870 - Apparel	T.G.S.F.	3.33	
890 - Furniture Store	T.G.S.F.	4.35	
895 - Video Arcade	T.G.S.F.	9.60	
911 - Bank (walk-in)	T.G.S.F.	100.00 ³	
912 - Drive-in Bank	T.G.S.F.	100.00 ³	
913 - Savings and Loan (walk-in)	T.G.S.F.	61.00	
914 - Drive-in Savings and Loan	T.G.S.F.	100.00 ³	

OFFICE			
630 - Clinic	T.G.S.F.	23.79	
711 - General Office, Under 100,000 G.S.F.	T.G.S.F.	16.31	
712 - General Office, 100,001 -	T.G.S.F.	12.40	
713 - General Office, 200,000,	T.G.S.F.	11.54	
720 - Medical Office Building	T.G.S.F.	34.17	
730 - Government Office Building	T.G.S.F.	68.93	
731 - State Motor Vehicles Department	T.G.S.F.	16.60	
732 - U.S. Post Office	T.G.S.F.	86.78	
740 - Civic Center	T.G.S.F.	25.00	
750 - Office Park	Use General Office		
760 - Research Center	T.G.S.F.	6.09	
770 - Business Park	T.G.S.F.	12.42	
910 - Financial	Not available	*	
915 - Stockbroker	Not available	*	
916 - Lending Agency	Not available	*	
920 - Real Estate	Not available	*	
930 - Insurance	T.G.S.F.	11.45	

INDUSTRIAL			
110 - General Light Industrial	T.G.S.F.	6.97	
120 - General Heavy Industrial	T.G.S.F.	1.50	
130 - Industrial Park	T.G.S.F.	6.97	
140 - Manufacturing	T.G.S.F.	3.85	
150 - Warehouse	T.G.S.F.	4.88	
151 - Mini-Warehouse	T.G.S.F.	2.61	
170 - Utilities	Employees	1.07	
180 - Agriculture	Not available	*	
860 - Wholesale	T.G.S.F.	6.73	

NOTES:

- (Not available) - indicates that the ITE Manual does not contain information for this use. Therefore, the basis for trip determination shall be as set forth in Section [3.17-.040D.].
TGSF - Thousand Gross Square Feet
TGLSF - Thousand Gross Leasable Square Feet.

SDC Appeals: Appeal procedures against the administration of City SDC ordinances and resolutions, or the expenditure of City SDC funds, are provided for by City ordinance. Appeals of USA or Washington County SDCs are per the applicable USA or County regulations. City SDC Appeal Fee - \$500.00

City of Sherwood, Oregon
Ordinance No. 97-1022

AN ORDINANCE APPROVING AN AMENDMENT TO THE COMMUNITY DEVELOPMENT PLAN, PART 3, REGARDING THE ENCROACHMENT OF DECKS INTO THE REAR YARD SETBACK IN RESIDENTIAL ZONES WITHIN THE CITY OF SHERWOOD.

WHEREAS, the Sherwood Planning Commission has determined that the current regulations contained in the Comprehensive Plan, Part 3, Zoning and Community Development Code regarding deck setbacks is inadequate; and

WHEREAS, the proposed Plan Text Amendment will allow decks to encroach into the rear yard setback while maintaining the privacy of adjacent property owners; and

WHEREAS, the Sherwood Planning Commission recommended adoption of proposed Plan Amendment within the Comprehensive Plan, Part 3, Zoning and Community Development Code.

NOW, THEREFORE, THE CITY ORDAINS AS FOLLOWS:

Section 1. Amendments. Add the following section to Chapter 2 of the Comprehensive Plan, Part 3, Zoning and Community Development Code as follows:

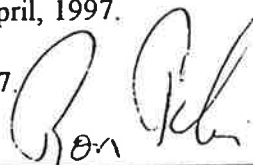
2.305.05 Decks

Uncovered decks which are no more than 30 inches above grade may project into the required rear yard, but shall not be closer than five feet from the property line. If the ground slopes away from the edge of the deck, the deck height shall be measured at a point five feet away from the edge of the deck. Decks shall not be allowed in the required front or side yard setbacks.

Section 2. Effective Date. This ordinance shall become effective thirty (30) days after passage and approval.

Duly passed by the City Council this 8th day of April, 1997.

Approved by the Mayor this 8th day of April, 1997.



Ron Tobias, Mayor

Attest:



Jon Bormet, City Manager/Recorder

	AYE	NAY		AYE	NAY
Aamold	<u>✓</u>	—	Krause	<u>✓</u>	—
Boyle	<u>✓</u>	—	Tobias	<u>✓</u>	—
Cottle	<u>✓</u>	—			

City of Sherwood, Oregon
Ordinance No. 97-1021

AN ORDINANCE APPROVING AN AMENDMENT TO THE COMMUNITY DEVELOPMENT PLAN, PART 3, REGARDING DEADLINES AND ACCEPTANCE OF APPLICATIONS.

WHEREAS, the Sherwood Planning Commission has determined that the regulations contained in the Comprehensive Plan, Part 3, Zoning and Community Development Code regarding deadlines and the acceptance of applications are inadequate; and

WHEREAS, the proposed Plan Text Amendment will bring the Comprehensive Plan, Part 3, Zoning and Community Development Code into conformance with State Laws, and;

WHEREAS, the Sherwood Planning Commission recommended adoption of the proposed Plan Amendment within the Comprehensive Plan, Part 3, Zoning and Community Development Code.

NOW, THEREFORE, THE CITY ORDAINS AS FOLLOWS:

Section 1. Amendments. Various sections in Chapter 3 of the Comprehensive Plan, Part 3, Zoning and Community Development Code are hereby amended per Attachment A.

Section 2. Effective Date. This ordinance shall become effective thirty (30) days after passage and approval.

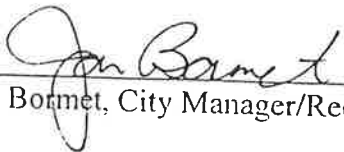
Duly passed by the City Council this 11th day of February, 1997.

Approved by the Mayor this 11th day of February, 1997.



Ron Tobias, Mayor

Attest:



Jon Borner, City Manager/Recorder

	AYE	NAY
Aamold	✓	—
Boyle	<u>Cherut</u>	—
Cottle	<u>Cherut</u>	—
Krause	✓	—
Tobias	✓	—

Amendments to the City of Sherwood Zoning and Community Development Code Regarding Deadlines and Acceptance of Applications.

Remove Code Section 3.103.01 Deadlines as follows:

3.103.01 Deadlines

~~Completed application forms, application materials, and fees must be submitted to the City, and accepted as full and complete as per section 3.103, at least (45) calendar days in advance of the Commission meeting at which the application is to be first considered, except as provided by Section 7.301.01.~~

Amend Code Section 3.103.02 Acceptance to read as follows:

3.103.02 Acceptance

Within ~~seven (7)~~ *thirty (30)* calendar days of the date of the initial submission, the City shall determine whether the application is complete and so notify the applicant in writing. Incomplete applications will not be accepted by the City. Incomplete applications shall be returned to the applicant along with a written notification of the application's deficiencies. *The application fees submitted are non-refundable.* ~~and all materials and fees submitted.~~ Provided, however, that incomplete applications may be resubmitted when the noted deficiencies have been corrected to the City's satisfaction.

**City of Sherwood, Oregon
Ordinance No. 97-1020**

AN ORDINANCE APPROVING AN AMENDMENT TO THE COMMUNITY DEVELOPMENT PLAN, PART 3, REMOVING MINI-WAREHOUSING AND COMMERCIAL STORAGE AS A PERMITTED USE IN THE GENERAL COMMERCIAL (GC) ZONE WITHIN THE CITY OF SHERWOOD.

WHEREAS, the General Commercial zone is primarily comprised of uses which are retail, service or office type uses which generate and depend upon consumer activity; and

WHEREAS, wholesale trade, warehousing, commercial storage and mini-warehousing are generally considered industrial type uses which do not assist in developing a synergy of commercial activity; and

WHEREAS, the Sherwood Planning Commission recommended adoption of proposed Plan Amendment removing wholesale trade, warehousing, commercial storage and mini-warehousing as permitted uses in the General Commercial zone, within the Comprehensive Plan, Part 3, Zoning and Community Development Code.

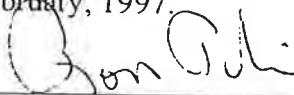
NOW, THEREFORE, THE CITY ORDAINS AS FOLLOWS:

Section 1. Amendments. Various sections in Chapter 2 of the Comprehensive Plan, Part 3, Zoning and Community Development Code are hereby amended per Attachment A.

Section 2. Effective Date. This ordinance shall become effective thirty (30) days after passage and approval.

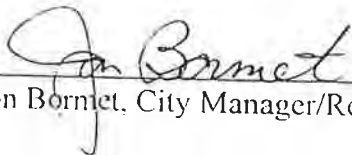
Duly passed by the City Council this 11th day of February, 1997.

Approved by the Mayor this 11th day of February, 1997



Ron Tobias, Mayor

Attest:



Jon Bormet, City Manager/Recorder

	AYE	NAY
Aamold	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Boyle	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cottle	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Krause	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tobias	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Amendments to the City of Sherwood Zoning and Community Development Code
Regarding Allowed Uses Within the General Commercial Zone.**

Amend Code Section 2.109.01 General Commercial (GC) to read as follows:

2.109 General Commercial (GC)

2.109.01 Purpose

The GC zoning district provides for ~~wholesale and~~ commercial uses which require larger parcels of land, and or uses which involve products or activities which require special attention to environmental impacts as per Chapter 8.

Amend Code Section 2.109.02 General Commercial (GC) Permitted Uses, as follows:

2.109.02 Permitted Uses

N. ~~Wholesale trade, warehousing, commercial storage and mini-warehousing, except as prohibited in Sections 2.110.04E and 2.111.04E.~~

The remaining letters in this section will be revised accordingly.

**City of Sherwood, Oregon
Ordinance No. 97-1019**

AN ORDINANCE APPROVING AN AMENDMENT TO THE COMMUNITY DEVELOPMENT PLAN, PART 3, REGARDING THE SITING OF WIRELESS COMMUNICATION FACILITIES WITHIN THE CITY OF SHERWOOD.

WHEREAS, the Sherwood City Council has determined that the regulations contained in the Comprehensive Plan, Part 3, Zoning and Community Development Code regarding the siting of wireless communication facilities within the City are inadequate; and

WHEREAS, wireless technology is a rapidly changing industry with specific needs regarding the siting of antennas and the Sherwood City Council has determined that the siting of wireless facilities within the City involves the suitability of areas for such a use; and

WHEREAS, the City Planning Commission recommended adoption of proposed Plan Amendment regarding the siting of wireless communication facilities.

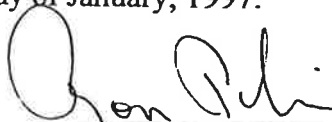
NOW, THEREFORE, THE CITY ORDAINS AS FOLLOWS:

Section 1. Amendments. Various sections in Chapter 2 of the Comprehensive Plan, Part 3, Zoning and Community Development Code are hereby amended per Attachment A.

Section 2. Effective Date. This ordinance shall become effective thirty (30) days after passage and approval.

Duly passed by the City Council this 28th day of January, 1997.

Approved by the Mayor this 28th day of January, 1997.



Ron Tobias, Mayor

Attest:



Jon Bormet, City Manager/Recorder

	<u>AYE</u>	<u>NAY</u>
Aarnold	<u>✓</u>	—
Boyle	<u>✓</u>	—
Cottle	<u>✓</u>	—
Krause	<u>✓</u>	—
Tobias	<u>✓</u>	—

**Amendments to the City of Sherwood Zoning and Community Development Code
Establishing Regulations for Wireless Communication Facilities.**

Amend Code Section 1.200 is amended by adding the following definitions:

Co-location: The placement of two or more antenna systems or platforms by separate FCC license holders on a structure such as a support structure, building, water tank or utility pole.

Wireless Communication Facility: An unmanned facility for the transmission or reception of radio frequency (RF) signals usually consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices.

Amend Code Section 2.109 General Commercial (GC) to read as follows:

2.109.02 Permitted Uses

- V. Wireless communication antennas co-located on an existing tower or on an existing building or structure not exceeding the roof of the structure provided the applicant can demonstrate to the satisfaction of the City that the location of the antenna on City-owned property would be unfeasible.

2.109.03 Conditional Uses

- B. Radio, television, and similar communication stations, including transmitters and wireless communication towers except for towers located within 1,000 feet of the Old Town District which are prohibited.

Amend Code Section 2.110 Light Industrial (LI) to read as follows:

2.110.02 Permitted Uses

- N. Wireless communication antennas co-located on an existing tower or on an existing building or structure not exceeding the roof of the structure provided the applicant can demonstrate to the satisfaction of the City that the location of the antenna on City-owned property would be unfeasible.

2.110.03 Conditional Uses

- F. Radio, television, and similar communication stations, including transmitters and wireless communication towers except for towers located within 1,000 feet of the Old Town District which are prohibited.

Amend Code Section 2.111 General Industrial (GI) to read as follows:

2.111.02 Permitted Uses

- O. Wireless communication antennas co-located on an existing tower or on an existing building or structure not exceeding the roof of the structure provided the applicant can demonstrate to the satisfaction of the City that the location of the antenna on City-owned property would be unfeasible.

2.111.03 Conditional Uses

- C. Radio, television, and similar communication stations, including transmitters and wireless communication towers except for towers located within 1,000 feet of the Old Town District which are prohibited.

2.111.04 Prohibited Uses

- E. ~~Commercial radio, television or similar communication broadcasting stations or equipment.~~

Amend Code Section 2.113 Institutional and Public (IP) to read as follows:

2.113.02 Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Chapter 8.

- A. Wireless communication facilities on City-owned property
- B. Wireless communication antennas mounted on an existing building or structure not exceeding the height of the roof of the structure provided the applicant can demonstrate to the satisfaction of the City that the location of the antenna on City-owned property would be unfeasible.

2.113.03 Conditional Uses

- H. Public Radio, television, and similar communication stations, including transmitters and wireless communication towers.

2.111.04 Prohibited Uses

- B. ~~Radio, television and similar communication stations, except when publicly owned.~~

The remaining numbers in this section will be revised accordingly.

Amend Code Section 2.306 to read as follows:

2.306 CHIMNEYS, SPIRES, ANTENNAS AND SIMILAR STRUCTURES

2.306.01 Heights

Except as otherwise provided, the height limits established by this Code shall not apply to chimneys, stacks, water towers, radio or television antennas, towers, windmills, grain elevators, silos, elevator penthouses, monuments, domes, spires, belfries, hangers, solar heating devices and to wireless communication facilities two hundred (200) feet in height or less.

Amend Code Section 4.302.03 to read as follows:

4.302 PERMIT APPROVAL

4.302.03 Findings of Fact

For wireless communication facilities, no conditional use permit shall be granted unless the following additional criteria is found:

- F. The applicant shall demonstrate to the satisfaction of the City that the wireless communication facility cannot be located in an IP zone due to the coverage needs of the applicant.
- G. The proposed wireless communication facility is designed to accommodate co-location or it can be shown that the facility cannot feasibly accommodate co-location.

- H. The applicant shall demonstrate a justification for the proposed height of the tower or antenna and an evaluation of alternative designs which might result in lower heights.

- I. The proposed wireless communication facility is not located within one thousand (1,000) feet of an existing wireless facility or that the proposed wireless communication facility cannot feasibly be located on an existing wireless communication facility.

- J. The proposed wireless communication facility is located a minimum of three hundred (300) feet from residentially zoned properties.

City of Sherwood, Oregon
Ordinance No. 96-1014

AN ORDINANCE APPROVING AMENDMENTS TO THE COMMUNITY DEVELOPMENT PLAN, PART 3, REGARDING REGULATION OF FENCES IN RESIDENTIAL AREAS, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Sherwood City Council has determined that the residential fence regulations in Comprehensive Plan Part 3 Zoning and Community Development Code are inadequate; and

WHEREAS, a Citizens Committee was formed to review and develop appropriate residential fence regulations; and,

WHEREAS, the City Planning Commission recommended adoption of new residential fence requirements (City File No. PA 96-3) on August 7, 1996.

NOW THEREFORE, THE CITY ORDAINS AS FOLLOWS:

Section 1. Amendments. Various sections in Chapter 2 of the Comprehensive Plan Part 3 Zoning and Community Development Code are hereby amended per Attachment A.

Section 2. Effective Date. This ordinance shall become effective thirty (30) days after passage and approval.

Duly passed by the City Council this 27th day of August 1996.

Approved by the Mayor this 27th day of August 1996.



Walter A. Hitchcock, Mayor

ATTEST:


Jon Bormet, City Manager-Recorder

	<u>AYE</u>	<u>NAY</u>
Aamold	<u>(absent)</u>	---
Boyle	<u>X</u>	---
Cottle	<u>X</u>	---
Hitchcock	<u>X</u>	---
Kennedy	<u>(absent)</u>	---

Attachment A
Ordinance No. 96-1014
August 27, 1996

**Amendments to the Sherwood Zoning and Community Development Code
Establishing Regulations for Fences.**

Amend Code Section 2.301.01 to read as follows:

A clear vision area shall be maintained on the corners of all property at the intersection of two (2) streets, intersection of a street with a railroad, or intersection of a street with an alley or private driveway.

Section 2.303.01 - Generally. Delete the current verbiage and insert the following:

- A. **Purpose:** The fence standards promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. The negative effect of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access, lessen solar access, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.
- B. **Definition:** For purposes of this ordinance, a corner lot adjoining two (2) City streets shall have both yards adjoining the streets considered as front yards.
- C. **Types of Fences:** The standards apply to walls, fences, hedges, mounds, and screens of all types (or a combination thereof) whether open, solid, wood, metal, wire, masonry, plant vegetation or other materials.
- D. **Location:**
1. Fences up to forty-two inches (42") high are allowed in required front building setbacks.
 2. Fences up to six feet (6') high are allowed in required side or rear building setbacks.
 3. Additionally, all fences shall be subject to the clear vision provisions of Section 2.301

E. Provisional Locations:

1. On corner lots in residential areas, where a home is characterized as back-to-back. (See Diagram adopted herein as shown in the illustration of these text provisions):
 - a) A six-foot (6') fence may extend into the required second front yard in an amount not to exceed fifty percent (50%) of the distance measured between the house and sidewalk.
 - b) Said fence may not extend beyond eight feet (8') from the rear of the house toward the front.
2. On corner lots in residential areas where a home is characterized as back-to-front. (See Diagram adopted herein as shown in the illustration of these text provisions):
 - a) A six-foot (6') fence may extend into the second required front yard in an amount no greater than five feet (5') from the house.
 - b) Said fence may not extend beyond eight feet (8') from the rear of the house to the front.
3. Fences in yards affecting cul-de-sacs are exempt from Section E of this Ordinance.

F. Provisional Conditions: The following conditions are applied to those fences constructed pursuant to Section E of this Ordinance:

1. The clear visions standards of Section 2.301 apply, and take precedence over these provisions in the event of conflict between this Section and Section 2.303.
2. Wire/chain link fencing is not allowed along any residential street frontage.

G. General Conditions:

1. In all cases, the following standards are applied:
 - a) Chain link fencing is not allowed in any required residential front yard setback.
 - b) The finished side of the fence must face the street.

- c) A fence permit from the City is required for all fences.

H. Administrative Variance:

The City Manager or his/her designee may grant an administrative variance to this Ordinance.

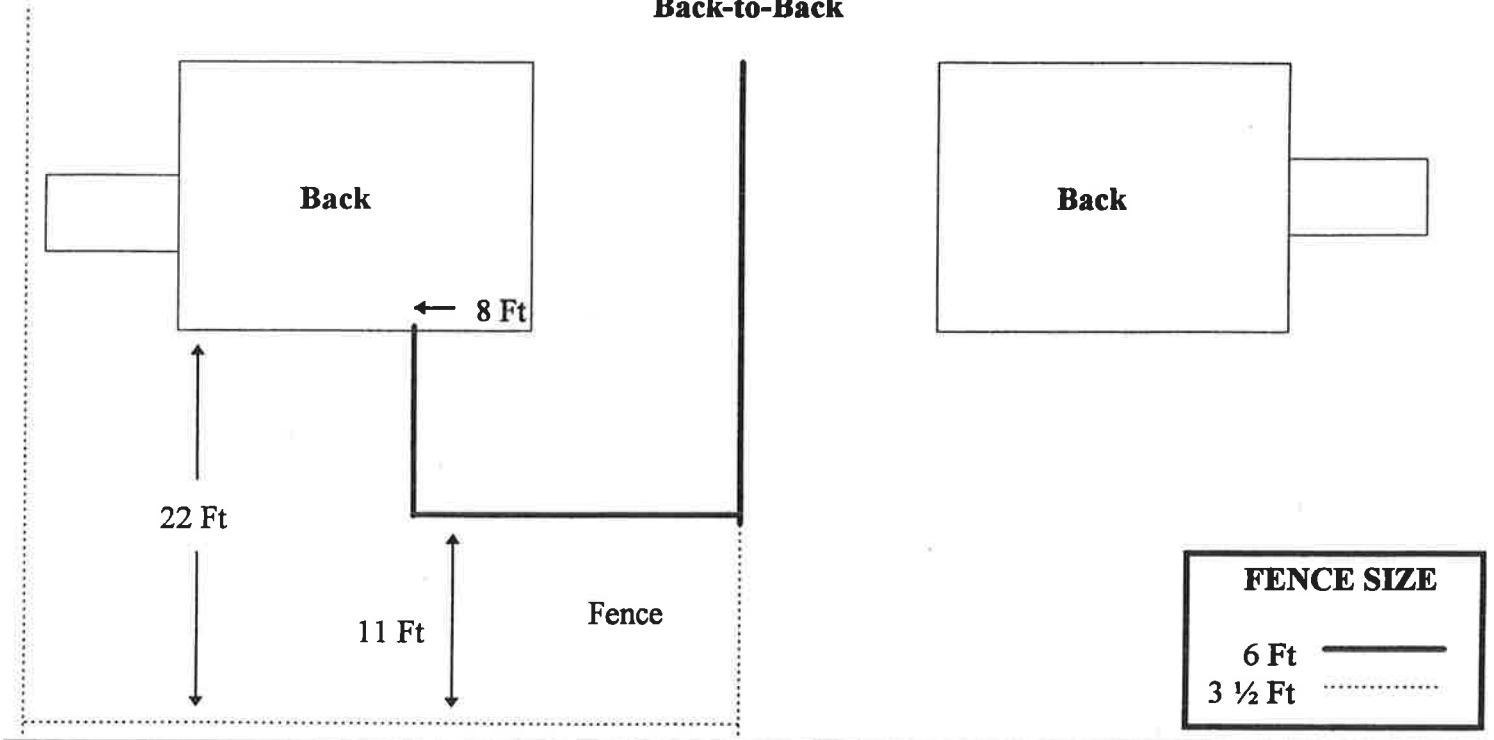
I. Abatement of Fences in Non-Compliance:

1. Fences that do not conform to Section E of this Code must come into compliance when the house is sold, when other permits are issued, or by September 1, 2003, whichever is earlier. Fences constructed affecting cul-de-sacs or fences creating inadequate site distances pursuant to Section 2.301 must come into compliance immediately.
2. Chain link fences forty-two inches (42") or under in front yard setbacks, erected prior to adoption of this ordinance, or other fences which, when installed, were legal under the Sherwood Code of Ordinances effective at that time, are exempt from Section I.

- I. Penalties:** Violations of Section 2.303.01 shall be subject to the penalties defined by Section 1.101.04.

(Example)

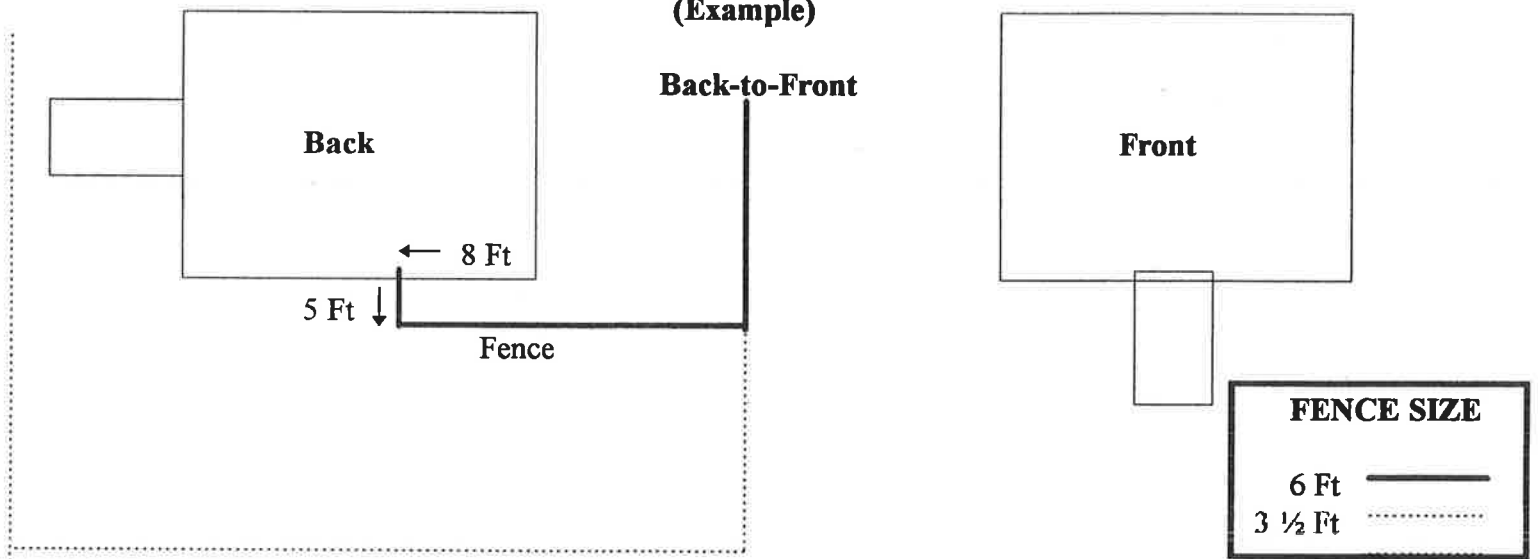
Back-to-Back



Sidewalk (If no sidewalk exists, measure 6 Ft from roadside)

(Example)

Back-to-Front



Sidewalk (If no sidewalk exists, measure 6 Ft from roadside)

CHAPTER 1
GENERAL PROVISIONS

CHAPTER 1
GENERAL PROVISIONS

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CHAPTER 1
GENERAL PROVISIONS

1.100 INTRODUCTION

1.101 GENERALLY

1.101.01 Title

Title Ordinance shall be known as the City of Sherwood, Oregon Zoning and Community Development Code, Part 3 of the City Comprehensive Plan, hereinafter referred to as the "Code".

1.101.02 Purpose

This Code is enacted to:

- A. Encourage the most appropriate use of land.
- B. Conserve and stabilize the value of property.
- C. Preserve natural resources.
- D. Facilitate fire and police protection.
- E. Provide adequate open space for light and air.
- F. Minimize congestion on streets.
- G. Promote orderly growth of the City.
- H. Prevent undue concentrations of population.
- I. Facilitate adequate provision of community facilities.
- J. Promote in other ways the public health, safety, convenience, and general welfare.
- K. Enable implementation of the Sherwood Comprehensive Plan in compliance with State Land Use Goals.

1.101.03 Conformance Required

The use of all land, as well as the construction, reconstruction, enlargement, structural alteration, movement, use, or occupation of any structure within the City shall conform to the requirements of this Code, except as allowed by Section 2.206. Age, gender or physical disability shall not be an adverse consideration in making a land use decision as defined in ORS 197.015(10).

1.101.04 Violations

Upon failure to comply with or maintain any provision of this Code, or with any restrictions or conditions imposed hereunder, the City may withhold or withdraw any City land use approvals, permits, licenses, or utility services until the appropriate correction(s) is made. Notwithstanding any such action taken by the City, any person, firm or corporation who

violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this Code, or who resists the enforcement of such provisions, shall be subject to civil penalties of no more than five-hundred dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

1.101.05 Interpretation

The provisions of this Code shall be interpreted as minimum requirements. When this Code imposes a greater restriction than is required by other provisions of law, or by other regulations, resolutions, easements, covenants or agreements between parties, the provisions of this Code shall control.

1.101.06 Savings Clause

Should any section, clause or provision of this Code be declared invalid by a court of competent jurisdiction, the decision shall not affect the validity of the Code as a whole or of the remaining sections. Each section, clause, and phrase is declared severable.

1.101.07 Conflicting Ordinances

All zoning, subdivision, and other land development ordinances previously enacted by the City are superseded and replaced by this Code.

1.101.08 Regional, State and Federal Regulations

All development within the City shall adhere to all applicable regional, State and Federal air quality, water quality, noise, odor, building, wetlands, solid waste, natural resource, and other regulations and statutes.

1.101.09 Community Development Plan

This Code shall be administered in conjunction with, and in a manner that is consistent with, the policies and strategies adopted in the City of Sherwood, Oregon, Community Development Plan, Part 2 of the City Comprehensive Plan. The City Zoning Map, the Transportation Plan Map, the Natural Resources and Recreation Plan Map, the Water Service Plan Map, the Storm Drainage Plan Map, and the Sanitary Sewer Service Plan Map are extracted from the Community Development Plan, and attached to this Code as appendices. References to these maps shall be deemed to include all applicable policies, standards and strategies contained in Chapters 4, 5, 6, and 7 of the Community Development Plan.

1.102 ESTABLISHMENT OF ZONING DISTRICTS

1.102.01 Districts

For the purposes of this Code, the City is hereby divided into the following zoning districts:

Very Low Density Residential	VLDR
Low Density Residential	LDR
Medium Density Residential-Low	MDRL
Medium Density Residential-High	MDRH
High Density Residential	HDR
Neighborhood Commercial	NC
Office Commercial	OC
Retail Commercial	RC
General Commercial	GC
Light Industrial	LI
General Industrial	GI
Flood Plain Overlay	FP
Institutional/Public	IP
Old Town Overlay	OT

1.102.02 Official Map

Zoning district boundaries are shown on the Official Plan and Zoning Map of the City. This Map is made part of this Code by reference, and shall be kept on file in the City Recorder's office. Any future changes to the zoning of land within the City shall be appropriately depicted on the Plan and Zoning Map and certified as to the date of amendment. The Official Plan and Zoning Map shall be the first and final reference point for verifying other land use mapping and in determining actual zoning district boundaries. A dated reproduction of the Official Plan and Zoning Map is attached as Appendix A.

1.102.03 Zoning District Boundaries

The Commission shall resolve any dispute over the exact location of a zoning district boundary. In interpreting the location of such boundaries on the Official Plan and Zoning Map, the Commission shall rely on the following guidelines:

- A. Unless otherwise indicated, zoning district boundaries are the centerlines of streets, roads, highways, alleys, or such lines extended.
- B. Where a boundary line follows or nearly coincides with a section, lot or property ownership line, the boundary shall be construed as following such line.

- C. In the event that a dedicated street, road, highway, or alley is vacated by ordinance, the zoning regulations applicable to abutting property shall apply up to the centerline of such rights-of-way.
- D. If a right-of-way is vacated in total to one (1) property, the zoning of that property shall apply to the total vacated right-of-way.

1.102.04 Urban Growth Area

The zoning districts shown on the Official Plan and Zoning Map, for land outside of the incorporated area of the City but within the Urban Growth Boundary, shall serve as a guide to development in these areas. Actual land use regulation and development shall be controlled under the terms of the Urban Planning Area Agreement between the City and Washington County. This Agreement is made part of this Code by reference and is attached as Appendix H. An area incorporated into the City shall, upon annexation, be given an interim zoning consistent with the Official Plan and Zoning Map. The City shall provide notice of this interim zoning as per Section 3.202.03. No hearing shall be required and the interim zoning shall be considered final thirty (30) days after mailing of said notice.

1.103 PLANNING COMMISSION

1.103.01 Appointment and Membership

- A. The City Planning Commission shall consist of seven (7) members to be appointed by the Council for terms of four (4) years. Two (2) members may be non-residents of the City, provided they reside within the Sherwood portion of the Urban Growth Boundary. Commission members shall receive no compensation for their services, but shall be reimbursed for duly authorized expenses.
- B. A Commission member may be removed by a majority vote of the Council for misconduct or non-performance of duty, as determined by the Council. Any vacancy shall be filled by the Council for the unexpired term of the predecessor in office.
- C. No more than two (2) Commission members shall be engaged principally in the buying, selling, or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two (2) members shall be engaged in the same kind of

business, trade or profession.

1.103.02 Officers, Minutes, and Voting

- A. The Commission shall, at its first meeting in each odd-numbered year, elect a chair and vice-chair who shall be voting members and who shall hold office at the pleasure of the Commission.
- B. Before any meeting of the Commission, public notice shall be given as required by State statute and this Code. Accurate records of all Commission proceedings shall be kept by the City, and maintained on file in the City Recorder's office.
- C. A majority of members of the Commission shall constitute a quorum. A majority vote of those members, not less than a quorum, present at an open meeting of the Commission shall be necessary to legally act on any matter before the Commission. The Commission may make and alter rules of procedure consistent with the laws of the State of Oregon, the City Charter, and City ordinances.

1.103.03 Conflicts of Interest

- A. Commission members shall not participate in any Commission proceeding or action in which they hold a direct or substantial financial interest, or when such interest is held by a member's immediate family. Additionally, a member shall not participate when an action involves any business in which they have been employed within the previous two (2) years, or any business with which they have a prospective partnership or employment.
- B. Any actual or potential interest by a Commission member in a land use action as per Section 1.103.03A shall be disclosed by that member at the meeting of the Commission where the action is being taken. Commission members shall also disclose any pre-hearing or ex parte contacts with applicants, officers, agents, employees, or any other parties to an application before the Commission. Ex-parte contacts shall not invalidate a final decision or action of the Commission, provided that the member receiving the contact indicates the substance of the ex-parte communication and of the right of parties to rebut said content at the first hearing where action will be considered or taken.

1.103.04 Powers and Duties

Except as otherwise provided by law, the Commission shall be vested with all powers and duties, and shall conduct all business, as set forth in the laws of the State of Oregon, the City Charter, and City ordinances.

1.200 DEFINITIONS

1.201 GENERALLY

All words used in this Code, except where specifically defined herein, shall carry their customary meanings. Words used in the present tense include the future tense; words used in the future tense include the present tense; the plural includes the singular, and the masculine includes the feminine and neuter. The word "building" includes the word "structure"; the word "shall" is mandatory; the word "will" or "may" are permissive; the words "occupied" and "uses" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied."

Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1986, shall be considered as providing ordinarily accepted meanings.

1.202 SPECIFICALLY

The following terms shall have specific meaning when used in this Code:

- 1.202.01 **Abut:** Contiguous to or adjoining with a common property line or right-of-way.
- .02 **Access:** The way or means by which pedestrians and vehicles enter and leave property.
- .03 **Accessory Building/Use:** A subordinate building or use which is customarily incidental to that of the principal use or building located on the same property.
- .04 **Alteration:** Any change in construction or a change of occupancy. Where the term "alteration" is in reference to construction, it applies to a change, addition or modification in construction. When the term is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one trade or use to another.
- .05 **Apartment:** Each dwelling unit contained in a multi-family dwelling or a dwelling unit that is secondary to the primary use of a non-residential building.
- .06 **Automobile Sales Area:** An open area, other than a street, used for the display, sale, or rental of new or used automobiles, and where no repair work is done,

- except minor incidental repair of automobiles to be displayed, sold, or rented on the premises.
- .07 **Basement:** Any floor level below the first story in a building, except as otherwise defined in the Uniform Building Code and this Code.
 - .08 **Boarding or Rooming House:** Any building, or portion thereof containing not more than five (5) guest rooms where rent is paid in money, goods, labor or otherwise.
 - .09 **Building:** Any structure used, intended for, supporting or sheltering any use or occupancy. Each portion of a structure separated by a division wall without any openings, shall be deemed a separate building.
 - .10 **Building Area:** That portion of a property that can be occupied by the principal use, thus excluding the front, side and rear yards.
 - .11 **Building, Existing:** Any building erected prior to the adoption of this Code or one for which a legal building permit has been issued.
 - .12 **Building Height:** The vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The height of a stepped or terraced building is the maximum height of any segment of the building. The reference datum shall be selected by the following criteria, whichever yields the greater height:
 - A. The elevation of the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than ten (10) feet above lowest grade.
 - B. An elevation ten (10) feet higher than the lowest grade, when the sidewalk or ground surface described in Section 1.202.12.A is more than ten (10) feet above lowest grade.
 - .13 **Building Official:** The City employee or agent charged with the administration and enforcement of the Uniform Building Code and other applicable regulations.
 - .14 **Building Permit:** A permit issued under the terms of the Uniform Building Code.

- .15 **Buffer:** A landscaped area, wall, berm or other structure or use established to separate and protect land uses.
- .16 **Change in Use:** A change to a parcel of land, a premise or a building which creates a change in vehicular trip generation activities, which changes the minimum parking requirements of this Code, or which changes the use classification as defined by this Code or the Uniform Building Code.
- .17 **Church:** Any bona-fide place of worship, including Sunday School buildings, parsonages, church halls, and other buildings customarily accessory to places of worship.
- .18 **City:** The City of Sherwood, Oregon and its duly authorized officials, employees, consultants and agents.
- .19 **Code:** The City of Sherwood, Oregon Zoning and Community Development Code, Part 3 of the City of Sherwood Comprehensive Plan.
- .20 **Commercial Trade School:** Any private school or institution operated for profit that is not included in the definitions of an educational institution or school.
- .21 **Commission:** The City of Sherwood Planning Commission.
- .22 **Common-Wall Dwelling:** Dwelling units with shared walls such as two-family, and multi-family dwellings.
- .23 **Community Development Plan:** Part 2 of the City of Sherwood Comprehensive Plan.
- .24 **Compatible:** Any structures or uses capable of existing together in a harmonious, orderly, efficient, and integrated manner, considering building orientation, privacy, lot size, buffering, access and circulation.
- .25 **Comprehensive Plan:** The City of Sherwood Comprehensive Plan.
- .26 **Conditional Use:** A use permitted subject to special conditions or requirements as defined in any given zoning district and Section 4.300 of this Code.
- .27 **Condominium:** An individually-owned dwelling unit in a multi-family housing development with common areas and facilities.
- .28 **Council:** The City of Sherwood City Council.

- .29 **Day-Care Facility:** Any facility that provides day care to six (6) or more children, including a child day care center or group day care home, including those known under a descriptive name, such as nursery school, preschool, kindergarten, child playschool, child development center, except for those facilities excluded by law, and family day care providers as defined by this Code. This term applies to the total day care operation and it includes the physical setting, equipment, staff, provider, program, and care of children.
- .30 **Deed Restriction:** A covenant or contract constituting a burden on the use of private property for the benefit of property owners in the same subdivision, adjacent property owners, the public or the City of Sherwood, and designed to mitigate or protect against adverse impacts of a development or use to ensure compliance with a Comprehensive Plan.
- .31 **Demolish:** To raze, destroy, dismantle, deface or in any other manner cause partial or total ruin of a structure or resource.
- .32 **Density:** The intensity of residential land uses per acre, stated as the number of dwelling units per gross acre.
- .33 **Development:** Any man-made change to improved or unimproved real property or structures, including but not limited to construction, installation, or alteration of a building or other structure; change in use of a building or structure; land division; establishment or termination of rights of access; storage on the land; tree cutting; drilling; and any site alteration such as land surface mining, dredging, grading, construction of earthen berms, paving, parking improvements, excavation or clearing.
- .34 **Development Plan:** Any plan adopted by the City for the guidance of growth and improvement in the City.
- .35 **Drive-In Restaurant:** Any establishment dispensing food and/or drink, that caters primarily to customers who remain, or leave and return, to their automobile for consumption of the food and/or drink, including any establishment designed for serving customers at a drive-up window or in automobiles.
- .36 **Dwelling Unit:** Any room, suite of rooms, enclosure, building or structure designed or used as a residence for one (1) family as defined by this Code, and containing sleeping, kitchen and bathroom facilities.

- .37 **Dwelling, Single-Family:** A structure containing one (1) dwelling unit.
- .38 **Dwelling, Single-Family Attached:** A single structure on two (2) lots, containing two (2) individual dwelling units, but with a common wall and a common property line. Otherwise identical to a two-family dwelling.
- .39 **Dwelling, Two-Family:** A single structure on one (1) lot containing two (2) individual dwelling units, sharing a common wall, but with separate entrances. Also referred to as a duplex.
- .40 **Dwelling, Multi-Family:** A single structure containing three (3) or more dwelling units.
- .41 **Easement:** The grant of the legal right to use of land for specified purposes.
- .42 **Educational Institution:** Any bona-fide place of education or instruction, including customary accessory buildings, uses, and activities, that is administered by a legally-organized school district; church or religious organization; the State of Oregon; or any agency, college, and university operated as an educational institution under charter or license from the State of Oregon. An educational institution is not a commercial trade school as defined by Section 1.202.19.
- .43 **Evergreen:** A plant which maintains year-round foliage.
- .44 **Ex-parte Contact:** Contact or information passed between a party with an interest in a quasi-judicial land use decision and a member of the Council or Commission, when such information is not generally available to other members of the Council or Commission, or other interested persons. The member shall disclose any pre-hearing or ex-parte contacts with applicants, officers, agents, employees, or other parties to an application before the Council or Commission. Ex-parte contacts with a member of the Commission or Council shall not invalidate a final decision or action of the Commission or Council, provided that the member receiving the contact indicates the substance of the content of the ex-parte communication and of the right of parties to rebut said content at the first hearing where action will be considered or taken.
- .45 **Extra Capacity Improvements:** Improvements that are defined as necessary in the interest of public health, safety and welfare by Chapter 5, 6, and 8 of this Code, and the Community Development Plan, to increase the

- capacities of collector or arterial streets; water, sewer, storm drainage or other utility facilities; and parks and open space.
- .46 **Family:** One (1) person living alone or two (2) or more persons related by blood, marriage, or adoption; or a group not exceeding five (5) persons living together as a single housekeeping unit, excluding occupants of a boardinghouse, fraternity, hotel, or similar use.
 - .47 **Family Day Care Provider:** A day care provider which accommodates fewer than thirteen (13) children in the provider's home.
 - .48 **Fence:** Any open or closed structure used to enclose any lot or parcel of ground, and usually constructed of wire, wood, brick, cement block, or stone.
 - .49 **Fire District:** Tualatin Valley Fire and Rescue.
 - .50 **Flag Lot:** A building lot which is provided access to a public street by means of a narrow strip of land with minimal frontage.
 - .51 **Flood Plain:** The flood-hazard area adjoining a river, stream or other water course, that is subject to inundation by a base flood. The flood plain includes the floodway and floodway fringe, and the City greenway, as defined by this Code.
 - .52 **Floodway:** The channel of a river, stream or other watercourse, and the adjoining areas of the flood plain, required to discharge the base flood without cumulatively increasing the water surface elevation of said watercourse by more than one (1) foot.
 - .53 **Flood Fringe:** The area of the flood plain lying outside of the floodway.
 - .54 **Base Flood:** The flood having a one percent (1%) chance of being equalled or exceeded in any given year. Also referred to as the "100-year flood" or "100-year flood plain".
 - .55 **Footcandle:** A unit of illumination. One footcandle is the intensity of illumination when a source of one (1) candlepower illuminates a screen one (1) foot away.
 - .56 **Frontage:** That side of a parcel abutting on a street or right-of-way ordinarily regarded as the front of the parcel, except that the shortest side of a corner lot

- facing a street, shall not be deemed the lot frontage.
- .57 **Garage:** A building or a portion thereof which is designed to house, store, repair or keep motor vehicles.
 - .58 **Government Structure:** Any structure used by a federal, state, local government, or special district agency.
 - .59 **Ground Floor Area:** The total area of a building measured by taking the largest outside dimensions of the building, exclusive of open porches, breezeways, terraces, garages, exterior stairways, and secondary stairways.
 - .60 **Hard Surface:** Any man-made surface that prevents or retards the saturation of water into land, or that causes water to run-off in greater quantities or increased rates, than existed under natural conditions prior to development. Common hard surfaces include but are not limited to: roofs, streets, driveways, sidewalks and walkways, patios, parking and loading areas, and other graveled, oiled, macadam or concrete surfaces. Also referred to as impermeable surface.
 - .61 **Hazardous Waste:** Has the meaning given that term in ORS 466.005.
 - .62 **Hogged Fuel:** Fuel generated from wood or other waste that has been fed through a machine that reduces it to a practically uniform size of chips, shreds, or pellets.
 - .63 **Home Occupation:** An occupation or a profession customarily carried on in a residential dwelling unit by a member or members of the family residing in the dwelling unit and clearly incidental and secondary to the use of the dwelling unit for residential purposes.
 - .64 **Hotel:** A building or buildings in which there are more than five (5) sleeping rooms occupied as temporary dwelling places, which rooms customarily do not contain full kitchen facilities, but may include kitchenettes.
 - .65 **Homeowners Association:** A formally organized group of homeowners within a single housing development having shared responsibility for portions of the development such as building, landscaping, or parking maintenance, or other activities provided for by covenant or legal agreement.
 - .66 **Household:** All persons occupying a group of rooms or a single room which constitutes a dwelling unit.

- .67 **Inert Material:** Solid waste material that remains materially unchanged by variations in chemical, environmental, storage, and use conditions reasonably anticipated at the facility.
- .68 **Junk:** Materials stored or deposited in yards and open areas for extended periods, including inoperable or abandoned motor vehicles, inoperable or abandoned machinery, motor vehicle and machinery parts, broken or discarded furniture and household equipment, yard debris and household waste, scrap metal, used lumber, and other similar materials.
- .69 **Junk-Yard:** Any lot or site exceeding two hundred (200) square feet in area used for the storage, keeping, or abandonment of junk as defined by this Code.
- .70 **Kennel:** Any lot or premise on which four (4) or more dogs or cats more than four (4) months of age are kept.
- .71 **Laboratory, Medical or Dental:** A laboratory which provides bacteriological, biological, medical, x-ray, pathological and similar analytical or diagnostic services to doctors or dentists, and where no fabrication is conducted on the premises except the custom fabrication of dentures.
- .72 **Landmarks Board:** The City of Sherwood Landmarks Advisory Board.
- .73 **Leachate:** Liquid that has come into direct contact with solid waste and contains dissolved and/or suspended contaminants as a result of such contact.
- .74 **Level of Service (LOS):** A measure of the overall comfort afforded to motorists as they pass through a roadway segment or intersection, based on such things as impediments caused by other vehicles, number and duration of stops, travel time, and the reserve capacity of a road or an intersection (i.e., that portion of the available time that is not used). LOS generally is referred to by the letters "A" through "F", with LOS "E" or "F" being generally unacceptable. LOS generally is calculated using the methodology in the Highway Capacity Manual, Special Report 209, by the Transportation Research Board (1985).
- .75 **Loading or Unloading Space:** An off-street space or berth for the temporary parking of vehicles while loading or unloading merchandise or materials.

- .76 **Lower Explosive Limit:** The minimum concentration of gas or vapor in air that will propagate a flame at twenty-five degrees (25°C) Celsius in the presence of an ignition source.
- .77 **Lot:** A parcel of land of at least sufficient size to meet the minimum zoning requirements of this Code, and with frontage on a public street, or easement approved by the City. A lot may be:
- A. A single lot of record; or a combination of complete lots of record, or complete lots of record and portions of other lots of record.
 - B. A parcel of land described by metes and bounds; provided that for a subdivision or partition, the parcel shall be approved in accordance with this Code.
- .78 **Lot Area:** The total horizontal area within the lot lines of a lot, exclusive of streets and access easements to other property.
- .79 **Lot, Corner:** A lot situated at the intersection of two (2) or more streets, other than an alley.
- .80 **Lot Coverage:** The proportional amount of land on a lot covered by buildings.
- .81 **Lot Depth:** The average horizontal distance between the front and rear lot lines measured in the direction of the side lot lines.
- .82 **Lot Frontage:** The distance parallel to the front lot line, measured between side lot lines at the street line.
- .83 **Lot, Interior:** A lot other than a corner lot.
- .84 **Lot of Record:** Any unit of land created as follows:
- A. A parcel in an existing, duly recorded subdivision or partition.
 - B. An existing parcel for which a survey has been duly filed which conformed to all applicable regulations at the time of filing.
 - C. A parcel created by deed description or metes and bounds provided, however, contiguous parcels created by deed description or metes and bounds under the same ownership and not conforming to the

minimum requirements of this Code shall be considered one (1) lot of record.

- .85 **Lot, Through:** A lot having frontage on two (2) parallel or approximately parallel streets.
- .86 **Lot Lines:** The property lines bounding a lot.
- .87 **Lot Line, Front:** The line separating a lot from any street, provided that for corner lots, there shall be as many front lines as there are street frontages.
- .88 **Lot Line, Rear:** A lot line which is opposite and most distant from the front lot line, provided that for irregular and triangular lots, the rear lot line shall be deemed a line ten (10) feet in length within the lot, parallel to and at a maximum distance from the front lot line. On a corner lot, the shortest lot line abutting adjacent property that is not a street shall be considered a rear lot line.
- .89 **Lot Line, Side:** Any lot line not a front or rear lot line.
- .90 **Lot Width:** The horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line, at the center of the lot, or, in the case of a corner lot, the horizontal distance between the front lot line and a side lot line.
- .91 **Manufactured Home:** A structure transportable in one or more sections, intended for permanent occupancy as a dwelling. All manufactured homes located in the City after the effective date of this Code shall meet or exceed the standards of the U.S. Department of Housing and Urban Development, and shall have been constructed after June 15, 1976.
- .92 **Manufactured Home Park:** A lot, tract, or parcel with four (4) or more spaces within five-hundred (500) feet of one another available for rent or lease for the siting of manufactured homes.
- .93 **Manufactured Home Space:** A plot of land within a manufactured home park designed to accommodate one (1) manufactured home, on a rental or lease basis.
- .94 **Mixed Solid Waste:** Solid waste that contains recoverable or recyclable materials, and materials that are not capable of being recycled or recovered for future use.

- .95 **Motel:** See Hotel.
- .96 **Municipal Solid Waste:** Solid waste primarily from residential, business, and institutional uses.
- .97 **Net Buildable Acre:** The developable area of a site is calculated for the purposes of this Code by subtracting the following from the total area of a site:
- A. Twenty-five percent (25%) of the total site acreage as an allowance for land devoted to community facilities, utility services, streets, and other similar uses.
 - B. Acreage within the base flood, excepting acreage approved for density transfers, which shall be added back to the number of net buildable acres.
- .98 **Non-Attainment Area:** A geographical area of the State which exceeds any state or federal primary or secondary ambient air quality standard as designated by the Oregon Environmental Quality Commission and approved by the U.S. Environmental Protection Agency.
- .99 **Non-Conforming Structure or Use:** A lawful structure or use, existing as of the effective date of this Code, or any applicable amendments, which does not conform to the minimum requirements of the zoning district in which it is located.
- .100 **Nursing Home:** An institution for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders; but not including facilities for surgical care, or institutions for the care and treatment of mental illness, alcoholism, or narcotics addiction.
- .101 **Occupancy Permit:** The permit provided in the Uniform Building Code which must be issued prior to occupying a building or structure or portion thereof. For the purposes of this Code, "occupancy permit" includes the final inspection approval for those buildings or structures not required to obtain an occupancy permit by the Uniform Building Code.
- .102 **Occupy:** To take or enter upon possession of.
- .103 **Office:** A room or building for the transaction of business, a profession or similar activities, including but not limited to administration, bookkeeping, record keeping, business meetings, and correspondence. Products

- may not be stored or manufactured in an office, except to accommodate incidental sales, display and demonstration.
- .104 **Off-Street Parking:** Parking spaces provided for motor vehicles on individual lots and not located on public street right-of-way.
 - .105 **Open Space:** Open ground area which is not obstructed from the ground surface to the sky by any structure, except those associated with landscaping, or recreational facilities. Parking lots and storage areas for vehicles and materials shall not be considered open space.
 - .106 **Parks Board:** The City of Sherwood Parks Advisory Board.
 - .107 **Partition:** The dividing of an area or tract of land into two (2) or three (3) parcels within a calendar year when such area exists as a unit or contiguous units of land under single ownership at the beginning of each year. Partitions do not include: divisions of land resulting from lien foreclosures; divisions of land resulting from the creation of cemetery lots; divisions of land made pursuant to a court order, lot line adjustments where an additional parcel is not created and where the existing parcels are not reduced below the minimum requirements of this Code.
 - .108 **Partition Land:** A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the Comprehensive Plan and ORS 215.213 (2)(q) to (s) and 215.283 (2)(p) to (r).
 - .109 **Partition Plat:** Partition plat includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a land partition.
 - .110 **Pedestrian Way:** A right-of-way for pedestrian traffic.
 - .111 **Person:** A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.
 - .112 **Plat:** The final map, diagram, drawing, replat, or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision or partition.

- .113 **Plat, Preliminary:** A map and plan of a proposed subdivision, as specified by this Code.
- .114 **Principal Building/Use:** The main or primary purpose for which a structure, land, or use is designed, arranged, or intended, or for which the building or use may lawfully be occupied or maintained under the terms of this Code.
- .115 **Professional Engineer.** A professional engineer currently licensed to practice in the State of Oregon. The type of professional engineer may be specified in the ordinance (i.e., civil, structural, acoustic, traffic, etc.).
- .116 **Professions:** Members of professions, such as doctors, dentists, accountants, architects, artists, attorneys, authors, engineers, and others who are generally recognized professionals by virtue of experience or education.
- .117 **Public Hearing:** Hearings held by the Commission or the Council for which a form of prescribed public notice is given.
- .118 **Public Park:** A park, playground, swimming pool, reservoir, athletic field, or other recreational facility which is under the control, operation or management of the City or other government agency.
- .119 **Public Place:** Any premise whether, privately or publicly owned, which by physical nature, function, custom, or usage, is open to the public at times without permission being required to enter or remain.
- .120 **Public Use Building:** Any building or structure owned and operated by a government agency for the convenience and use of the general public.
- .121 **Public Utility Facilities:** Structures or uses necessary to provide the public with water, sewer, gas, telephone or other similar services.
- .122 **Recycled Materials:** Solid waste that is transformed into new products in such a manner that the original products may lose their identity.
- .123 **Recycling:** The use of secondary materials in the production of new items. As used here, recycling includes materials reuse.
- .124 **Residential Care Facility :** A facility licensed by or under the authority of the Department of Human Resources

under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six (6) to fifteen (15) individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

- .125 **Residential Care Home:** A residence for five (5) or fewer unrelated physically or mentally handicapped persons and for the staff persons who need not be related to each other or any other home resident.
- .126 **Residential Structure:** Any building or part of a building, used or constructed as a sleeping or other housekeeping accommodation, for a person or group of persons.
- .127 **Restrictive Covenant:** A legally binding limitation on the manner in which a tract of land or lot can be used, usually a condition placed on the deed.
- .128 **Retail Trade:** The sale of goods and products to the consumer generally for direct consumption and not for resale.
- .129 **Retaining Wall:** A structure constructed of stone, concrete, steel or other material designed to retain or restrain earth or rock.
- .130 **Right-of-Way:** The area between boundary lines of a street or other easement.
- .131 **Road:** The portion or portions of street rights-of-way developed for vehicular traffic.
- .132 **Rural Zone:** A land use zone adopted by a unit of local government that applies to land outside a regional urban growth boundary.
- .133 **School:** See Educational Institution
- .134 **Sealed Container:** A receptacle appropriate for preventing release of its contents, protecting its contents from the entry of water and vectors, and that will prevent the release of noxious odors if the contents are capable of emitting such odors.
- .135 **Setback:** The minimum horizontal distance between a public street right-of-way line, or side and rear property

lines, to the front, side and rear lines of a building or structure located on a lot.

- .136 **Sidewalk:** A pedestrian walkway with hard surfacing.
- .137 **Sight Distance:** The distance along which a person can see approaching objects, such as automobiles or pedestrians, from a street intersection or a driveway along a street.
- .138 **Sign:** An identification, description, illustration, or device which is affixed to, or represented directly or indirectly upon a building, structure, or land, which directs attention to a product, place, activity, person, institution, or business.
- .139 **Skirting:** A covering that totally obscures the undercarriage of a manufactured home, and extending from the top of the undercarriage to the ground.
- .140 **Soil Amendment:** A material, such as yard waste compost, added to the soil to improve soil chemistry or structure.
- .141 **Solid Waste:** Has the meaning given that term in ORS 495.005.
- .142 **Solid Waste Facility:**
 - A. **Conditionally Exempt Small Quantity Collection Facility:** A facility that receives, sorts, temporarily stores, controls, and processes for safe transport hazardous waste from conditionally exempt generators, as that term is defined in ORS 465.003.
 - B. **Demolition Landfill:** A land disposal site for receiving, sorting and disposing only land clearing debris, including vegetation and dirt, building construction and demolition debris and inert materials, and similar substances.
 - C. **Household Hazardous Waste Depot:** A facility for receiving, sorting, processing and temporarily storing household hazardous waste and for preparing that waste for safe transport to facilities authorized to receive, process, or dispose of such materials pursuant to federal or state law.
 - D. **Limited Purpose Landfill:** A land disposal site for the receiving, sorting and disposing of solid waste material, including but not limited to asbestos, treated petroleum, contaminated soil, construction,

land clearing and demolition debris, wood, treated sludge from industrial processes, or other special waste material other than unseparated municipal solid waste.

- E. **Resource Recovery Facility:** A facility for receiving, temporarily storing and processing solid waste to obtain useful material or energy.
- F. **Mixed Construction and Demolition Debris Recycling Facility:** A facility that receives, temporarily stores, processes, and recovers recyclable material from mixed construction and demolition debris for reuse, sale, or further processing.
- G. **Solid Waste Composting Facility:** A facility that receives, temporarily stores and processes solid waste by decomposing the organic portions of the waste by biological means to produce useful products, including, but not limited to, compost, mulch and soil amendments.
- H. **Monofill:** A land disposal site for receiving, sorting and disposing only one type of solid waste material or class of solid waste materials for burial, such as a facility which accepts only asbestos.
- I. **Municipal Solid Waste Depot:** A facility where sealed containers are received, stored up to seventy two (72) hours, staged, and/or transferred from one mode of transportation to another.
- J. **Small Scale Specialized Incinerator:** A facility that receives, processes, temporarily stores, and burns a solid waste product as an accessory use to a permitted use, including incinerators for disposal of infectious wastes as part of a medical facility, but not including mass burn solid waste incinerators, refuse-derived fuel technologies, human or animal remains crematorium, or any energy recovery process that burns unseparated municipal solid waste.
- K. **Solid Waste Facilities:** Any facility or use defined in Section 1.202.144 of this Code.
- L. **Solid Waste Transfer Station:** A facility that receives, processed, temporarily stores and prepares solid waste for transport to a final disposal site, with or without material recovery

prior to transfer.

- M. **Treatment and Storage Facility:** A facility subject to regulation under the Resource Conservation and Recovery Act. 42 USC SS 6901-6987, for receiving, sorting, treating, and/or temporarily storing hazardous waste, and for processing such waste for safe transport to facilities authorized to receive, treat, or dispose of such materials pursuant to federal or state law. Treatment and storage facilities do not include facilities for on-site disposal of hazardous waste.
- N. **Wood Waste Recycling Facility:** A facility that receives, temporarily stores and processes untreated wood, which does not contain pressure treated or wood preservative treated wood, in the form of scrap lumber, timbers, or natural wood debris, including logs, limbs, and tree trunks, for reuse, fuel, fuel pellets, or fireplace logs.
- O. **Yard Debris Depot:** A facility that receives yard debris for temporary storage, awaiting transport to a processing facility.
- P. **Yard Debris Processing Facility:** A facility that receives, temporarily stores and processes yard debris into a soil amendment, mulch or other useful product through grinding and/or controlled biological decomposition.
- .143 **Solid Waste Processing:** An activity or technology intended to change the physical form or chemical content of solid waste or recycled material including, but not limited to, sorting, baling, composting, classifying, hydropulping, incinerating or shredding.
- .144 **Story:** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six (6) feet above grade for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade at any point, such usable or unused under-floor space shall be considered as a story.
- .145 **Story, First:** The lowest story in a building, provided such floor level is not more than four (4) feet below

- grade, for more than 50 percent (50%) of the total perimeter, or not more than eight (8) feet below grade, at any point.
- .146 **Story, Half:** A story under a gable, hip, or gambrel roof, the wall plates of which, on at least two (2) exterior walls, are not more than three (3) feet above the floor of such story.
- .147 **Street:** A public or private road, easement or right-of-way that is created to provide access to one or more lots, parcels, areas or tracts of land. Categories of streets include:
- A. **Alley:** A street between sixteen (16) feet and ten (10) feet in width, typically to the rear lots.
 - B. **Arterial:** A street which is primarily used or planned for through and high volume traffic.
 - C. **Bikepath:** A street up to eight (8) feet in width for the exclusive use of bicycles, which may be incorporated into, or separate from, a vehicular roadway.
 - D. **Collector:** A street primarily used or planned to move traffic between the local street system, and onto major streets, but that may accommodate some through traffic.
 - E. **Local Street:** A street which is primarily used or planned for direct access to abutting properties.
 - F. **Cul-de-Sac:** A short street that terminates in a vehicular turnaround.
 - G. **Half Street:** A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street has been or could be provided by another subdivision.
 - H. **Marginal Access Street (frontage road):** A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.
- .148 **Street Line:** A dividing line between a lot and a street right-of-way.
- .149 **Street Plug:** A narrow strip of land located between a subdivision and other property, that is conveyed to the

City for the purpose of giving the City control over development on the adjacent property.

- .150 **Structure:** That which is built or constructed, an edifice or building or any kind, or any piece of work artificially built up or composed of parts joined together in some manner.
- .151 **Structural Alterations:** Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.
- .152 **Subdivision:** The division of an area or tract of land into four (4) or more lots within a calendar year, when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.
- .153 **Subdivision Improvements:** Construction of facilities such as streets; water, sewer, gas and telephone lines; storm drainage; and landscaping.
- .154 **Temporary Use:** A use of land, buildings or structures not intended to exceed twelve (12) months, unless otherwise permitted by this Code.
- .155 **Unified Sewerage Agency:** An agency of Washington County providing for sanitary sewer collection and treatment, and for storm water management.
- .156 **Urban Growth Boundary:** The Metropolitan Portland Urban Growth Boundary (UGB) as acknowledged by the State Land Conservation and Development Commission.
- .157 **Urban Zone:** A land use zone adopted by a unit of local government that applies to land inside a regional urban growth boundary.
- .158 **Use:** Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied, or any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.
- .159 **Use by Right:** A use which is a "use permitted outright" in any given zoning district established by this Code.
- .160 **Warehouse:** A structure or part of a structure used for storing and securing goods, wares or merchandise.

- .161 **Wetlands:** Those land areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are generally identified in the City's 1992 Local Wetland inventory, or in the absence of such identification, are based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989).
- .162 **Wholesale Trade:** The sale of goods and products to an intermediary generally for resale.
- .163 **Yard:** The existing or required space on a parcel which shall remain open, unoccupied, and unobstructed from the ground surface to the sky, except as otherwise provided by this Code. Categories of yards include:
- A. **Front Yard:** A yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.
 - B. **Rear Yard:** A yard, unoccupied except by a building or structure of an accessory type as provided by this Code, extending the full width of the lot between the rear lot line and the extreme rear line of a building.
 - C. **Side Yard:** The yard along the side line of a lot and extending from the setback line to the rear yard.
- .164 **Zero-Lot-Line:** Attached or detached dwelling units which are constructed with only one side yard or no rear yard setbacks.

CHAPTER 2
LAND USE AND DEVELOPMENT

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CHAPTER 2

LAND USE AND DEVELOPMENT

2.100 ZONING DISTRICTS

2.101 VERY LOW DENSITY RESIDENTIAL (VLDR)

2.101.01 Purpose

The VLDR zoning district provides for low density, larger lot single-family housing and other related uses in natural resource and environmentally sensitive areas warranting preservation, but otherwise deemed suitable for limited development, with a density generally not to exceed one (1) dwelling unit per acre. If developed through the PUD process, as per Section 2.202, and if all floodplain, wetlands, and other natural resource areas are dedicated or remain in common open space, a density not to exceed two (2) dwelling units per acre may be allowed.

2.101.02 Permitted Uses

The following uses and their accessory uses are permitted outright:

- A. Single-family detached or attached dwellings.
- B. Manufactured homes on individual lots as per Section 2.205.01
- C. Agricultural uses such as truck farming and horticulture, but excluding commercial buildings or structures, or the raising of animals other than household pets.
- D. Home occupations, subject to Section 2.203.
- E. Group homes not exceeding five (5) unrelated persons in residence, family day care providers, government assisted housing, provided such facilities are substantially identical, in the City's determination, in physical form to other types of housing allowed in the VLDR zone.
- F. Public recreational facilities, including but not limited to parks, playfields, sports and racquet courts, but excluding golf courses which are permitted conditionally.
- G. PUDs, subject to Sections 2.202 and 2.101.07.

- H. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Section 4.500.
- I. Residential care facility.

2.101.03 Conditional Uses

The following uses and their accessory uses are permitted as conditional uses when approved in accordance with Section 4.300.

- A. Churches and parsonages.
- B. Cemeteries and crematory mausoleums.
- C. Public and private schools providing education at the preschool level or higher, but excluding commercial trade schools which are prohibited.
- D. Day care facilities other than family day care providers, which are permitted outright.
- E. Government offices, including but not limited to postal stations, administrative offices, police and fire stations.
- F. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers.
- G. Plant nurseries and other agricultural uses, including commercial buildings and structures.
- H. Special care facilities, including but not limited to hospitals, sanitariums, and convalescent homes.
- I. Private lodges, fraternal organizations, country clubs, golf courses, and other similar clubs.
- J. Public and private utilities, including but not limited to telephone exchanges, electric sub-stations, gas regulator stations, sewage treatment plants, water wells, and public works yards.
- K. Any business, service, processing, storage, or display not conducted entirely within an enclosed building which is essential or incidental to any permitted or conditional use, as determined by the Commission.

- L. Radio, television, and similar communications stations, on lots with a minimum width and depth equal to the height of any tower, and in conformance with Section 2.306.
- M. Raising of animals other than household pets.
- N. Public golf courses.

2.101.04 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Size

Except as otherwise provided, required minimum lot dimensions shall be:

- | | | |
|----|-----------------------------------|----------------|
| 1. | Lot area (conventional): | 40,000 sq. ft. |
| | Lot area (under PUD): | 10,000 sq. ft. |
| 2. | Lot width at front property line: | 25 feet |
| 3. | Lot width at building line: | No minimum |
| 4. | Lot depth: | No minimum |

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

- | | | |
|----|---------------------------------------|---------|
| 1. | Front yard: | 20 feet |
| 2. | Side yard: | |
| | a. Single-Family Detached: | 5 feet |
| | b. Corner Lots (Street Side): | 20 feet |
| | c. Single-Family Attached (one side): | 20 feet |
| 3. | Rear yard: | 20 feet |

4. Accessory buildings may be constructed in the rear yard setback up to five (5) feet from the rear property line.
5. A minimum distance of ten (10) feet shall be maintained between a dwelling and any other building on the same lot.

C. Height

Except as otherwise provide, the maximum height of structures shall be two (2) stories or thirty (30) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings or to accessory buildings, may exceed this height limitation by up to twenty (20) feet.

2.101.05 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9.

2.101.06 Flood Plain

Except as otherwise provided, Section 8.202 shall apply.

2.101.07 Special Density Allowances

Housing densities up to two (2) units to the acre, and lot sizes down to 10,000 square feet, may be allowed in the VLDR zone when:

- A. The housing development is approved as a PUD, as per Section 2.202; and
- B. The following areas are dedicated to the public or preserved as common open space: floodplains, as per Section 8.202; natural resources areas, per the Natural Resources and Recreation Plan Map, attached as Appendix C, or as specified in Chapter 5 of the Community Development Plan; and wetlands defined and regulated as per current Federal regulations and Chapter 8 of this Code; and
- C. The Commission determines that the higher density development would better preserve natural resources as compared to a one (1) unit to the acre design.

2.102 LOW DENSITY RESIDENTIAL (LDR)

2.102.01 Purpose

The LDR zoning district provides for single-family housing and other related uses with a density not to exceed five (5) dwelling units per acre.

2.102.02 Permitted Uses

The following uses and their accessory uses are permitted outright:

- A. Single-family detached or attached dwellings.
- B. Manufactured homes on individual lots as per Section 2.205.01.
- C. Agricultural uses such as truck farming and horticulture, but excluding commercial buildings or structures, or the raising of animals other than household pets.
- D. Home occupations, subject to Section 2.203.
- E. Group homes not exceeding five (5) unrelated persons in residence, family day care providers, government assisted housing, provided such facilities are substantially identical in physical form to other types of housing allowed in the zoning district.
- F. Public recreational facilities, including but not limited to parks, playfields, sports and racquet courts, but excluding golf courses which are permitted conditionally.
- G. PUDs, subject to Sections 2.202 and 2.101.07.
- H. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Section 4.500.
- I. Residential care facility.

2.102.03 Conditional Uses

The following uses and their accessory uses are permitted as conditional uses when approved in accordance with Section 4.300:

- A. Churches and parsonages.
- B. Cemeteries and crematory mausoleums.

- C. Public and private schools providing education at the preschool level or higher, but excluding commercial trade schools which are prohibited.
- D. Day-care facilities other than family day care providers, which are permitted outright.
- E. Government offices, including but not limited to postal stations, administrative offices, police and fire stations.
- F. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers.
- G. Plant nurseries and other agricultural uses including commercial buildings and structures.
- H. Special care facilities, including but not limited to hospitals, sanitariums, and convalescent homes.
- I. Private lodges, fraternal organizations, country clubs, golf courses, and other similar clubs.
- J. Public and private utilities, including but not limited to telephone exchanges, electric sub-stations, gas regulator stations, sewage treatment plants, water wells, and public works yards.
- K. Any business, service, processing, storage, or display not conducted entirely within an enclosed building which is essential or incidental to any permitted or conditional use, as determined by the Commission.
- L. Radio, television, and similar communications stations, on lots with a minimum width and depth equal to the height of any tower, and in conformance with Section 2.306.
- M. Raising of animals other than household pets.
- N. Public golf courses.

2.102.04 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure or

the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Size

Except as otherwise provided, required minimum lot dimensions shall be:

- | | |
|--------------------------------------|----------------|
| 1. Lot area: | 7,000 sq. feet |
| 2. Lot width at front property line: | 25 feet |
| 3. Lot width at building line: | 60 feet |
| 4. Lot depth: | 80 feet |

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

- | | |
|---|---------|
| 1. Front yard: | 20 feet |
| 2. Side yard: | |
| a. Single-Family Detached: | 5 feet |
| b. Corner Lots (street side): | 20 feet |
| c. Single-Family Attached (one side): | 20 feet |
| 3. Rear yard: | 20 feet |
| 4. Accessory buildings may be constructed in the rear yard setback up to five (5) feet from the rear property line. | |
| 5. A minimum distance of ten (10) feet shall be maintained between a dwelling and any other building on the same lot. | |

C. Height

Except as otherwise provided the maximum height of structures shall be two (2) stories or thirty (30) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings and accessory buildings, may exceed this height limitation by up to twenty (20) feet.

2.102.05 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9.

2.102.06 Flood Plain

Except as otherwise provided, Section 8.202 shall apply.

2.103 MEDIUM DENSITY RESIDENTIAL LOW (MDRL)

2.103.01 Purpose

The MDRL zoning district provides for single-family and two-family housing, manufactured housing on individual lots and in manufactured home parks, and other related uses, with a density not to exceed eight (8) dwelling units per acre.

2.103.02 Permitted Uses

The following uses and their accessory uses are permitted outright:

- A. Single-family detached or attached dwellings.
- B. Two-family dwellings.
- C. Manufactured homes on individual lots as per Section 2.205.01.
- D. Manufactured home parks, subject to Section 2.205.02.
- E. Agricultural uses such as truck farming and horticulture, but excluding commercial buildings or structures, or the raising of animals other than household pets.
- F. Home occupations, subject to Section 2.203.
- G. Group homes not exceeding five (5) unrelated persons in residence, family day care providers, government assisted housing, provided such facilities are substantially identical in physical form to other types of housing allowed in the zoning district.
- H. Public recreational facilities, including but not limited to parks, playfields, sports and racquet courts, but excluding golf courses which are permitted conditionally.
- I. PUDs, subject to Sections 2.202 and 2.101.07.
- J. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Section 4.500.
- K. Residential care facility.

2.103.03 Conditional Uses

The following uses and their accessory uses are permitted as conditional uses when approved in accordance with Section 4.300:

- A. Churches and parsonages.
- B. Public and private schools providing education at the preschool level or higher, but excluding commercial trade schools which are prohibited.
- C. Day care facilities other than family day care providers, which are permitted outright.
- D. Government offices, including but not limited to postal stations, administrative offices, police and fire stations.
- E. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers.
- F. Plant nurseries and other agricultural uses including commercial buildings and structures.
- G. Special care facilities, including but not limited to hospitals, sanitariums, and convalescent homes.
- H. Private lodges, fraternal organizations, country clubs, golf courses, and other similar clubs.
- I. Public and private utilities, including but not limited to telephone exchanges, electric sub-stations, gas regulator stations, sewage treatment plants, water wells, and public works yards.
- J. Any business, service, processing, storage, or display not conducted entirely within an enclosed building which is essential or incidental to any permitted or conditional use, as determined by the Commission.
- K. Raising of animals other than household pets.
- L. Public golf courses.

2.103.04 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure or the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Size

Except as otherwise provided, required minimum lot dimensions shall be:

1. Lot areas:
 - a. Single-family Detached or Attached: 5,000 sq. ft.
 - b. Two-Family: 10,000 sq. ft.
 - c. Manufactured Homes: 5,000 sq. ft.
2. Lot width at front property line: 25 feet
3. Lot width at building line:
 - a. Single-family: 50 feet
 - b. Two-Family: 60 feet
 - c. Manufactured Homes: 50 feet
4. Lot depth: 80 feet

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: 20 feet
2. Side yards:
 - a. Single-Family Detached Corner Lot (street side) 5 feet
15 feet
 - b. Single-Family Attached (one side) 15 feet

- | | | |
|----|--------------------------|---------|
| c. | Two-Family | 5 feet |
| | Corner Lot (street side) | 15 feet |
| d. | Manufactured Home | 5 feet |
| | Corner Lot (street side) | 15 feet |
3. Rear yard: 20 feet
 4. Accessory buildings may be constructed in the rear yard setback up to five (5) feet from the rear property line.
 5. A minimum distance of ten (10) feet shall be maintained between a dwelling and any other building on the same lot.

C. Height

Except as otherwise provided, the maximum height of structures shall be two (2) stories or thirty (30) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings or to accessory buildings, may exceed the height limitation by up to twenty (20) feet.

2.103.05 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9.

2.103.06 Flood Plain

Except as otherwise provided, Section 8.202 shall apply.

2.104 MEDIUM DENSITY RESIDENTIAL HIGH (MDRH)

2.104.01 Purpose

The MDRH zoning district provides for a variety of medium density housing, including single-family, two-family housing, manufactured housing on individual lots, and multi-family housing, and other related uses, with a density not to exceed eleven (11) dwelling units per acre.

2.104.02 Permitted Uses

The following uses and their accessory uses are permitted outright:

- A. Single-family detached or attached dwellings.
- B. Two-family dwellings.
- C. Manufactured homes on individual lots as per Section 2.205.01.
- D. Multi-family dwellings.
- E. Agricultural uses such as truck farming and horticulture, but excluding commercial buildings or structures, or the raising of animals other than household pets.
- F. Home occupations, subject to Section 2.203.
- G. Group homes not exceeding five (5) unrelated persons in residence, family day care providers, government assisted housing, provided such facilities are substantially identical in physical form to other types of housing allowed in the zoning district.
- H. Public recreational facilities, including but not limited to parks, playfields, sports and racquet courts, but excluding golf courses which are permitted conditionally.
- I. PUDs, subject to Sections 2.202 and 2.101.07.
- J. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Section 4.500.
- K. Residential care facility.

2.104.03 Conditional Uses

- A. Churches and parsonages.
- B. Public and private schools providing education at the preschool level or higher, but excluding commercial trade schools which are prohibited.
- C. Day care facilities other than family day care providers, which are permitted outright.
- D. Government offices, including but not limited to postal stations, administrative offices, police and fire stations.
- E. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers.
- F. Plant nurseries and other agricultural uses including commercial buildings and structures.
- G. Special care facilities, including but not limited to hospitals, sanitariums, and convalescent homes.
- H. Private lodges, fraternal organizations, country clubs, golf courses, and other similar clubs.
- I. Public and private utilities, including but not limited to telephone exchanges, electric sub-stations, gas regulator stations, sewage treatment plants, water wells, and public works yards.
- J. Any business, service, processing, storage, or display not conducted entirely within an enclosed building which is essential or incidental to any permitted or conditional use, as determined by the Commission.
- K. Raising of animals other than household pets.
- L. Public golf courses.

2.104.04 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Dimensions

Except as otherwise provided, required minimum lot dimensions shall be:

1. Lot areas:

- | | |
|----------------------------|--|
| a. Single-Family Detached: | 5,000 sq. ft. |
| b. Single-Family Attached: | 4,000 sq. ft. |
| c. Two-Family: | 8,000 sq. ft. |
| d. Manufactured Homes | 5,000 sq. ft. |
| e. Multi-Family: | 8,000 sq. ft.
for the first two
(2) units & 3,200
sq. ft. for each
additional unit |

2. Lot width at front property line: 25 feet

3. Lot width at building line:

- | | |
|---------------------------------|---------|
| a. Single-Family: | 50 feet |
| b. Two-Family and Multi-Family: | 60 feet |
| c. Manufactured Homes: | 50 feet |

4. Lot depth: 80 feet

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

- | | |
|--|---------|
| 1. Front yard: | 20 feet |
| 2. Side yards: | |
| a. Single-Family Detached | 5 feet |
| Corner Lot (street side) | 15 feet |
| b. Single-Family Attached
(one side) | 5 feet |
| c. Two-Family | 5 feet |
| Corner Lot (street side) | 15 feet |
| d. Manufactured Home | 5 feet |
| Corner Lot (street side) | 15 feet |
| e. Multi-Family | |
| 1 story | 5 feet |
| 2 stories | 7 feet |
| 2 1/2 stories | 8 feet |
| Corner Lots (street side) | 20 feet |
| 3. Rear yard: | 20 feet |
| 4. Accessory buildings may be constructed in the rear yard setback up to five (5) feet from the rear property line. | |
| 5. Buildings which are grouped together in one project on one (1) tract of land shall be separated by a distance equal to the sum of the required yards for each building. | |
| 6. A minimum distance of ten (10) feet shall be maintained between a dwelling and any other building on the same lot. | |

C. Height

Except as otherwise provided, the maximum height of structures shall be two and one-half (2 1/2) stories or thirty five (35) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings and accessory buildings, may exceed the height limitation by up to twenty (20) feet.

2.104.05 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9.

2.104.06 Flood Plain

Except as otherwise provided, Section 8.202 shall apply.

2.105 HIGH DENSITY RESIDENTIAL (HDR)**2.105.01 Purpose**

The HDR zoning district provides for higher density multi-family housing and other related uses, with a density not to exceed sixteen (16) dwelling units per acre.

2.105.02 Permitted Uses

The following uses and their accessory uses are permitted outright:

- A. Single-family detached or attached dwellings.
- B. Two-family dwellings.
- C. Manufactured homes on individual lots as per Section 2.205.01.
- D. Multi-family dwellings, including boarding and rooming houses.
- E. Agricultural uses such as truck farming and horticulture, but excluding commercial buildings or structures, or the raising of animals other than household pets.
- F. Home occupations, subject to Section 2.203.
- G. Group homes not exceeding five (5) unrelated persons in residence, family day care providers, government assisted housing, provided such facilities are substantially identical in physical form to other types of housing allowed in the zoning district.
- H. Public recreational facilities, including but not limited to parks, playfields, sports and racquet courts, but excluding golf courses which are permitted conditionally.
- I. PUDs, subject to Sections 2.202 and 2.101.07.
- J. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Section 4.500.
- K. Residential care facility.

2.105.03 Conditional Uses

The following uses and their accessory uses are permitted as conditional uses when approved in accordance with Section 4.300:

- A. Churches and parsonages.
- B. Public and private schools providing education at the preschool level or higher, but excluding commercial trade schools which are prohibited.
- C. Day care facilities other than family day care providers, which are permitted outright.
- D. Government offices, including but not limited to postal stations, administrative offices, police and fire stations.
- E. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers.
- F. Plant nurseries and other agricultural uses including commercial buildings and structures.
- G. Special care facilities, including but not limited to hospitals, sanitariums, and convalescent homes.
- H. Private lodges, fraternal organizations, country clubs, golf courses, and other similar clubs.
- I. Public and private utilities, including but not limited to telephone exchanges, electric sub-stations, gas regulator stations, sewage treatment plants, water wells, and public works yards.
- J. Any business, service, processing, storage, or display not conducted entirely within an enclosed building which is essential or incidental to any permitted or conditional use, as determined by the Commission.
- K. Raising of animals other than household pets.
- L. Public golf courses.

2.105.04 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this

Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Dimensions

Except as otherwise provided, required minimum lot dimensions shall be:

1. Lot areas:

- | | |
|---------------------------|--|
| a. Single-Family Detached | 5,000 sq. ft. |
| b. Single-Family Attached | 4,000 sq. ft. |
| c. Two-Family: | 8,000 sq. ft. |
| d. Multi-Family: | 8,000 sq. ft. for
the first two (2)
units & 2,200 sq.
ft. for each
additional unit |

2. Lot width at front property line: 25 feet

3. Lot width at building line:

- | | |
|---------------------------------|---------|
| a. Single-Family: | 50 feet |
| b. Two-Family and Multi-Family: | 60 feet |

4. Lot depth: 80 feet

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: 20 feet

2. Side yards:

- | | |
|--|---------|
| a. Single-Family Detached: | 5 feet |
| Corner Lot (street side): | 15 feet |
| b. Single-Family Attached
(one side): | 5 feet |

- | | | |
|----|----------------------------|---------|
| c. | Two-Family: | 5 feet |
| | Corner Lot (street side): | 15 feet |
| d. | Multi-Family | 5 feet |
| | 1 story: | 7 feet |
| | 2 stories: | 8 feet |
| | 2 1/2 stories: | 30 feet |
| | Corner Lots (street side): | 20 feet |
3. Rear yard:
 4. Accessory buildings may be constructed in the rear yard setback up to five (5) feet from the rear property line.
 5. Buildings which are grouped together in one (1) project on one (1) tract of land shall be separated by a distance equal to the sum of the required yards for each building.
 6. A minimum distance of ten (10) feet shall be maintained between a dwelling and any other building on the same lot.

C. Height

Except as otherwise provided, the maximum height of structures shall be three (3) stories or forty (40) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwelling or accessory buildings may exceed the height limitation by up to twenty (20) feet.

2.105.05 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open spaces, on-site storage, and site design, see Chapters 5, 8 and 9.

2.105.06 Flood Plain

Except as otherwise provided, Section 8.202 shall apply.

2.106 OFFICE COMMERCIAL (OC)**2.106.01 Purpose**

The OC zoning district provides areas for business and professional offices and related uses in locations where they can be closely associated with residential areas and adequate major streets.

2.106.02 Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Chapter 8:

- A. Offices, studios or clinics of architects, artists, attorneys, dentists, engineers, physicians, or other similar professional services, excepting veterinarians.
- B. Offices of educational, financial, governmental, non-profit, real estate, research, or other similar service organizations whose activities are such that few visitors, other than employees, have reason to come to the premises.
- C. Restaurants, taverns and lounges.
- D. Other similar office uses, subject to Section 4.600.
- E. PUDs, subject to Section 2.202.
- F. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Section 4.500.

2.106.03 Conditional Uses

The following uses are permitted as conditional uses, provided such uses meet the applicable environmental performance standards contained in Chapter 8, and are approved in accordance with Section 4.300:

- A. Hotels and motels.
- B. Apartments when located on the upper floors, in the rear of, or otherwise clearly secondary to a commercial building.
- C. Uses permitted outright in the RC zone, pursuant to Section 2.108.

2.106.04 Prohibited Uses

The following uses are expressly prohibited:

A. Adult Entertainment Businesses**2.106.05 Dimensional Standards**

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Dimensions

Except as otherwise provided, required minimum lot areas dimensions shall be:

- | | |
|--------------------------------|----------------|
| 1. Lot area: | 10,000 sq. ft. |
| 2. Lot width at property line: | 60 feet |
| 3. Lot width at building line: | 60 feet |

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

- | | |
|---|--|
| 1. Front yard: | None. |
| 2. Side yards: | None, except ten (10) feet when abutting a residential zone or public park. |
| 3. Rear yard: | None, except twenty (20) feet when abutting a residential zone or public park. |
| 4. Existing residential uses shall maintain minimum setbacks specified in Section 2.105.04. | |

C. Height

Except as otherwise provided, the maximum height shall be fifty (50) feet, except that structures within one hundred (100) feet of a residential zone shall be limited to the height requirements of that zone.

2.106.06 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9.

2.106.07 Flood Plain

Except as otherwise provided, Section 8.202 shall apply.

2.107 NEIGHBORHOOD COMMERCIAL (NC)

2.107.01 Purpose

The NC zoning district provides for small scale, retail and service uses, located in or near residential areas and enhancing the residential character of those neighborhoods.

2.107.02 Permitted Uses

The following uses are permitted outright provided such uses meet the applicable environmental performance standards contained in Chapter 8:

- A. Professional services, including but not limited financial, medical and dental, social services, real estate, legal, artistic, and similar uses.
- B. General retail trade, including bakeries where product distribution is limited to retailing on the premises only.
- C. Personal and business services, including day cares, preschools, and kindergartens.
- D. Postal substations when located entirely within and incidental to a use permitted outright.
- E. Temporary uses, including but not limited to portable construction offices and real estate sales offices, subject to Section 4.500.

2.107.03 Conditional Uses

The following uses are permitted as conditional uses, provided such uses meet the applicable environmental performance standards contained in Chapter 8, and are approved in accordance with Section 4.300:

- A. Public and private schools providing education at the elementary school level or higher, but excluding commercial trade schools which are prohibited.
- B. Automotive service stations, except as excluded by Section 2.107.04.E.
- C. Restaurants, taverns, and lounges, but excluding establishments with drive-in or take-out services which are prohibited.

- D. Government offices, including but not limited to administrative offices, post offices, and police and fire stations.
- E. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers.
- F. Residential apartments when located on the upper floors, in the rear of, or otherwise clearly secondary to commercial buildings.
- G. Any incidental business, service, processing, storage or display, not otherwise permitted by Section 2.107, that is essential to and customarily associated with uses permitted outright.

2.107.04 Prohibited Uses

The following uses are expressly prohibited:

- A. Adult entertainment businesses.
- B. Veterinarian offices and animal hospitals.
- C. Restaurants, taverns, and lounges with drive-in or take-out services.
- D. Wholesale trade, warehousing, commercial storage, and mini-warehousing.
- E. All automotive and equipment repair and service, unless clearly incidental and secondary to and customarily associated with a use permitted outright.
- F. Commercial trade schools.
- G. Farm and garden supply stores, plant nurseries, and other agricultural uses, excluding florist shops which are permitted outright.
- H. Automobile, recreational vehicle, motorcycle, manufactured home, boat, farm, and other large equipment sales, parts sales, rental or service.
- I. Blueprinting, printing, publishing, or other reproduction services.
- J. Motion picture and live theaters.

- K. Special care facilities, including but not limited to hospitals, sanitariums, convalescent homes, correctional institutions, and residential care facilities.
- L. Radio, television, and similar communication stations, including transmitters.
- M. Junkyards and salvage yards.
- N. Contractors storage and equipment yards.
- O. Building material sales and lumberyards.
- P. Churches and parsonages.
- Q. Cemeteries and crematory mausoleums.
- R. Public and private utility buildings, including but not limited to telephone exchanges, electric substations, gas regulator stations, treatment plants, water wells, and public works yards.
- S. Medical, dental, and similar laboratories.
- T. Motels or hotels.
- U. Private lodges, fraternal organizations, country clubs, sports and racquet clubs, golf courses, and other similar clubs.
- V. Public recreational facilities, including but not limited to parks, playfields, golf courses, and sports and racquet courts.

2.107.05 Special Criteria

All permitted and conditional uses shall be found by the Commission to conform to the purpose of the NC zone as stated in Section 2.107.01, and:

- A. Shall be conducted entirely within enclosed buildings, except for:
 1. Exterior sales, display and storage for horticultural and food merchandise provided said exterior area does not exceed five percent (5%) of the gross floor area of each individual business establishment.
 2. Circumstances where the nature of the permitted or conditional use clearly makes total enclosure

impracticable, such as in the case of automotive service stations, provided that the exterior area shall be the minimum necessary to effectively conduct the use, as determined by the Commission.

- B. No more than four (4) permitted or conditional uses may be established within any single NC zoning district, and each use or establishment may occupy a maximum of four thousand (4,000) square feet of gross floor area, including any permitted exterior business areas.
- C. No single NC zoning district shall be greater than one (1) acre in area, and each district shall have a minimum width of eighty-five (85) feet at the front property line, and one-hundred (100) feet at the building line.
- D. Permitted and conditional uses may operate only between the hours of 7 a.m. and 10 p.m.

2.107.06 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: 20 feet.
2. Side yard: None, except that when abutting a residential zone, there shall be the same side yard as required in the residential zone.
3. Rear yard: None, except ten (10) feet when abutting a residential zone or public park.
4. Corner lots: Twenty (20) feet on any side facing a street.
5. Existing residential uses shall maintain minimum setbacks specified in Section 2.105.04.

B. Height

Except as otherwise provided, the maximum height of buildings in the NC zone shall be limited to the height requirements of the least restrictive abutting residential zone.

2.107.07 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9.

2.107.08 Flood Plain

Except as otherwise provided, Section 8.202 shall apply.

2.108 RETAIL COMMERCIAL (RC)**2.108.01 Purpose**

The RC zoning district provides areas for general retail and service uses that neither require larger parcels of land, nor produce excessive environmental impacts as per Chapter 8.

2.108.02 Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Chapter 8:

- A. Professional services, including but not limited to financial, medical and dental, social services, real estate, legal, artistic, and similar uses.
- B. General retail trade, including bakeries where product distribution is limited to retailing on the premises only.
- C. Personal and business services, including day cares, preschools, and kindergartens.
- D. Postal substations when located entirely within and incidental to a use permitted outright.
- E. Temporary uses, including but not limited to portable construction offices and real estate sales offices, subject to Section 4.500.
- F. Farm and garden supply stores, and retail plant nurseries, but excluding wholesale plant nurseries, and commercial farm equipment and vehicle sales which are prohibited.
- G. Agricultural uses such as truck farming and horticulture, excluding commercial buildings and structures, or the raising of animals other than household pets.
- H. Commercial trade schools.
- I. Motion picture and live theaters, but excluding drive-ins which are prohibited.
- J. Restaurants, taverns, and lounges.
- K. Automotive and other appliance and equipment parts sales, but excluding junkyards and salvage yards which are prohibited.

- L. Blueprinting, printing, publishing, or other reproduction services.

2.108.03 Conditional Uses

The following uses are permitted as conditional uses, provided such uses meet the applicable environmental performance standards contained in Chapter 8, and are approved in accordance with Section 4.300:

- A. Automotive service stations, including tire and wheel balancing, and incidental repair, when conducted entirely within an enclosed building.
- B. Automotive, light truck and small equipment repair and service, when conducted entirely within an enclosed building.
- C. Churches and parsonages.
- D. Cemeteries and crematory mausoleums.
- E. Public and private utility buildings, including but not limited to telephone exchanges, electric substations, gas regulator stations, sewage treatment plants, water wells, and public works yards.
- F. Government offices, including but not limited to administrative offices, post offices, and police and fire stations.
- G. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers.
- H. Medical, dental, and similar laboratories
- I. Private lodges, fraternal organizations, country clubs, sports and racquet clubs, and other similar clubs, but excluding golf courses which are prohibited.
- J. Motels or hotels.
- K. Residential apartments when located on the upper floors, in the rear of, or otherwise clearly secondary to commercial buildings.
- L. Public recreational facilities, including but not limited to parks, playfields, and sports and racquet courts, but excluding golf courses which are prohibited.

- M. Public and private schools providing education at the elementary school level or higher.
- N. Veterinarian offices and animal hospitals.
- O. Building material sales and lumber yards, when conducted entirely within an enclosed building.
- P. Any incidental business, service, processing, storage or display, not otherwise permitted by Section 2.108, that is essential to and customarily associated with a use permitted outright, provided said incidental use is conducted entirely within an enclosed building.
- Q. Residential care facilities.

2.108.04 Prohibited Uses:

The following uses are expressly prohibited:

- A. Adult entertainment businesses.
- B. Junkyards and salvage yards.
- C. Drive-in motion picture theaters.
- D. Wholesale trade, warehousing, commercial storage, and mini-warehousing.
- E. Contractors storage and equipment yards.
- F. Automobile, recreational vehicle, motorcycle, truck, manufactured home, boat, farm, and other large equipment sales, rental, or service.
- G. Special care facilities, including but not limited to hospitals, sanitariums, convalescent homes, and correctional institutions.
- H. Radio, telephone, and similar communication stations, including transmitters.
- I. Wholesale plant nurseries.
- J. Any other prohibited uses noted in Sections 2.108.02 or 2.108.03.

2.108.05 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Dimensions

Except as otherwise provided, required minimum lot areas and dimensions shall be:

- | | |
|--------------------------------------|----------------|
| 1. Lot area: | 5,000 sq. feet |
| 2. Lot width at front property line: | 40 feet |
| 3. Lot width at building line: | 40 feet |

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: None, except when the lot abuts a residential zone, the front yard shall be that required in the residential zone.
2. Side yard: None, except ten (10) feet where adjoining a residential zone or public park.
3. Existing residential uses shall maintain setbacks specified in Section 2.105.04.

C. Height

Except as otherwise provided, the maximum height of structures shall be fifty (50) feet, except that structures within one hundred (100) feet of a residential zone shall be limited to the height requirements of that residential area. Structures over fifty (50) feet in height may be permitted as conditional uses, subject to Section 4.300.

2.108.06 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9.

2.108.07 Flood Plain

Except as otherwise provided, Section 8.202 shall apply.

2.109 GENERAL COMMERCIAL (GC)

2.109.01 Purpose

The GC zoning district provides for wholesale and commercial uses which require larger parcels of land, and or uses which involve products or activities which require special attention to environmental impacts as per Chapter 8.

2.109.02 Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Chapter 8:

- A. Professional services, including but not limited to financial, medical and dental, social services, real estate, legal, artistic, and similar uses.
- B. General retail trade, including bakeries where product distribution is limited to retailing on the premises only.
- C. Personal and business services, including day cares, preschools, and kindergartens.
- D. Postal substations when located entirely within and incidental to a use permitted outright.
- E. Temporary uses, including but not limited to portable construction offices and real estate sales offices, subject to Section 4.500.
- F. Farm and garden supply stores, and retail plant nurseries, but excluding wholesale plant nurseries, and commercial farm equipment and vehicle sales which are prohibited.
- G. Agricultural uses such as truck farming and horticulture, excluding commercial buildings and structures, or the raising of animals other than household pets.
- H. Commercial trade schools.
- I. Motion picture and live theaters, but excluding drive-ins which are prohibited.
- J. Restaurants, taverns, and lounges.

- K. Automotive and other appliance and equipment parts sales, but excluding junkyards and salvage yards which are prohibited.
- L. Blueprinting, printing, publishing, or other reproduction services.
- M. Automobile, recreational vehicle, motorcycle, truck, manufactured home, boat, farm, and other equipment sales, parts sales, repairs, rentals or service.
- N. Wholesale trade, warehousing, commercial storage and mini-warehousing, except as prohibited in Sections 2.110.04E and 2.111.04E.
- O. Limited manufacturing, including only: beverage bottling plants, commercial bakeries, machine shops, and handicraft manufacturing.
- P. Building material sales, lumberyards, contractors storage and equipment yards, building maintenance services, and similar uses.
- Q. Veterinarian offices and animal hospitals.
- R. Agricultural uses including but not limited to farming, and wholesale and retail plant nurseries, with customarily associated commercial buildings and structures permitted.
- S. Medical, dental, and similar laboratories.
- T. Truck and bus yards and terminals.
- U. Adult entertainment businesses, subject to Section 2.208.

2.109.03 Conditional Uses

The following uses are permitted as conditional uses, provided such uses meet the applicable environmental performance standards contained in Chapter 8, and are approved in accordance with Section 4.300:

- A. Special care facilities, including but not limited to hospitals, sanitariums, convalescent homes, correctional institutions, and residential care facilities.
- B. Radio, television, and similar communication stations, including transmitters.
- C. Churches and parsonages.

- D. Cemeteries and crematory mausoleums.
- E. Public and private utility buildings, including but not limited to telephone exchanges, electric substation, gas regulator stations, treatment plants, water wells, and public works yards.
- F. Government offices, including but not limited to administrative office, post offices, and police and fire stations.
- G. Public use buildings including but not limited to libraries, museums, community centers and senior centers.
- H. Private lodges, fraternal organizations, country clubs, sports and racquet clubs, and other similar clubs, but excluding golf courses which are prohibited.
- I. Motels or hotels.
- J. Residential apartments when located on the upper floors, in the rear of, or otherwise clearly secondary to a commercial building.
- K. Public recreational facilities, including but not limited to parks, playfields, and sports and racquet courts, but excluding golf courses which are prohibited.
- L. Public and private schools providing education at the elementary school level or higher.
- M. Any incidental business, service, process, storage or display, not otherwise permitted by Section 2.109, that is essential to and customarily associated with any use permitted outright.

2.109.04 Prohibited Uses

The following uses are expressly prohibited:

- A. Junkyards and salvage yards.
- B. Industrial and manufacturing uses, except as specifically permitted by Sections 2.109.02 and 2.109.03.
- C. Any other prohibited use noted in Section 2.109.03.

2.109.05 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or

requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Dimensions

Except as otherwise provided, required minimum lot areas and dimensions shall be:

1. Lot area: 10,000 square feet
2. Lot width at front property line: 70 feet
3. Lot width at building line: 70 feet

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: None, unless the lot abuts a residential zone, then the front yard shall be that required in the residential zone.
2. Side yards: None, unless abutting a residential zone or public park property, then there shall be a minimum of twenty (20) feet.
3. Rear yard: None, unless abutting a residential zone, then there shall be a minimum of twenty (20) feet.
4. Existing residential uses shall maintain setbacks specified in Section 2.105.04.

C. Height

Except as otherwise provided, the maximum height of structures shall be fifty (50) feet, except structures within one hundred (100) feet of a residential zone shall be limited to the height requirements of that residential area. Structures over fifty (50) feet in height may be permitted as conditional uses, subject to Section 4.300.

2.109.06 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9.

2.109.07 Flood Plain

Except as otherwise provided, Section 8.202 shall apply.

2.110 LIGHT INDUSTRIAL (LI)**2.110.01 Purpose**

The LI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products which have been previously prepared from raw materials. Industrial establishments shall not have objectionable external features and shall feature well-landscaped sites and attractive architectural design, as determined by the Commission.

2.110.02 Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Chapter 8.

- A. Veterinarians offices and animal hospitals.
- B. Contractor's offices, and other offices associated with a use permitted in the LI zone.
- C. Public and private utilities including but not limited to telephone exchanges, electric substations, gas regulator stations, sewage treatment plants, water wells and public works yards.
- D. Glass installation and sales.
- E. Government offices, including but not limited to postal stations, administrative offices, police and fire stations.
- F. Automobile, boat, trailer, and recreational vehicle storage.
- G. Laboratories for testing and medical, dental, photographic, or motion picture processing, except as prohibited by Section 2.110.04E.
- H. Industrial hand tool and supply sales, primarily wholesaled to other industrial firms or industrial workers.
- I. Other similar light industrial uses subject to Section 4.600.
- J. Uses permitted outright in the GC zone, Section 2.109.02, except for adult entertainment businesses which are prohibited.

- K. Dwelling unit for one (1) security person employed on the premises, and their immediate family.
- L. PUDs, subject to the provisions of Section 2.202.
- M. Temporary uses, including but not limited to construction and real estate sales offices, subject to Section 4.500.

2.110.03 Conditional Uses

The following uses are permitted as Conditional Uses provided such uses meet the applicable environmental performance standards contained in Chapter 8 and are approved in accordance with Section 4.300:

- A. Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesaling, warehousing or storage of the following articles or products:
 1. Food products, including but not limited to candy, dairy products, beverages, coffee, canned goods and baked goods, and meat and poultry, except as prohibited by Section 2.110.03.
 2. Appliances, including but not limited to, refrigerators, freezers, washing machines, dryers; small electronic motors and generators; heating and cooling equipment; lawn mowers, rototillers, and chain saws; vending machines; and similar products and associated small parts.
 3. Cosmetics, drugs, pharmaceutical, toiletries, chemicals and similar products, except as prohibited by Section 2.110.04.
 4. Electrical, radio, television, optical, scientific, hearing aids, electronic, computer, communications and similar instruments, components, appliances and systems, and similar products and associated small parts.
 5. Building components and household fixtures, including but not limited to furniture, cabinets, and upholstery; ladders; mattresses, doors and windows; signs and display structures; and similar products and associated small parts.
 6. Recreational vehicles and equipment, including but not limited to bicycles, recreational watercraft, exercise equipment, and similar products and

associated small parts, but excluding motorized equipment unless otherwise permitted by Section 2.110.02 or 2.110.03.

7. Musical instruments, toys and novelties.
 8. Pottery and ceramics, limited to products using previously pulverized clay.
 9. Textiles and fiber products.
 10. Other small products and tools manufactured from previously prepared or semi-finished materials, including but not limited to bone, fur, leather, feathers, textiles, plastics, glass, wood products, metals, tobacco, rubber, and precious or semi-precious stones.
- B. Laundry, dry cleaning, dyeing or rug cleaning plants.
 - C. Light metal fabrication, machining, welding and electroplating and casting or molding of semi-finished or finished metals.
 - D. Offices associated with a use conditionally permitted in the LI Zone.
 - E. Sawmills.

2.110.04 Prohibited Uses

The following uses are expressly prohibited:

- A. Adult Entertainment Businesses.
- B. Any use permitted or conditionally permitted under Section 2.111 that is not specifically listed in this Section, and any use listed in Section 2.111.04.
- C. Auto wrecking and junk or salvage yards.
- D. Distillation of oil, coal, wood or tar compounds and the creosote treatment of any products.
- E. Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesale, warehousing, or storage of the following products of substances, except for any incidental business, service, process, storage, or display that is essential to and customarily associated, in the City's determination, with any otherwise permitted or conditionally permitted use:

1. Abrasives, acids, disinfectants, dyes and paints, bleaching powder and soaps and similar products.
 2. Ammonia, chlorine, sodium compounds, toxics, and similar chemicals.
 3. Celluloid or pyroxylin.
 4. Cement, lime, gypsum, plaster of Paris, clay, creosote, coal and coke, tar and tar-based roofing and waterproofing materials and similar substances.
 5. Explosives and radioactive materials.
 6. Fertilizer, herbicides and insect poison.
- F. Metal rolling and extraction mills, forge plants, smelters and blast furnaces.
- G. Pulp mills and paper mills.
- H. Slaughter of livestock or poultry, the manufacture of animal by-products or fat rendering.
- I. Leather tanneries.
- J. General purpose solid waste landfills, incinerators, and other solid waste facilities.

2.110.05 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Dimensions

Except as otherwise provided, required minimum lot area and dimensions shall be:

- | | |
|--------------------------------------|-----------------|
| 1. Lot area: | 10,000 sq. feet |
| 2. Lot width at front property line: | 100 feet |
| 3. Lot width at building line: | 100 feet |

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: Twenty (20) feet, except when abutting a residential zone or public park, then there shall be a minimum of forty (40) feet.
2. Side yards: None, except when abutting a residential zone, then there shall be a minimum of forty (40) feet.
3. Rear yard: None, except when abutting a residential zone, then there shall be a minimum of forty (40) feet.
4. Corner lots: Twenty (20) feet on any side facing a street, except when abutting a residential zone, then there shall be a minimum of forty (40) feet.

C. Height

Except as otherwise provided, the maximum height shall be fifty (50) feet, except that structures within one hundred (100) feet of a residential zone shall be limited to the height requirements of the residential zone.

2.110.06 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9.

2.110.07 Flood Plain

Except as otherwise provided, Section 8.202 shall apply.

2.111 GENERAL INDUSTRIAL (GI)**2.111.01 Purpose**

The GI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products from previously prepared or raw materials, providing such activities can meet and maintain minimum environmental quality standards and are situated so as not to create significant adverse effects to residential and commercial areas of the City. The minimum contiguous area of any GI zoning district shall be fifty (50) acres.

2.111.02 Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Chapter 8.

- A. Contracting and building material and equipment storage yards; cold storage facilities; equipment rental and sales; building materials sales; and building maintenance services yard, except as prohibited by Section 2.111.04.
- B. Public and private utilities, including but not limited to telephone exchanges, electric substations, gas regulator stations, sewage treatment plants, water wells, and public works yard.
- C. Laboratories for testing and medical, dental, photographic, or motion picture processing, except as prohibited by Section 2.111.04E.
- D. Manufacturing, compounding, processing, assembling, packaging, treatment, fabrication, wholesaling, warehousing, or storage of the following articles or products, except as prohibited in Section 2.111.04E:
 - 1. Drugs, pharmaceutical, toiletries, cosmetics, chemicals and similar products, except as prohibited in Section 2.111.04D.
 - 2. Electrical, radio, television, optical, scientific, hearing aids, electronic, computer, communication and similar instruments, components appliances and systems, and similar products and associated small parts.

3. Food products including but not limited to candy, dairy products, beverages, coffee, canned goods, baked goods, and meat and poultry, except as per Section 2.111.04H.
 4. Furniture, cabinetry, upholstery, and signs and display structures.
 5. Glass and ceramics.
 6. Iron, steel, sheetmetal, other metal products, hand tools, including machining, welding, electroplating, and casting and molding of semi-finished and finished metals, except as prohibited by Section 2.111.04F.
 7. Leather products, except as per Section 2.111.04I.
 8. Musical instruments, toys, and novelties.
 9. Paper, wood, lumber and similar products, except as prohibited by Section 2.111.04G.
 10. Plastics and plastic products.
 11. Recreational vehicles, and other motor vehicles, manufactured homes, trailers, boats and farm equipment and greenhouses.
 12. Boxes and containers made from paper, wood, metal and other materials.
 13. Textile and fiber products.
 14. Appliances, including but not limited to refrigerators, freezers, washing machines, dryers; small electric motors and generators; heating and cooling equipment; lawn mowers, rototillers, and chain saws; vending machines; and similar products and associated small parts.
 15. Other small products and tools composed of previously prepared or semi-finished materials, building components and household fixtures, including but not limited to furniture, cabinets, and upholstery; ladders, mattresses, doors and windows; signs and display structures; and similar products and associated small parts.
- E. Wholesale plumbing supplies and service.

- F. Blueprinting, printing, publishing or other reproduction services.
- G. Laundry, dry cleaning, dyeing, or rug cleaning plants.
- H. Truck and bus yards and terminals.
- I. Wholesale trade, warehousing, commercial storage, and mini-warehousing, except as prohibited in Section 2.111.04E.
- J. Other similar general industrial uses, subject to Section 4.600.
- K. Dwelling unit for one (1) security person employed on the premises and their immediate family.
- L. PUDs, subject to the provisions of Section 2.202.
- M. Temporary uses, including but not limited to construction and real estate sales offices, subject to Section 4.500.
- N. Other uses permitted outright in the GC zone, Section 2.109.02, and LI zone, Section 2.110.02, except for adult entertainment business which are prohibited.

2.111.03 Conditional Uses

The following uses are permitted as conditional uses provided such uses meet the applicable environmental performance standards contained in Chapter 8 and are approved in accordance with Section 4.300.

- A. Government offices, including but not limited to, postal stations, administrative offices, police and fire stations.
- B. Sand and gravel pits, rock crushers, concrete and asphalt mixing plants, and other mineral and aggregate extraction, subject to Sections 2.111.04 and 8.302.

2.111.04 Prohibited Uses

The following uses are expressly prohibited:

- A. All uses permitted in residential or commercial zones not otherwise specifically permitted by Sections 2.111.02 and 2.111.03.
- B. Auto wrecking and junk or salvage yards.

- C. Commercial radio, television or similar communication broadcasting stations or equipment.
- D. Distillation of oil, coal, wood or tar compounds and the creosote treatment of any products.
- E. Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesale, warehousing, or storage of the following products or substances, except for any incidental business, service, process, storage, or display that is essential to and customarily associated, in the City's determination, with any otherwise permitted or conditionally permitted uses:
 - 1. Abrasives, acids, disinfectants, dyes and paints, bleaching powder and soaps and similar products.
 - 2. Ammonia, chlorine, sodium compounds and similar chemicals.
 - 3. Celluloid or pyroxylin.
 - 4. Cement, lime, gypsum, plaster of Paris, clay, creosote, coal and coke, tar and tar-based roofing and waterproofing materials and similar substances.
 - 5. Explosives and radioactive materials.
 - 6. Fertilizer herbicides and insect poison.
- F. Metal rolling and extraction mills, forge plants, smelters, and blast furnaces.
- G. Saw mills and pulp mills.
- H. Slaughter of livestock or poultry, the manufacture of animal by-products or fat rendering.
- I. Leather tanneries.
- J. General purpose solid waste landfills and incinerators, and other solid waste facilities except as permitted per Sections 2.110.03 and 8.303.

2.111.05 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code.

Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Dimensions

Except as otherwise provided, required minimum lot area and dimensions shall be:

- | | | |
|----|-----------------------------|-----------------|
| 1. | Lot area: | 20,000 sq. feet |
| 2. | Lot width at front property | 100 feet |
| 3. | Lot width at building line: | 100 feet |

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: None, except when abutting a residential zone or public park, then there shall be a minimum of fifty (50) feet.
2. Side yards: None, except when abutting a residential zone, then there shall be a minimum of fifty (50) feet.
3. Rear yard: None, except when abutting a residential zone, then there shall be a minimum of fifty (50) feet.
4. Corner lots: None, except when abutting a residential zone, then there shall be a minimum of fifty (50) feet.

C. Height

Except as otherwise provided, the maximum height shall be fifty (50) feet, except that structures within one hundred (100) feet of a residential zone shall be limited to the height requirements of the residential zone.

2.111.06 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design see Chapters 5, 8 and 9.

2.111.07 Flood Plain

Except as otherwise provided, Section 8.202, shall apply.

2.112 RESERVED**2.113 INSTITUTIONAL AND PUBLIC (IP)****2.113.01 Purpose**

The IP zoning district provides for major institutional and governmental activities such as schools, public parks, churches, government offices, utility structures, hospitals, correctional facilities and other similar public and quasi-public uses.

2.113.02 Conditional Uses

The following uses are permitted as conditional uses provided such uses meet the applicable environmental performance standards contained in Chapter 8, and are approved in accordance with Section 4.300:

- A. Government offices, including but not limited to, postal stations, administrative offices, police and fire stations.
- B. Public use buildings, including but not limited to, libraries, museums, community centers, and senior centers.
- C. Churches and parsonages.
- D. Cemeteries and crematory mausoleums.
- E. Public recreational facilities, including but not limited to, parks, playfields, golf courses, and sport and racquet courts.
- F. Public and private schools providing education at the preschool level or higher, excluding commercial trade schools.
- G. Public and private utilities, including but not limited to, telephone exchanges, electric substations, gas regulator stations, treatment plants, water wells and public works yards.
- H. Public television and similar communication stations.
- I. Dwelling unit, including a manufactured home, for one (1)

security person employed on the premises, and their immediate family, and other forms of residence normally associated with a conditional use, as determined by the Commission.

2.113.03 Prohibited Uses

The following uses are expressly prohibited:

- A. Private lodges, fraternal organizations, country clubs, golf courses, and other similar clubs.
- B. Radio, television and similar communication stations, except when publicly owned.
- C. Residential uses, except for as conditionally permitted in Section 2.113.02I.

2.113.04 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Dimensions

Except as otherwise provided, no minimum lot areas or dimensions are required.

B. Setback

Except as otherwise provided, the minimum required setbacks in the IP zone shall be:

1. Front yard: None, except that when the lot abuts a residential zone or public park property, the setback shall be a minimum of twenty (20) feet.
2. Side yard: None, except that when the lot abuts a residential zone or public park property, the setback shall be a minimum of twenty (20) feet.
3. Rear yard: None, except that when the lot abuts a residential zone or public park property, the setback shall be a minimum of twenty (20) feet.

C. Height

Except as otherwise provided, the maximum height of buildings in the IP zone shall be fifty (50) feet, except that structures within one hundred (100) feet of a residential zone shall be limited to the height requirement of that residential zone.

2.113.05 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources environmental resources, landscaping, access and egress, site design, parks and open space, on-site storage, and signs, see Chapters 5, 8 and 9.

2.113.06 Flood Plain

Except as otherwise provided, Section 8.202, shall apply.

2.200 SPECIAL USES

2.201 GENERAL PROVISIONS

Special uses included in Section 2.200 are uses which, due to their effect on surrounding properties, must be developed in accordance with special conditions and standards. These conditions and standards may differ from the development standards established for other uses in the same zoning district. When a dimensional standard for a special use differs from that of the underlying zoning district, the standard for the special use shall apply.

2.202 PLANNED UNIT DEVELOPMENT (PUD)

2.202.01 Purpose

- A. PUDs integrate buildings, land use, transportation facilities, utility systems and open space through an overall site design on a single parcel of land. The PUD process allows creativity and flexibility in site design which cannot be achieved through a strict adherence to zoning and subdivision standards.
- B. The PUD district is intended to achieve the following objectives:
 1. Encourage efficient use of land and resources that can result in savings to the community, consumers and developers.
 2. Preserve valuable landscape, terrain and other environmental amenities.
 3. Provide diversified, and innovative living, working or shopping environments that take into consideration community needs and activity patterns.
 4. Achieve maximum energy efficiency in land uses.

2.202.02 Preliminary Development Plan

A. Generally

A PUD Preliminary Development Plan shall be submitted for the review and approval of the Commission and Council. PUDs shall only be considered on sites that are unusually constrained or limited in development potential, as compared to other land with the same underlying zoning designation, because of: natural features such as

floodplains, wetlands, and extreme topography, or man-made features, such as parcel configuration and surrounding development. The applicant shall describe the unusual conditions qualifying the site for PUD consideration, and the Commission shall cite findings of fact validating these conditions.

B. Content

The Preliminary Development Plan application shall include the following mapping and written narrative:

1. Existing conditions map(s) showing: All properties, existing uses, and zoning districts within three hundred (300) feet; topography at five (5) foot intervals; flood plain, significant natural vegetation and features; private and public facilities including but not limited to utilities, streets, parks, and buildings; property boundaries, lots lines, and lot dimensions and area.
2. Listing of all property owners adjacent to the PUD as per Section 3.202.03, including names and addresses; and a listing of all persons, including names and addresses, with an interest in the property subject to the PUD application.
3. Proposal map(s) showing: Alterations to topography, flood plain, natural vegetation, trees and woodlands, and other natural features; all streets, utility alignments and easements, parks and open space, other public and utility structures, and any other dedicated land features or structures; the parceling or subdivision of land including basic parcel dimensions and areas; the phasing of the PUD; siting and orientation of proposed new structures, including an identification of their intended use.
4. Narrative describing: The intent of the PUD and how general PUD standards as per Section 2.202 are met; details of the particular uses, densities, building types and architectural controls proposed; form of ownership, occupancy and responsibility for maintenance for all uses and facilities; trees and woodlands; public facilities to be provided; specific variations from the standards of any underlying zoning district or other provisions of this Code; and a schedule of development.
5. If the PUD involves the subdivision of land, the

proposal shall also include a preliminary subdivision plat and meet all requirements of Section 7.200. The preliminary subdivision shall be processed concurrently with the PUD.

C. Commission Review

The Commission shall conduct a public hearing pursuant to Section 3.200 and may act to recommend to the Council approval, or approval with conditions. Denial by the Commission of the Preliminary Development Plan shall be final, except as provided for in Section 3.400. The Commission shall make their decision based on the following findings of fact:

1. The proposed development is in substantial conformance with the Comprehensive Plan and is sited in an area that is unusually constrained due to existing natural or man-made features.
2. That exceptions from the standards of the underlying zoning district are warranted by the design and amenities incorporated in the development plan.
3. That the proposal is in harmony with the surrounding area or its potential future use, and incorporates unified or internally compatible architectural treatments.
4. That the system of ownership and the means of developing, preserving and maintaining open spaces are acceptable.
5. That the PUD will have a beneficial effect on the area which could not be achieved under the underlying zoning district.
6. That the proposed development, or an independent phase of the development, can be substantially completed within one (1) year from date of approval.
7. That adequate public facilities and services are available or are made available by the construction of the project.
8. That the general objectives of the PUD concept and the specific objectives of the various categories of PUDs described in Section 2.202 have been met.

D. Council Action

Upon receipt of the findings and recommendations of the Commission, the Council shall conduct a public hearing pursuant to Section 3.200. The Council may approve, conditionally approve, or deny the Preliminary Development Plan. A Council decision to approve the Preliminary Development Plan shall be by ordinance establishing a PUD overlay zoning district. The ordinance shall contain findings of fact as per Section 2.202.02, state all conditions of approval, and set an effective date subject to approval of the Final Development Plan as per Section 2.202.03.

E. Effect of Decision

Approval of the Preliminary Development Plan shall not constitute final acceptance of the PUD. Approval shall however be binding upon the City for the purpose of preparation of the Final Development Plan, and the City may require only such changes in the plan as are necessary for compliance with the terms of preliminary approvals.

2.202.03 Final Development Plan**A. Generally**

Upon approval of the PUD overlay zoning district and preliminary development plan by the Council, the applicant shall prepare a detailed Final Development Plan as per Sections 2.202 and 4.100, for review and approval of the Commission. The Final Development Plan shall comply with all conditions of approval as per Section 2.202.02. In addition, the applicant shall prepare and submit a detailed site plan, if applicable, for review and approval, pursuant to the provisions of Section 5.100. The site plan shall be processed concurrently with the Final Development Plan.

B. Final Subdivision Plat

If the PUD involves the subdivision of land, a final plat shall be prepared and submitted to the Commission for final approval, pursuant to Section 7.300. The final plat shall be processed concurrently with the Final Development Plan.

2.202.04 General Provisions

A. Timing of Development

1. Phasing

- a. The City may require that development be done in phases, if public facilities and services are not adequate to serve the entire development immediately.
- b. Any PUD which requires more than twenty four (24) months to complete shall be constructed in phases that are substantially complete in themselves and shall conform to a phasing plan approved as part of the Final Development Plan.

2. Failure to Complete

- a. When substantial construction or development of a PUD, or any approved phase of a PUD, has not taken place within one (1) year from the date of approval of a Final Development Plan, the Commission shall hold a public hearing to determine whether or not the PUD's continuation, in whole or in part, is in the public interest.
- b. If continuation is found not to be in the public interest, the Commission shall recommend to the Council that the PUD be extinguished. The Council, after public hearing, may extend the PUD, extend with conditions, or extinguish the PUD.

B. Changes in Approved Plans

1. Major Changes

Proposed major changes in a Final Development Plan shall be considered the same as a new petition, and shall be made in accordance with the procedures specified in Section 2.202.

2. Minor Changes

Minor changes in a Final Development Plan may be approved by the Council without further public hearing or Commission review, provided that such changes do not increase densities; change

boundaries or uses, or change the location or amount of land devoted to specific uses.

2.202.05 Residential PUD

A. Permitted Uses

The following uses are permitted outright in a Residential PUD, when approved as part of a Final Development Plan:

1. Varied housing types including but not limited to single-family attached dwellings, zero-lot line housing, row houses, duplexes, cluster units, and multi-family dwellings.
2. Related NC uses which are designed and located so as to exclusively serve the PUD district.
3. All other uses permitted within the underlying zoning district in which the PUD is located.

B. Conditional Uses

A conditional use permitted in the underlying zone in which the PUD is located may be allowed as a part of the PUD upon payment of the required application fee and approval by the Commission as per Section 4.300.

C. Development Standards

1. Density

The number of dwelling units permitted in a Residential PUD shall be determined by multiplying the maximum number of units per acre permitted in the underlying zoning district or districts by the number of acres in the proposed PUD.

2. Density Transfer

Where the proposed PUD site includes lands within the base flood a density transfer may be allowed in accordance with Section 8.304.05.

3. Minimum Site Area

The minimum area for a Residential PUD shall be five (5) acres unless the Commission finds that a specific property of lesser area is suitable as a PUD by virtue of being unusually constrained by

topography, landscape features, location, or surrounding development.

2.202.06 Non-Residential (Commercial or Industrial) PUD

A. Permitted Uses

Any commercial, industrial or related use permitted outright in the underlying zoning district in which the PUD is located, may be permitted in a Non-Residential PUD, subject to Chapter 8.

B. Conditional Uses

A conditional use permitted in the underlying zoning district in which the PUD is located may be allowed as a part of the PUD upon payment of the required application fee and approval by the Commission.

C. Development Standards

1. Floor Area

The gross ground floor area of principal buildings, accessory buildings, and future additions shall not exceed sixty percent (60%) of the buildable portion of the PUD.

2. Site and Structural Standards

Yard setback, type of dwelling unit, lot frontage and width and use restrictions contained in this Code may be waived for the Non-Residential PUD, provided that the intent and objectives of Section 2.202 are complied with in the Final Development Plan. Building separations shall be maintained in accordance with the minimum requirements of the Fire District.

3. Perimeter Requirements

Unless topographical or other barriers within the PUD provide reasonable privacy for existing uses adjacent to the PUD, the Commission shall require that structures located on the perimeter of the PUD be:

- a. Setback in accordance with provisions of the underlying zoning district within which the PUD is located and/or:

- b. Screened so as to obscure the view of structures in the PUD from other uses.

4. Height

Maximum building height is unlimited, provided a sprinkler system is installed in all buildings over two (2) stories, as approved by the Fire District, excepting that where structures are within one hundred (100) feet of a residential zone, the maximum height shall be limited to that of the residential zone.

5. Community Design Standards

For standards relating to off-street parking and loading, energy conservation, historic resources environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9.

6. Density Transfer

Where the proposed PUD includes lands within the base flood, a density transfer may be allowed in accordance with Section 8.304.05.

7. Minimum Site Area

- a. Commercial PUD

Minimum area for a Commercial PUD shall be five (5) acres. Development of a Commercial PUD of less than five (5) acres may be allowed if the PUD can be developed consistent with the intent and standards of Section 2.202, as determined by the Commission.

- b. Industrial PUD

The minimum site area for an Industrial PUD shall be twenty (20) acres.

2.203 HOME OCCUPATIONS**2.203.01 Conditions**

Home occupations are permitted in residential zoning districts, subject to the following conditions:

- A. The occupation or profession shall be carried on wholly within the principal building, and be clearly secondary, in the City's determination, to the use of the building as a dwelling.
- B. There shall be no exterior signs exceeding one (1) square foot, no exterior storage of materials, and no exterior indication of the home occupation or variation from the residential character of the principal building.
- C. The occupation or profession shall not produce offensive noise, vibrations, smoke, dust, odors, heat, or glare.
- D. The occupation or profession shall not occupy more than thirty percent (30%) of the total floor area of all habitable buildings on the property, including customary accessory buildings.
- E. The occupation or profession shall not upset existing patterns in the neighborhood.
- F. The occupation or profession shall not require additional off street parking and other facilities which would change the existing character of the neighborhood.
- G. The occupation or profession shall be carried on by members of the family residing in the dwelling, provided that one (1) outside individual may be employed.

2.203.02 Permitted Uses

Permitted home occupations, include but are not limited to: art and craft studios, dressmaking and similar occupations, professional offices, secretarial and bookkeeping services, tutoring, including musical instruction, and beauty shops with only one (1) customer hairdressing chair. Additional uses may be allowed in the OT overlay zone, as per Section 9.202.02B.

2.203.03 Prohibited Uses

Home occupations shall not include: Commercial stables, kennels, restaurants, taverns, lounges and other similar enterprises.

2.203.04 Home Occupation Permit

An application for a Home Occupation Permit (HOP) shall be filed with the City and accompanied by the appropriate fee as per Section 3.301. The application shall identify the type of use and address the conditions contained in Section 2.203.01 and other applicable Sections of this Code. The City Manager, or his or her authorized designee, shall administratively approve, approve with conditions, or deny the permit. The action of the City Manager may be appealed as per Section 3.400.

2.204 RESERVED

2.205 MANUFACTURED HOMES**2.205.01 Manufactured Homes on Individual Residential Lots****A. Generally**

One (1) manufactured home may be located on an individual lot zoned MDRL or MDRH, provided that the manufactured home meets the standards contained in Sections 2.103 or 2.104, and Section 2.205.01B.

B. Standards

1. Each manufactured home shall be multisectional and have a minimum floor area of one thousand (1,000) square feet.
2. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than twelve (12) inches above the ground.
3. The manufactured home shall have a pitched roof, with a slope of no less than a nominal three (3) feet in height for each twelve (12) feet in width.
4. The manufactured home, and attached or detached garage, shall have exterior siding and roofing which is similar in color, material and appearance to siding and roofing commonly used on residential dwellings within the City, or which is consistent with the predominant materials used on surrounding dwellings, as determined by the City.
5. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce energy levels equivalent to the performance standards required of single-family dwellings constructed under the State building code as defined in ORS 445.010.
6. The manufactured home shall have an attached or detached garage.
7. In addition to the provisions in paragraphs 1 to 6 of this subsection, the manufactured home and the lot upon which it is sited shall be subject to all other Code requirements to which a conventional single-family residential dwelling on the same lot would be subjected.

2.205.02 Manufactured Home Parks

Manufactured home parks may be located in the MDRL zone only. Except as herein provided, the standards of Section 2.205.02 and the MDRL zone, shall apply to all manufactured home parks. The following additional standards shall also apply:

A. Generally**1. Sale Prohibited**

Manufactured home park spaces shall be available for rental or lease only. Individual sale is prohibited.

2. Uses Permitted

No building, structure, or land within a manufactured home park shall be used for any purpose except for:

- a. Residential manufactured homes, together with normal accessory uses such as cabanas, patio slabs, ramadas, carport or garages, and storage and washroom buildings.
- b. Private and public utilities and services.
- c. Community recreation facilities, including swimming pools, operated for the residents and guests of the park only.
- d. One (1) manufactured home or other residence for the use of a manager or a caretaker responsible for maintaining and operating the park.

3. Occupancy

No occupancy permit for any manufactured home park, building, or facility shall be issued by the City until the park or an approved phase of the park has been completed according to the final site plan approved by the Commission. Deviations from the approved plan must be resubmitted to the Commission for review and approval.

4. Alterations and Additions

The owner(s) of the manufactured home park property, or duly authorized park management, shall

be held responsible for all alterations and additions to a manufactured home park or to individual homes within the park, and shall ensure that all necessary permits and inspections are obtained from the City or other applicable authority prior to the alterations or additions being made.

B. Recreational Vehicles

1. The occupancy of recreational vehicles within manufactured home parks as permanent living quarters is prohibited.
2. Unoccupied recreational vehicles located in designated parking or storage areas within manufactured home parks are permitted.
3. If storage yards for recreational vehicles, boats or trailers are provided, an eight (8) foot high sight-obscuring fence shall be erected around the perimeter of the storage yard.

C. Design Standards

1. Spaces shall be a minimum of five thousand (5,000) square feet, with a width of no less than twenty-five (25) feet at the front space line and fifty (50) feet at the building line.
2. The boundaries of all spaces shall be surveyed or otherwise suitably and permanently marked on-site, as determined by the City.
3. Two (2) off-street parking spaces shall be provided for each manufactured home space. Additional off-street parking spaces shall be provided in the manufactured home park with not less than one (1) additional parking space per every ten (10) manufactured homes. All off-street parking spaces shall be paved.
4. A minimum four (4) foot wide sidewalk shall be required on one (1) side of all private streets within manufactured home parks.

D. Siting Standards

1. Only one (1) manufactured home shall be permitted on a space.

2. The supplementary siting standards contained in Section 2.300 shall apply to manufactured home parks, provided that space lines shall be deemed to be the equivalent to lot lines for the purposes of applying those standards.
3. Buildings setbacks shall be equivalent to setbacks required in the MDRL zone, Section 2.103.04B, provided however that either the front or rear yard setbacks for manufactured homes may be reduced by up to ten (10) feet from the MDRL standard. Space lines shall be deemed the equivalent to lot lines for the purposes of applying those setback standards. Ramadas, cabanas, awnings, carports and other attached structures shall be considered part of the manufactured home for setback purposes.

E. Unit Standards

1. Each manufactured home shall be multisectional and have a minimum floor area of one-thousand (1000) square feet.
2. Except as otherwise herein provided, accessory uses, buildings, and structures shall be treated as per Section 2.207.
3. All manufactured homes shall be placed on a foundation stand, adequate to provide a stable, fixed support. The stand shall be all-weather and surfaced with asphalt, concrete or crushed rock, and at least as large as the manufactured home.
4. All manufactured homes shall provide exterior finishing and construction as follows:
 - a. Skirting of moisture resistant, non-combustible material or fire retardant wood.
 - b. Pedestals, or blocking supports, insuring adequate support and in compliance with the Oregon Department of Commerce manufactured home setup procedures.
 - c. Awnings, car ports, cabanas, and similar structures shall be of a material, size, color and pattern similar to the manufactured home and shall conform to all applicable building codes.

F. Utility Standards

1. All manufactured homes, service buildings and accessory structures shall be connected to public water and sewer systems in accordance with City standards.
2. Sufficient fire hydrants shall be installed so that no manufactured home, and other structure is farther than three hundred (300) feet from a hydrant, as measured down the center lines of streets, whether private or public.

G. Vehicular Circulation

1. All private streets shall be constructed in accordance with applicable City standards and shall be curbed. The minimum paved street improvement width shall be:
 - a. Twenty-eight (28) feet with no on-street parking allowed.
 - b. Thirty-two (32) feet with on-street parking allowed on one (1) side.
 - c. Thirty-six (36) feet with parking allowed on two (2) sides, provided that at least one (1) private street thirty-six (36) feet in width with no on-street parking allowed shall be constructed to intersect with an adjacent public street.
2. Any street within the manufactured home park that, due to volumes of traffic or street location, as determined by the City, functions as a minor collector or higher functional classification roadway shall be a public street and constructed to full City public improvement standards.

H. Miscellaneous Park Standards

1. All other community design standards contained in Chapters 5, 8, and 9 relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design that are not specifically varied by Section 2.205 shall apply to manufactured home parks.

2.205.03 Miscellaneous Uses of Manufactured Homes

A. Generally

In addition to uses permitted by Section 2.205.01 and 2.205.02, manufactured homes may be used for the following purposes:

1. Security person quarters, as per Sections 2.110.02 and 2.111.02.
2. Temporary uses as per Section 4.500, and where the proposed use is otherwise permitted in the zone in which the manufactured home is to be located.

2.206 NON-CONFORMING USES**2.206.01 Purpose**

Within the zones established by this Code or any amendments that may later be adopted there may exist lots, structures, uses of land and structures, and characteristics of use which were lawful before the effective date of this Code, but which would be prohibited, regulated, or restricted under the terms of this Code or any future amendments, or which do not meet in full all standards and provisions of this Code. Section 2.206 permits these nonconformities to continue until they are removed or discontinued, but does not encourage their perpetuation. Nonconformities shall not be enlarged, expanded or extended, nor be used as justification for adding other structures or uses not permitted elsewhere in the same zone, except as specifically provided elsewhere in this Section.

2.206.02 Exceptions**A. Generally**

Nothing in Section 2.206 shall require any change in the location, plans, construction, size, or designated use of any building, structure, or part thereof, for which a required City building permit has been granted prior to enactment of this Code. If a building permit is revoked or for any reason becomes void, all rights granted by Section 2.206.02 are extinguished and the project shall thereafter be required to conform to all the provisions of this Code.

B. Old Town (OT) Zone

Certain exceptions to Section 2.206 are permitted in the OT overlay zone, as per Section 9.202.06F.

C. Any otherwise lawful residential structure or use located on property zoned commercial or industrial shall be deemed conforming for the purposes of Sections 2.206.05B and 2.206.06E.**2.206.03 Non-Conforming Lots of Record****A. Except as provided in Section 2.206 and Section 2.304, no nonconforming lot of record at the effective date of adoption or amendment of this Code shall be developed for any use, and no existing use on a nonconforming lot of record shall be enlarged, extended, or reconstructed. Nonconforming lots or record are those of a width, area or depth or other requirements less than the minimums**

prescribed by this Code.

- B. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be constructed on a single lot of record existing at the effective date of adoption of, or amendment to, this Code, notwithstanding limitations imposed by other provisions of this Code. Such lot must be in separate ownership and not contiguous with other lots in the same ownership.
- C. If two (2) or more lots, or combinations of lots and portions of lots in single ownership are on record at the effective date of this Code and are made nonconforming by this Code, the lots involved shall be considered to be an undivided parcel for the purposes of this Code. No portion of said undivided parcel which does not meet requirements established by this Code shall be conveyed, transferred or used in any manner. No division of the parcel shall be made which results in any lot of less than the minimum requirements of this Code.

2.206.04 Non-Conforming Uses of Land

Where at the time of adoption of this Code lawful use of land exists which would not be permitted by the regulations imposed by this Code, and where such use involves no structure or building, other than a single minor accessory structure or sign, the use may be continued as long as it remains otherwise lawful, provided:

- A. No such use shall be enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of adoption or amendment of this Code, provided however, that such use may be enlarged or altered in a way that will not have a greater adverse impact on surrounding properties or will decrease its non-conformity, as per Section 2.206.07.
- B. No such use shall be moved in whole or in part to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this Code.
- C. If any such use of land ceases for any reason for a period of more than one hundred and twenty (120) days, any subsequent use of land shall conform to the regulations specified by this Code for the zone in which such land is located.

- D. No additional structure, building or sign shall be constructed on the lot in connection with such use of land unless said structure, building, or sign reduces or further limits, in the City's determination, the existing non-conformity.

2.206.05 Non-Conforming Structures

Where a lawful structure exists at the effective date of adoption of or amendment to this Code that could not be built under the terms of this Code by reason of restrictions on lot area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be enlarged or altered in a way that will not have a greater adverse impact on surrounding properties or will decrease its non-conformity, as per Section 2.206.07.
- B. Except as otherwise provided for in Section 2.206.02, should such structure or the non-conforming portion of a structure be destroyed by any means to an extent of more than sixty percent (60%) of its current value as established by the Washington County Assessor, it shall not be reconstructed except in conformity with the provisions of this Code; and
- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located.

2.206.06 Non-Conforming Uses of Structures

If a lawful use involving individual structures, or structure and premises in combination (except for a single, minor accessory structure) exists at the effective date of adoption or amendment of this Code that would not be allowed in the zone in which it is located; or which is non-conforming because of inadequate off-street parking, landscaping, or other deficiencies, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Code in the zone in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except to accommodate a changing of the use of the structure to a use permitted in the zone in which it is located.

- B. Any non-conforming use may be extended throughout any existing parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
- C. If such use of a structure and premises is changed to another use, such new use shall conform to all provisions of this ordinance.
- D. When such use of a structure and premises is discontinued or abandoned for one hundred and twenty (120) days, the structure and premises shall not thereafter be used except in full conformity with all regulations of the zone in which it is located. A use shall be deemed to be discontinued or abandoned upon the occurrence of the earliest of any of the following events:
 1. On the date when the structure and/on premises are vacated.
 2. On the date the use ceases active sales, merchandising, the provision of services, other nonconforming activity.
 3. On the date of termination of any lease or contract under which the non-conforming use has occupied the premises.
 4. On the date a request for final reading of water and power meters is made to the City.
- E. Where non-conforming use status applies to a structure and premises, removal or destruction of the structure shall eliminate the non-conforming use status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than sixty percent (60%) of its current value, as appraised by the Washington County Assessor. Except as otherwise provided for in Section 2.205.02, any subsequent use shall conform fully to all provisions of the zone in which it is located.

2.206.07 Permitted Changes to Non-Conformities

A. Repairs and Maintenance

On any nonconforming structure or portion of a structure containing a nonconforming use, normal repairs or replacement on non-bearing walls, fixtures, wiring, or plumbing may be performed in a manner not in conflict

with the other provisions of this Section. Nothing in this Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof officially declared to be unsafe by any official charged with protecting the public safety.

- B. A non-conforming use or structure may be enlarged or altered as per Sections 2.206.03A or 2.206.04A if, in the Commission's determination, the change will have no greater adverse impact on surrounding properties or will decrease its nonconformity considering the following:
1. The character and history of the development and of development in the surrounding area.
 2. The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line.
 3. The comparative numbers and kinds of vehicular trips to the site.
 4. The comparative amount and nature of outside storage, loading and parking.
 5. The comparative visual appearance.
 6. The comparative hours of operation.
 7. The comparative effect on existing vegetation.
 8. The comparative effect on water drainage.
 9. The degree of service or other benefit to the area.
 10. Other factors which tend to reduce conflicts or incompatibility with the character or needs of the area.
- C. Further exceptions to changes to non-conformities are permitted in the OT overlay zone, as per Section 9.202.06F.

2.206.08 Conditional Uses

A use existing before the effective date of this Code which is permitted as a conditional use shall not be deemed non-conforming if it otherwise conforms to the standards of the zone in which it is located. Enlargement, extension, reconstruction, or moving of such use shall only be allowed subject to Section 4.300.

2.207 ACCESSORY USES**2.207.01 Standards**

Accessory uses, buildings, and structures shall comply with all requirements for principal uses, buildings, and structures except where specifically modified by this Code, and shall also comply with the following limitations:

- A. Any accessory building shall have not more than seven hundred and twenty (720) square feet of ground floor area.
 - B. No accessory building or structure over three (3) feet in height shall be allowed in any required front or side yard.
 - C. No detached accessory building or structure over three (3) feet in height, excluding fences and railings, shall be located within ten (10) feet of the principal building or other accessory building.
 - D. No accessory building or structure over three (3) feet in height, excluding fences and railings, shall be located closer than five (5) feet to any side or rear property line.
 - E. Any accessory building or structure attached by a common wall or permanent roof or foundation to the principal building or structure must comply with all setbacks for the principal building or structure.
 - F. No accessory building or structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way including but not limited to streets, alleys, and public and/or private easements.
- 2.207.02 Any accessory use and/or structure associated with a conditional use shall be allowed only after approval in accordance with Section 4.300.
- 2.207.03 A conflict of interpretation concerning whether a use or structure is an accessory use or structure shall be resolved in accordance with the provisions of Section 4.600.

2.208 ADULT ENTERTAINMENT

Where otherwise permitted by the provisions of this Code, an adult entertainment business shall not be located within one thousand (1000) feet of an existing or previously approved adult entertainment business or within two hundred and fifty (250) feet of public parks, churches, schools, day care centers, or residentially zoned property. Both distances shall be measured in a straight line, without regard to intervening structures, from the closest structural wall of the adult entertainment business to either the closest structural wall of an existing or previously approved adult entertainment business, or to the closest property line of all impacted properties.

2.209 OTHER LAND USE ACTIONS

Proposed land use actions or activities for which specific procedures and standards for application and review are not included in this Code shall be submitted to the Commission, in a form determined by the City and with a fee pursuant to Section 3.301. The Commission may recommend approval, approval with conditions, or denial of the request to the Council. The Council may approve, approve with conditions, or deny the request, or may elect to refer the request to a more appropriate approving authority.

2.300 SUPPLEMENTARY STANDARDS**2.301 CLEAR VISION AREAS**

- 2.301.01 A clear vision area shall be maintained on the corners of all property at the intersection of two (2) streets, or a street and a railroad.
- 2.301.02 A clear vision area shall consist of a triangular area, two (2) sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation; or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection, and so measured, and the third side of which is a line across the corner of the lot joining the nonintersecting ends of the other two (2) sides.
- 2.301.03 A clear vision area shall contain no planting, sight obscuring fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half (2-1/2) feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade; except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to the height of seven (7) feet above the ground.
- 2.301.04 The following requirements shall govern clear vision areas:
- A. In a residential zone, the minimum distance shall be thirty (30) feet; or, at intersections including an alley, ten (10) feet.
 - B. In commercial and industrial zones, the minimum distance shall be fifteen (15) feet; or, at intersections including an alley, ten (10) feet; except that when the angle of intersection between streets, other than an alley, is less than thirty (30) degrees, the distance shall be twenty-five (25) feet.
 - C. Where no yards are required, buildings may be constructed within the clear vision area.

2.302 ADDITIONAL SETBACKS**2.302.01 Generally**

Additional setbacks shall be provided along streets based on the functional classifications in Section VI of the Community Development Plan. Additional setbacks shall be measured at right angles from the centerline of the street.

Classification	Additional Setback
Major Arterial	45 feet
Minor Arterial	35 feet
Collector	27 feet
Local	24 feet

2.303 FENCES, WALLS AND HEDGES**2.303.01 Generally**

Fences, walls, and hedges may be located in any required yard or along the edge of any yard, subject to the maintenance of clear vision areas. A fence, wall or hedge may not exceed six (6) feet in height in a residential zone. Fences, walls or hedges shall not exceed a height of three and one-half (3-1/2) feet along the front property line or within a front yard setback.

2.304 LOT SIZES AND DIMENSIONS**2.304.01 Generally**

If a lot or the aggregate of contiguous lots or parcels recorded, or platted, prior to the effective date of this Code, has an area or dimension which does not meet the requirements of this Code, the lot of aggregate lots may be put to a use permitted outright, subject to the other requirements of the zone in which the property is located; except that a residential use shall be limited to a single-family dwelling, or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than thirty-two hundred (3,200) square feet.

2.304.02 Cul-de-Sacs

Minimum lot width at the building line on cul-de-sac lots may be less than that required in this Code if a lesser width is necessary to provide for a minimum rear yard.

2.305 YARD REQUIREMENTS**2.305.01 Through Lots**

On a through lot the front yard requirements of the zone in which such a lot is located shall apply to each street frontage.

2.305.02 Corner Lots

On a corner lot, or a reversed corner lot of a block oblong in shape, the short street side may be used as the front of the lot, provided:

- A. The front yard setback shall not be less than twenty five (25) feet.
- B. The side yard requirements on the long street side shall conform to the front yard requirement of the zone in which the building is located.

2.305.03 Yards

- A. Except for landscaping, every part of a required yard shall be open and unobstructed from its lowest point to the sky; except that awnings, fire escapes, open stairways, and chimneys may be permitted when so placed as not to obstruct light and ventilation.
- B. Where a side or rear yard is not required, and a structure is not erected directly on the property line, it shall be setback at least three (3) feet.

2.305.04 Exceptions

Architectural features such as cornices, eaves, canopies, sunshades, gutters, signs, chimneys, and flues may project up to two and one-half (2-1/2) feet into a required yard.

2.306 CHIMNEYS, SPIRES, ANTENNAS AND SIMILAR STRUCTURES**2.306.01 Heights**

Except as otherwise provided, the height limits established by this Code shall not apply to chimneys, stacks, water towers, radio or television antennas, towers, windmills, grain elevators, silos, elevator penthouses, monuments, domes, spires, belfries, hangars, solar heating devices, or similar structures, under one hundred (100) feet in height.

2.306.02 Permit Required

Notwithstanding Section 2.306.01, a conditional use permit shall be required for all such structures that exceed the height limitations of a zoning district, except as specifically otherwise permitted in that district.

2.306.03 Parapets

A parapet wall not exceeding four (4) feet in height may be erected above the height limit of the building on which it rests.

2.307 DUAL USE OF REQUIRED SPACE

Except as otherwise provided, no lot area, setback, yard, landscaped area, open space or off-street parking or loading area, which is required by this Code for one use, shall be allowed as the required lot area, yard, open space, or off-street parking or loading area for another use.

CHAPTER 3
ADMINISTRATIVE PROCEDURES

CHAPTER 3
ADMINISTRATIVE PROCEDURES

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CHAPTER 3
ADMINISTRATIVE PROCEDURES

3.100 GENERALLY

3.101 PRE-APPLICATION CONFERENCE

Pre-application conferences shall be scheduled to provide applicants with the informational and procedural requirements of this Code; to exchange information regarding applicable policies, goals and standards of the Comprehensive Plan; to provide technical and design assistance; and to identify opportunities and constraints for a proposed land use action. An applicant may apply at one time for all permits or zone changes needed for a development project as determined in the pre-application conference.

3.102 APPLICATION MATERIALS

3.102.01 Form

Any request for a land use action shall be made on forms prescribed and provided by the City and shall be prepared and submitted in compliance with this Code. A land use application shall be reviewed against the standards and criteria effective at the time of application submittal.

3.102.02 Copies

To assist in determining the compliance of proposed land use actions with the Comprehensive Plan and provisions of this Code, applicants shall submit fifteen (15) copies of: the completed application form, with attachments or exhibits specifying and illustrating the proposed land use action; an existing conditions inventory; the proposed development plan; and any supplemental materials, as required by Section 4.100. Additional information may be required at the discretion of the City.

3.103 APPLICATION SUBMITTAL

3.103.01 Deadlines

Completed application forms, application materials, and fees must be submitted to the City, and accepted as full and complete as per Section 3.103, at least forty-five (45) calendar days in advance of the Commission meeting at which

the application is to be first considered, except as provided by Section 7.301.01.

3.103.02 Acceptance

Within seven (7) calendar days of the date of initial submission, the City shall determine whether the application is complete and so notify the applicant in writing. Incomplete applications will not be accepted by the City. Incomplete applications shall be returned to the applicant along with a written notification of the application's deficiencies and all materials and fees submitted. Provided, however, that incomplete applications may be resubmitted when the noted deficiencies have been corrected to the City's satisfaction.

3.104 AVAILABILITY

3.104.01 Public Inspection

- A. Except as provided herein, all application materials to be relied upon in public hearings on land use actions required by this Code shall be available for public inspection twenty (20) calendar days in advance of the initial hearing before the Commission or Council. If two (2) or more hearings are required on a land use action, all application materials shall be available for public inspection at least ten (10) calendar days in advance of the initial hearing before the Commission or Council.
- B. Application materials shall be available to the public for inspection at no cost. Copies of application materials will be provided to the public, upon request, at a cost defined by the City's schedule of miscellaneous fees and charges.

3.104.02 Continuance

If additional materials are provided in support of an application later than twenty (20) calendar days in advance of the initial hearing before the Commission or Council, or later than ten (10) calendar days in advance of the initial hearing before the Commission or Council if two (2) or more hearings are required, or if the City or the applicant fails to meet any requirements of Section 3.200, any party to the application, or party notified of the hearing as per Section 3.202.03, may make request to the City, either verbally at the initial hearing or in writing at any time before the close of the hearing, for a hearing continuance. If, in the City's determination, there is a valid basis for the continuance request, said request shall be granted.

3.105 APPLICATION RESUBMISSION

A land use application denied in accordance with this Code, shall not be accepted for resubmission for one-hundred eighty (180) calendar days following the date of the denial, unless the application has been sufficiently modified to abrogate the reason for denial, as determined by the City. All applications resubmitted after being denied in accordance with this Code shall be required to provide new application materials, pay new fees, and shall be subject to the full hearing and review process required by this Code for the land use action being considered.

3.200 PUBLIC NOTICE AND HEARING**3.201 GENERALLY**

When required by this Code, the Council and/or the Commission shall provide notice and conduct public hearings pursuant to Section 3.200. The land use actions for which public hearings are required are:

- A. Zoning Map Amendments (Commission and Council)
- B. Zoning Text Amendments (Commission and Council)
- C. Conditional Uses (Commission only)
- D. Variances (Commission only)
- E. Site Plans (Commission only)
- F. Interpretations of Similar Uses (Commission only)
- G. Temporary Uses (Commission only)
- H. Planned Unit Developments (Commission and Council)
- I. Preliminary Plats of Subdivision and Land Partitions (Commission only)
- J. Annexations (Commission and Council)
- K. Other Land Use Actions (Commission or Council)
- L. Any land use action subject to public hearing as per this section shall be subject to additional hearing at the time any appeal or amendments to prior land use approvals are considered by the Commission or Council.
- M. Landmarks Alteration (Landmarks Board only)

3.202 FORM OF NOTICE**3.202.01 Newspaper Notice**

Notices of all public hearings on land use actions required by this Code shall be published in a newspaper of general circulation within the City in each of the two (2) calendar weeks prior to the initial hearing before the Commission or Council.

3.202.02 Posted Notice

Notices of all public hearings on land use actions required by this Code shall be posted by the City in no fewer than five (5) conspicuous locations within the City, not less than twenty (20) calendar days in advance of the initial hearing before the Commission or Council.

3.202.03 Mailed Notice

- A. For public hearings on zoning map amendments, conditional uses, variances, site plans, planned unit developments, temporary uses, minor land partitions, subdivisions, annexations, landmarks, and other land use action specific to a property or group of properties, the City shall send written notice by regular mail to owners of record of all real property within one hundred (100) feet from the property subject to the land use action.
- B. Except as otherwise provided herein, written notice to property owners shall be mailed at least twenty (20) calendar days in advance of the initial public hearing before the Commission or Council. If two (2) or more hearings are required on a land use action, notices shall be mailed at least ten (10) calendar days in advance of the initial hearing before the Commission or Council.
- C. For the purposes of mailing the written notice, the names and addresses of the property owners of record, as shown on the most recent County Assessor's records in the possession of the City, shall be used. Written notice shall also be mailed to homeowners associations when the homeowners association owns common property within the notification area and is listed in the County Assessor's records.
- D. For written notices required by this Code, other than written notices to property owners of record, the City shall rely on the address provided by the persons so notified. The City shall not be responsible for verifying addresses so provided.
- E. If a zone change application proposes to change the zone of property which includes all or part of a manufactured home park, the City shall give written notice by first class mail to each existing mailing address for tenants of the manufactured home park at least twenty (20) days but not more than forty (40) days before the date of the first hearing on the application. Such notice costs are the responsibility of the applicant.

3.202.04 Failure to Receive Notice

- A. The failure of a property owner or other party to an application to receive notice of a public hearing as provided in Code Section 3.202.03 or to receive notice of continuances and appeals as provided by this Code due to circumstances beyond the control of the City, including but not limited to recent changes in ownership not reflected in County Assessors records, loss of the notice by the postal service, or an inaccurate address provided by the County Assessor or the party to the application, shall not invalidate the applicable public hearing or land use action. The City shall prepare and maintain affidavits demonstrating that public notices were mailed, published, and posted pursuant to this Code.
- B. Persons who should have received notice of a proposed land use action but can prove, to the City's satisfaction, that notice was not received due to circumstances beyond their control, may be permitted, at the City's discretion, to exercise the right to appeal the action as per Section 3.400. All appeals filed under such conditions shall cite the circumstances resulting in the non-receipt of the notice.

3.203 CONTENT OF NOTICE**3.203.01 Public Hearing Notices**

Public hearing notices shall include the following information:

- A. The nature of the application and proposed use(s).
- B. A list of the applicable Code or Comprehensive Plan criteria to be applied to the review of the proposed land use action.
- C. The location and street address of the property subject to the land use action (if any).
- D. The date, time, place, location of the public hearing.
- E. The name and telephone number of a local government representative to contact for additional information.
- F. The availability of all application materials for inspection at no cost, or copies at reasonable cost.
- G. The available of the City planning staff report for inspection at no cost, or copies at a reasonable cost, at

least seven (7) calendar days in advance of the hearing.

- H. The requirements for the submission of testimony and the procedures for conducting hearings, including notice that failure to raise an issue, or to provide sufficient specificity so as to afford a reasonable opportunity for other parties to the application to respond, will preclude appeal on said issue to the Council or to the State Land Use Board of Appeals (LUBA).

3.204 PLANNING STAFF REPORTS

Recommended findings of fact and conditions of approval for each land use action shall be made in writing in a City planning staff report. Said staff report shall be published seven (7) calendar days in advance of the initial required public hearing before the Commission or Council. Copies shall be provided to the applicant and the Commission or Council no later than seven (7) calendar days in advance of the scheduled public hearing. Staff reports shall be available to the public for inspection at no cost. Copies of the staff report shall be provided to the public, upon request, at a cost defined by the City's schedule of miscellaneous fees and charges.

3.205 CONDUCT OF PUBLIC HEARINGS**3.205.01 Hearing Disclosure Statements**

The following information or statements shall be verbally provided by the Commission Chairperson or the Mayor, or his or her designee, at the beginning of any public hearing on a land use action:

- A. The findings of fact and criteria specified by the Code that must be satisfied for approval of the land use action being considered by the Commission or Council.
- B. That public testimony should be limited to addressing said findings of fact and criteria, or to other City or State land use standards which the persons testifying believe apply to the proposed land use action.
- C. That failure to raise an issue, or failure to raise an issue with sufficient specificity so as to provide the City, applicant, or other parties to the application with a reasonable opportunity to respond, will preclude appeal on said issue to the Council or to the State Land Use Board of Appeals (LUBA).
- D. The rights of persons to request, as per this Code, that a hearing be continued or that the hearing record remain open.
- E. That all persons testifying shall be deemed parties to the application, and must provide their name and full mailing address if they wish to be notified of continuances, appeals, or other procedural actions as required by this Code.

3.205.02 Persons Testifying

Any person, whether the applicant, a person notified of the public hearing as per Section 3.202, the general public, or the authorized representative of any of the foregoing persons, may testify at a public hearing on a land use action. Testimony may be made verbally or in writing. The applicant, the applicant's representative, or any person so testifying, or that person's authorized representative, shall be deemed a party to the application, and shall be afforded all rights of appeal allowed by this Code and the laws of the State of Oregon.

3.205.03 Hearing Record

- A. Unless the hearing is continued or an additional hearing scheduled, any person testifying may request, verbally or in writing before the conclusion of the initial hearing before the Commission or Council, that the record remain open for an additional seven (7) calendar days. Such requests shall be granted. The Commission or Council shall not take final action on a land use application until the hearing record is closed. X
- B. When a hearing record remains open, then any person may submit new evidence or testimony, or raise new issues relating to any of the new evidence or testimony. The City shall not be responsible for notifying all parties to an application of the new evidence presented under such circumstances.
- C. If, after the close of the final hearing before the Commission or Council or the close of the hearing record as per Section 3.205.03A, the City reopens said hearing or record for any reason, then all parties to the application as per Section 3.205.02 shall be so notified, either verbally if the reopening occurs at the same Commission or Council meeting at which the hearing was conducted or in writing if the reopening occurs at a later date. Said notice shall indicate the time and place of the reopened hearing, the reason for the reopening, and provide for a reasonable opportunity to submit further written or verbal testimony.

3.205.04 Ex parte Contacts

Ex parte contacts with a member of the Commission or Council shall not invalidate a final decision or action of the Commission or Council, provided that the member receiving the contact indicates the substance of the content of the ex parte communication and of the right of parties to rebut said content at the first hearing where action will be considered or taken.

3.206 NOTICE OF DECISION

Within seven (7) calendar days of a land use action by the Commission or Council, the City shall notify the applicant in writing or said action. This notice of decision shall list the terms and conditions of approval or denial, and explain the applicant's rights of appeal.

3.207 REGISTRY OF DECISIONS

The City shall maintain a registry of all land use actions taken in the preceding twelve (12) months. This registry shall be kept on file in the City Recorder's office and shall be made available to the public for inspection at no cost. Copies of the registry shall be provided to the public, upon request, at a cost defined by the City's schedule of miscellaneous fees and charges.

3.208 FINAL ACTION ON PERMIT OR ZONE CHANGE

Except for plan and land use regulation amendments or adoption of new regulations that must be submitted to the Director of the State Department of Land Conservation and Development under ORS 197.610(1), final action on a permit, appeal, or zone change application shall be taken within one hundred and twenty (120) days of the application submittal. The one hundred and twenty (120) days may be extended for a reasonable period of time at the request of the applicant. An applicant whose application does not receive final consideration within one hundred and twenty (120) days after the application was accepted by the City may seek a writ of mandamus to compel issuance of the permit or zone change or a determination that approval would violate the City's Comprehensive Plan or land use regulations.

3.300 APPLICATION FEES**3.301 FEES**

Fees for land use actions are set by the "Schedule of Development Fees", adopted by Resolution of the Council. This schedule is included herein as Appendix J for the purposes of information, but is deemed to be separate from and independent of this Code.

3.302 EXCEPTIONS

Except when a land use action is initiated by the Commission or Council, application fees shall be paid to the City upon the filing of all land use applications. Full or partial waiver or refund of the fees required by Section 3.301 may be granted by the Council, based on a written request by the applicant showing cause for such reduction.

3.400 APPEALS**3.401 GENERALLY****3.401.01 Basis of Appeal**

- A. Any issue which may be the basis for appeal of a land use action to the Council or to the State Land Use Board of Appeals (LUBA) shall be raised not later than the close of the final hearing on the proposal before the City, or within seven (7) calendar days as per Section 3.205.03.
- B. Failure to raise an issue, or failure to raise an issue with sufficient specificity so as to provide the City, applicant, or other parties to the application with a reasonable opportunity to respond, will preclude appeal on said issue to the Council or to LUBA. Any aggrieved party appealing a land use action must exercise the right of petition for review to the Council prior to making any appeal to LUBA, except as provided in Section 3.401.03.

3.401.02 Appeal Eligibility

Except as otherwise permitted herein, only persons who were a party to the action being appealed, as defined by Section 3.205.02, are eligible to file for a petition for review by the Council. If the potential appellant is judged not to be a party to the action, or the issue(s) that are the basis of the appeal were not raised as per Section 3.401.01, as determined by the City, the Council shall refuse to hear the appeal and direct that the appellant be so notified in writing.

3.401.03 Exception

If the City either takes a land use action without providing a hearing as required by this Code, or takes a land use action which is substantially different than indicated in notice of the proposed action as per Section 3.203.01, an aggrieved party may, as provided by the law of the State of Oregon, appeal directly to State Land Use Board of Appeals (LUBA).

3.402 APPEAL DEADLINE

Land use actions taken pursuant to this Code shall be final unless a petition for review is filed with the City Recorder not more than twenty-one (21) calendar days after the date on which the Commission or Council took final action on the land use application. In the event the aggrieved party is the applicant, the twenty-one (21) calendar days shall be counted from the date when written notice of the action has been

mailed to the address shown on the application.

3.403 PETITION FOR REVIEW

Every petition for review shall include the date and a description of the land use action, including adopted findings of fact, a statement of how the petitioner is aggrieved by the action, the specific grounds relied upon in requesting a review, and a fee pursuant to Section 3.301. The record of the land use action shall be considered.

3.404 COUNCIL ACTION

The review of the appealed land use action shall include a public hearing conducted by the Council at which time all parties to the action, as per Section 3.205.02, may present old evidence or any additional evidence. Public notice and hearing procedures for appeals shall be identical to the procedures used in initially taking the land use action which is being appealed. The Council may act to affirm, reverse, refer or amend the action being reviewed. The action of the Council shall be final, except insofar as further appeal to the State Land Use Board of Appeals (LUBA) may be allowed by the law of the State of Oregon.

CHAPTER 4
PLANNING PROCEDURES

CHAPTER 4
PLANNING PROCEDURES

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CHAPTER 4
PLANNING PROCEDURES

4.100 APPLICATION CONTENT

Section 4.100 sets forth the application contents generally required for the review of proposed land use activities. The City Manager or his or her designee is authorized to waive information requirements that are clearly not material or relevant to the specific proposal being made. In addition to these requirements, Chapters 5, 6, and 7 of this Code must be reviewed for other applicable requirements.

INDEX

REFERENCE NUMBER	TYPE OF PROPOSED DEVELOPMENT
1	Annexation
2	Plan Map Amendment
3	Variance
4	Conditional Use
5	Minor Partition
6	Subdivision/Major Partition
7	Planned Unit Development
8	Site Plan

TYPE OF APPLICATION
(See Index Above)

TYPE OF INFORMATION**INFORMATION ITEM**

EXISTING CONDITIONS INVENTORY

General Information	1-8	A tax map showing property within 300 feet with scale (1"=100' or 1"= 200') north point, date and legend.
	1-8	A current preliminary title report or lot book search.
	1-8	Name, address and phone numbers of all owner(s) and applicants.
Citizen Involvement	1-8	A list of tax lots, owners and their addresses within the following distances from the property subject to a land use action for which a public hearing is required: Wholly or partially with the UGB = 100 feet; Outside UGB, not in farm or forest zone = 250 feet; Outside UGB, in farm or forest zone = 500 feet.
Growth Management	1-8	Vicinity Map of property showing City limits and Urban Growth Boundary.
Land Use	1-8	Acreage of property, lot lines and dimensions.
	1-8	City and County zoning designations.
	1-8	Maximum allowable density.
	1-8	Existing land use including nature, size and location of existing structures within 300 feet.
	1-8	Map location, purpose, dimensions and ownership of easements.

Environmental Resources & Hazards	4-8	Topography map showing 5 foot contours.
	2-8	SCS Soil Information Map the following: 1) Areas with severe soil limitations for buildings, roads and streets, and the nature of the limitation including weak foundation, slopes above 10%, slide hazards, etc. 2) Areas with adverse soil characteristics including rapid run-off, high erosion hazard and poor natural drainage. 3) Agricultural capability classes.
	2-8	Flood Plains - Map all 100-year flood plain and floodway lines.
	2-8	Natural Drainage - Map streams, wetlands, ponds, springs and drainage patterns.
	2-8	Significant vegetation - Map general location, size and species of trees.
	2-8	Distinctive natural areas - Indicate views, historic sites, rock out-croppings, etc.
	2-8	Sun and wind exposures - Map general orientation.
	Environmental Quality	3-8
Recreational Resources	3-8	Existing Facilities - Map the location, size and distance to nearest park and open spaces.
Transportation	1-8	Street Locations and Dimensions - Map centerline and pavement locations and rights-of-way within 300 feet.
	1-8	Traffic Volumes - Indicate existing volumes for all streets on and within 300 feet.

	2-8	Access Points - Indicate access points to property within 300 feet.
	3-8	Street Condition - Map general condition of streets within 300 feet of property.
	3-8	Street Improvements - Indicate any committed street improvement projects within 300 feet and projected completion date (if known).
	3-8	Public Transit - Indicate routes and stops within 300 feet.
	3-8	Bikeways/Pathways - Map existing routes within 300 feet.
Water	1-8	Existing Facilities -Map locations, sizes and distances to water mains.
	3-8	Existing Services - Describe service levels, capacity, pressure and fire flow characteristics of water mains.
	1-8	Planned Improvements - Indicate sizes and locations of planned improvements.
Sewer	1-8	Existing Facilities - Map locations, sizes and distances to the nearest sewers.
	1-8	Existing Services - Describe flow characteristics, capacity and condition of sewers.
	1-8	Planned Improvement - Indicate sizes and locations of planned capital improvements.
Drainage	3-8	Existing Facilities - Map locations, sizes and distances to drainage facilities or natural drainage-ways.
	3-8	Existing Service -Describe capacity and condition of on-site and downstream drainage courses and facilities.

	3-8	Runoff Analysis - Indicate SCS soil permeability ratings.
	3-8	Planned Improvements - Indicate sizes and locations of planned improvements.
Private Utilities	3-8	Existing Facilities and Services - Describe availability of utilities.
Schools	3-8	Existing Facilities and Services - Indicate location, type, enrollment, capacity and distance to nearest schools.
	3-8	Planned Improvements - Describe planned improvements.

PROPOSED DEVELOPMENT PLAN

General Information	1-8	A plat or plan map depicting the proposed land use or Change, showing properties within 300 feet, with scale appropriate to Project size, north point, date and legend.
	1-8	Name of Development - Indicate name of proposed development.
	1-8	Vicinity map showing Property within one-half mile.
Citizen Involvement	1-8	Describe contacts with citizens or agencies including the Fire District, public and private utilities, schools, etc.
Land Use	5	Proposed Lots - Map lot lines, dimensions, average and minimum lot sizes, block and lot numbers.
	2-8	Setbacks - Indicate all setbacks.
	1-8	Buildable Acres - Indicate net buildable acres.

	3-8	Proposed Land Use - Indicate the location of all proposed land uses. Show relationship to existing land use to be retained. Provide tables with total acres, densities, dwelling units, floor area, percentage distribution of total site acreage by use, and percentage dwelling unit distribution by dwelling type.
	2-8	Map location of proposed structures.
	2-8	Proposed Easements - Map location, purposes, and widths.
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Environmental Resources & Hazards	5-8	Topography - Map topography at 2 foot contours.
	6-8	Landscaping Plan - Provide plan in accordance with Sec. 5.200.
	4-8	Streams, Ponds, Wetlands - Indicate location and any measures to avoid environmental degradation.
	5-8	Natural Hazards - Provide soil analysis by a registered Soils Engineer or Geologist and any measures protecting against hazards.
	3-8	Significant natural areas - Indicate how areas are protected and preserved.
	5-8	Energy Conservation - Indicate relationship of site design to sun and wind exposure.
<hr/>		
Environmental Quality	4-8	Provide certification by a Registered Engineer that the proposed uses meet or exceed City environmental performance standards.
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Recreation Resources	4-8	Describe how proposal meets park and open space needs and requirements.
	5-8	Map proposed park and open space areas and describe maintenance provisions.
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Transportation	5-8	Proposed Facilities - Provide general circulation plan showing location, widths and direction of existing and proposed streets, bicycle and pedestrian ways and transit routes and facilities. Describe the proposed circulation plan's conformity to Chapter VI, Community Development Plan.
	5-8	Indicate estimated curve and curb radii and typical street cross sections.
	5-8	Emergency Access - Show emergency access.
	5-8	Lot Access - Show the location and size of accesses, sight distances and any fixed objects on collectors or arterials.
	3-8	Future Rights-of-Way - Indicate distances from property lines to street centerlines and pavement.
	5-8	Traffic Volumes - Indicate existing and future traffic volumes.
	5-8	Street Profiles - Map profiles and indicate cuts and fills for roads with grades of 15% or more.
	5-8	Parking - Indicate the location, number and size of off-street parking spaces and loading and maneuvering areas.
Water	5-8	Proposed Facilities - Indicate the location and size of the proposed water distribution system and fire hydrants.
Sewer	5-8	Proposed Facilities - Indicate the location and size of the proposed sewage collection systems.
Drainage	5-8	Proposed Facilities - Indicate proposed runoff control and conveyance system.

Private Utilities	5-8	Lighting Plan - Indicate location, height, and sizes of street lighting structures and their connection points to power lines.
Economic Development	4-8	Industrial and Commercial Uses - Indicate number of new jobs to be created, the ratio of employees to site acreage, anticipated capital investment and tax impact.
	4-8	Commercial Uses - Provide evidence of local markets for the service or product to be marketed.
	4-8	Residential Uses - Provide evidence of local markets for type of housing proposed.
Structural Design and Construction	8	Proposed Structures - Provide architectural sketches and elevations of all proposed structures as they will appear upon completion.
	8	Construction Materials - Provide a description of external structural design including materials, textures and colors. Describe compatibility with other uses and natural features.
	8	Energy Conservation - Show the relationship of building orientation and sun and wind exposures. Describe how structures address energy conservation.
	8	Hazard Protection/Resources Preservation - Show how proposed structures relate to natural features and hazards.
	8	Signs - Indicate the locations, sizes and design of proposed signs.
	8	Solid Waste Storage - Indicate the location and design or storage facilities.
	8	Privacy - Describe how privacy is protected.

CHAPTER 4

- 8 Construction Measure - Describe how erosion, siltation and noise will be controlled during construction.
- 8 Fencing and Screening - Indicate the location, size and design of screening including fencing, berms and walls.

4.200 PLAN AMENDMENTS

4.201 INITIATION OF AMENDMENTS

An amendment to the City Zoning Map or text of the Comprehensive Plan may be initiated by the Council, Commission, or an owner of property within the City.

4.202 AMENDMENT PROCEDURES

4.202.01 Zoning Map or Text Amendment

- A. **Application** - An application for a Zoning Map or text amendment shall be on forms provided by the City and shall be accompanied by a fee pursuant to Section 3.301.
- B. **Public Notice** - Public notice shall be given pursuant to Section 3.200.
- C. **Commission Review** - The Commission shall conduct a public hearing on the proposed amendment and provide a report and recommendation to the Council. The decision of the Commission shall include findings as required in Section 4.203.
- D. **Council Review** - Upon receipt of a report and recommendation from the Commission, the Council shall conduct a public hearing. The Council's decision shall include findings as required in Section 4.203. Approval of the request shall be in the form of an ordinance.

4.203 REVIEW CRITERIA**4.203.01 Text Amendment**

An amendment to the text of the Comprehensive Plan shall be based upon a need for such an amendment as identified by the Council or the Commission. Such an amendment shall be consistent with the intent of Comprehensive Plan, and with all other provisions of the Plan and this Code, and with any applicable State or City statutes and regulations.

4.203.02 Map Amendment

An amendment to the City Zoning Map may be granted, provided that the proposal satisfies all applicable requirements of the Comprehensive Plan and this Code, and that:

- A. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan.
- B. There is an existing and demonstrable need for the particular uses and zoning proposed, taking into account the importance of such uses to the economy of the City, the existing market demand for any goods or services which such uses will provide, the presence or absence and location of other such uses or similar uses in the area, and the general public good.
- C. The proposed amendment is timely, considering the pattern of development in the area, surrounding land uses, any changes which may have occurred in the neighborhood or community to warrant the proposed amendment, and the availability of utilities and services to serve all potential uses in the proposed zoning district.
- D. Other lands in the City already zoned for the proposed uses are either unavailable or unsuitable for immediate development due to location, size or other factors.

4.300 CONDITIONAL USES**4.301 GENERALLY****4.301.01 Authorization**

Uses permitted in zoning districts as conditional uses may be established, enlarged, or altered by authorization of the Commission in accordance with the standards and procedures established in Section 4.300. If the site or other conditions are found to be inappropriate for the use requested, the Commission may deny the conditional use application.

4.301.02 Changes In Conditional Uses

Changes in use, expansion or contraction of a non-conforming use, structure or site, or alteration of structures or uses classified as conditional uses, that either existed prior to the effective date of this Code or were established pursuant to Section 4.300 shall conform to the requirements of Section 4.300 if the proposed changes would change the value of existing improvements by fifty percent (50%).

4.301.03 Application And Fee

An application for a Conditional Use Permit (CUP) shall be filed with the City and accompanied by the appropriate fee pursuant to Section 3.301. The applicant is responsible for submitting a complete application which addresses all criteria of Section 4.300 and other applicable sections of this Code.

4.302 PERMIT APPROVAL**4.302.01 Commission Action**

The Commission shall conduct a public hearing pursuant to Section 3.200 and take action to approve, approve with conditions, or deny the application. The Commission decision shall include appropriate findings of fact as required by Section 4.302.03, and an effective date.

4.302.02 Final Site Plan

Upon approval of a conditional use by the Commission, the applicant shall prepare a final site plan for review and approval pursuant to Section 5.100. The final site plan shall include any revisions or other features or conditions required by the Commission at the time of the approval of the conditional use.

4.302.03 Findings Of Fact

No conditional use shall be granted unless each of the following is found:

- A. All public facilities and services to the proposed use, including but not limited to sanitary sewers, water, transportation access, storm drains, electrical distribution, park and open space and public safety are adequate; or that the construction of improvements needed to provide adequate services and facilities is guaranteed by binding agreement between the applicant and the City.
- B. Proposed use conforms to applicable zone standards.
- C. There is a demonstrable public need for the proposed use.
- D. The public need is best served by allowing the conditional use for the particular piece of property in question as compared to other available property.
- E. Surrounding property will not be adversely affected by the use, or that the adverse effects of the use on the surrounding uses, the neighborhood or the City as a whole are sufficiently ameliorated by the conditions imposed.

4.302.04 Additional Conditions

In permitting a conditional use or modification of an existing conditional use, additional conditions may be applied to protect the best interests of the surrounding properties and neighborhoods, the City as a whole, and the intent of Section 4.300. These conditions may include but are not limited to the following:

- A. Mitigation of air, land, or water degradation, noise, glare, heat, vibration, or other conditions which may be injurious to public health, safety or welfare in accordance with environmental performance standards.
- B. Provisions for improvement of public facilities including sanitary sewers, storm drainage, water lines, fire hydrants, street improvements, including curb and sidewalks, and other above and underground utilities.
- C. Increased required lot sizes, yard dimensions, street widths, and off-street parking and loading facilities.

- D. Requirements for the location, number, type, size or area of vehicular access points, signs, lighting, landscaping, screening, building height and coverage, and building security.
- E. Submittal of final site plans, land dedications or money-in-lieu of parks or other improvements, and suitable security guaranteeing conditional use requirements.

4.302.05 Time Limits

Authorization of a conditional use shall be void after one (1) year or such lesser time as the approval may specify unless substantial construction, in the City's determination, has taken place. The Commission may extend authorization for an additional period, not to exceed one (1) year, upon a written request from the applicant showing adequate cause for such extension, and payment of an extension application fee as per Section 3.301.

4.302.06 Revocation

Any departure from approved plans not authorized by the Commission shall be cause for revocation of applicable building and occupancy permits. Furthermore, if, in the City's determination, a condition or conditions of CUP approval are not or cannot be satisfied, the CUP approval, or building and occupancy permits, shall be revoked.

4.400 VARIANCES

4.401 GENERALLY

4.401.01 Authorization

The Commission may authorize variances from the standard requirements of this Code where it can be shown that, owing to special and unusual circumstances related to a specific property, strict application of this Code would cause undue or unnecessary hardship. No variances shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use is located. In granting a variance, the Commission may attach conditions which it finds necessary to protect the best interests of surrounding properties and neighborhoods, and otherwise achieve the purposes of this Code.

4.401.02 Approval Criteria

No variance request shall be granted unless each of the following is found:

- A. Exceptional and extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the effective date of this Code, topography, or other circumstances over which the applicant has no control.
- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity.
- C. The authorization of the variance will not be materially detrimental to the purposes of this Code, or to other property in the zone or vicinity in which the property is located, or otherwise conflict with the goals, objectives and policies of the Comprehensive Plan.
- D. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.
- E. The hardship does not arise from a violation of this Code.

4.401.03 Application Content

An application for a variance shall be filed with the City and accompanied by a fee, as determined by Section 3.301. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The applicant is responsible for submitting a complete application which addresses the review criteria of Section 4.400 and other applicable sections of this Code. Except for variances authorized under Subsection 4.402.01, variance requests shall be subject to public notice and hearing as per Section 3.200.

4.401.04 Time Limits

Authorization of a variance shall be void after one (1) year or such lesser time as the approval may specify unless substantial construction in the City's determination has taken place. The Commission may extend authorization for an additional period not to exceed one (1) year upon a written request from the applicant showing adequate cause for such extension, and payment of an extension application fee as per

Section 3.301.

4.401.05 Revocation

Any departure from approved plans not authorized by the Commission shall be cause for revocation of applicable building and occupancy permits. Furthermore if, in the City's determination, a condition or conditions of variance approval are not or cannot be satisfied, the variance or building and occupancy permits, shall be revoked.

4.402 ADMINISTRATIVE VARIANCE

4.402.01 Authorization to grant or deny variances to on-site requirements.

The City Manager or his or her designee may authorize a variance from the standards of this Code relating to dimensional and on-site requirements, except lot area. Provided, however, that no variance under this section shall be greater than 25% of the requirement from which the variance is sought.

4.402.02 Criteria for Variances granted Under Section 4.401.03

- A. In the case of a yard or other dimensional variance, except lot area, the applicant shall show the approval will result in:
1. More efficient use of the site
 2. Preservation of natural features, where appropriate
 3. Adequate provisions of light, air and privacy to adjoining properties; and
 4. Adequate access
- B. In the case of a variance to the dimensional standards for off-street parking spaces or the minimum required number of off-street parking spaces, the applicant shall show that approval will provide adequate off-street parking in relation to user demand. The following factors may be considered in granting such an exception:
1. Special characteristics of users which indicate low demand for off-street parking (e.g. low income, elderly).
 2. Opportunities for joint use of nearby off-street parking facilities.
 3. Availability of public transit; and

4. Natural features of the site (topography, vegetation and drainage) which would be adversely affected by application of required parking standards.

4.402.03 Procedures for Variances Granted Under Section 4.402.01

- A. An administrative variance shall be decided by the City Manager or his or her designee unless an individual entitled to notice under subsection (B) requests a hearing. If a hearing is requested, the proposal shall be decided by the Planning Commission. The application fee shall be less than for a variance requested under Section 4.401.01, and as specified in the City fee schedule. If a hearing is requested, the variance must be processed as a regular variance and requires the full fee. The administrative variance fee shall be credited against the regular variance fee in such circumstances. If the applicant then decides to withdraw the request, the original fee is non-refundable.
- B. The City shall notify the applicant and all property owners within one hundred (100) feet of the proposal by mailed notice. Any property owner or person present may present written comments to the City which address the relevant criteria and standards. Such comments must be received by the City within ten (10) calendar days from the date on the notice.
- C. If a property owner or a person residing or doing business within the one hundred (100) feet of the proposal presents written comments as described in subsection (B), that individual may also request that a public hearing be held by the Planning Commission on the proposal. A request for a hearing must be submitted in writing and received within ten (10) calendar days from the date on the notice.
- D. If no public hearing is requested as described in subsection (C), the Manager shall make a decision based on the information presented, and shall issue a development permit if the applicant has complied with all the relevant variance requirements. The applicant may appeal this decision to the Planning Commission.
- E. If a public hearing is requested as provided in subsection (C) or the Manager's decision is appealed as provided in subsection (D), the hearing shall be conducted pursuant to Section 3.200 of the Code.

- F. The decision of the Planning Commission may be appealed to the City Council by a party to the hearing in accordance with Section 3.400 and shall be a review of the record supplemented by oral arguments relevant to the record presented by the parties.

4.500 TEMPORARY USES

4.501 GENERALLY

4.501.01 Purpose

Approval may be granted for structures or uses which are temporary or seasonal in nature, such as temporary real estate offices and construction offices, provided such uses are consistent with the intent of the underlying zoning district and comply with other provisions of this Code.

4.501.02 Application And Fee

An application for a temporary use shall be filed with the City and accompanied by the fee specified by Section 3.301. The applicant is responsible for submitting a complete application which addresses all review criteria of Section 4.500. Temporary use permits shall be subject to the public notice and hearing requirements of Section 3.200.

4.502 PERMIT APPROVAL**4.502.01 Findings Of Fact**

A temporary use permit (TUP) may be authorized by the Commission provided that the applicant demonstrates that the proposed use:

- A. Generally conforms to the standards and limitations of the zoning district in which it is located.
- B. Meets all applicable City and County health and sanitation requirements.
- C. Meets all applicable Uniform Building Code requirements.

4.502.02 Time Limits

The temporary use or structure shall be removed upon expiration of the temporary use permit, unless renewed by the Commission. In no case shall a temporary use permit be issued for a period exceeding one (1) year, unless the permit is renewed pursuant to Section 4.500.

4.502.03 Additional Conditions

In issuing a temporary use permit, the Commission may impose reasonable conditions as necessary to preserve the basic purpose and intent of the underlying zoning district. These conditions may include, but are not limited to the following: increased yard dimensions; fencing, screening or landscaping to protect adjacent or nearby property; limiting the number, size, location or lighting of signs; restricting certain activities to specific times of day; and reducing the duration of the temporary use permit to less than one (1) year.

4.502.03

Any departure from approved plans not authorized by the Commission shall be cause for revocation of applicable building and occupancy permits. Furthermore if, in the City's determination, a condition or conditions of TUP approval are not or cannot be satisfied, the TUP approval, or building and occupancy permits, shall be revoked.

4.600 INTERPRETATION OF SIMILAR USES**4.601 GENERALLY**

Where an interpretation is required as to the applicability of the provisions of this Code to a proposed land use which is not specifically listed or otherwise clearly indicated as allowed, conditionally allowed or prohibited, a written request for an interpretation may be submitted to the Commission.

4.602 APPLICATION CONTENT

The request shall be submitted with a fee pursuant to Section 3.302 and shall include information on the following characteristics of the proposed use:

- A. Description of the activity to be conducted on the site.
- B. Noise and odor characteristics.
- C. Description of material or product storage requirements.
- D. Amount and type of traffic to be generated.
- E. Description of the structures required.

4.603 APPROVALS

The Commission shall conduct a public hearing pursuant to Section 3.200 and take action to approve, approve with conditions, or deny the request for an interpretation of a similar use. The action of the Commission may be appealed to the Council in accordance with Section 3.400.

**CHAPTER 5
COMMUNITY DESIGN
AND APPEARANCE**

CHAPTER 5
COMMUNITY DESIGN

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CHAPTER 5
COMMUNITY DESIGN

5.100 SITE PLANNING

5.101 PURPOSE

5.101.01 Generally

Chapter 5 is intended to establish a process and define a set of development standards to guide physical development in the City consistent with the Community Development Plan and this Code.

5.101.02 Objectives

Site planning review is intended to:

- A. Encourage development that is compatible with the existing natural and manmade environment, existing community activity patterns, and community identity.
- B. Minimize or eliminate adverse visual, aesthetic or environmental effects caused by the design and location of new development, including but not limited to effects from:
 - 1. The scale, mass, height, areas, appearance and architectural design of buildings and other development structures and features.
 - 2. Vehicular and pedestrian ways and parking areas.
 - 3. Existing or proposed alteration of natural topographic features, vegetation and water-ways.

5.102 SITE PLAN REVIEW**5.102.01 Review Required**

Except for single and two family uses, and manufactured homes located on individual residential lots as per Section 2.205.01, but including manufactured home parks, no building permit shall be issued for a new building or structure, or for the substantial alteration of an existing structure or use, and no sign permit shall be issued for the erection or construction of a sign relating to such building or structure until the proposed development has been reviewed and approved by the Commission. For the purposes of Section 5.102, the term "substantial alteration" shall mean any development activity under the jurisdiction of the Commission, as defined by this Code, that generally requires a building permit and may exhibit one or more of the following characteristics:

- A. The activity alters the exterior appearance of a structure, building or property.
- B. The activity involves changes in the use of a structure, building, or property from residential to commercial or industrial.
- C. The activity involves non-conforming uses as defined in Section 2.206.
- D. The activity constitutes a change in a City approved plan, as per Section 5.102.03.
- E. The activity is subject to site plan review by other requirements of this Code.
- F. Review of any proposed activity indicates that the project does not meet the standards of Section 5.102.04.

5.102.02 Exemptions

The City shall make a initial determination whether a proposed project requires a site plan review or whether the project is exempt. The City Manager or his or her designee is authorized to waive site plan review when a proposed development activity clearly does not represent a substantial alteration to the building or site involved. The findings of the City Manager or his or her designee shall be made in writing, and copies shall be forwarded to the applicant and the Commission. The action of the City Manager or his or her designee may be appealed as per Section 3.400.

5.102.03 Plan Changes and Revocation**A. Changes**

Construction, site development, landscaping, and other development activities shall be carried out in accordance with the site development plans approved by the Commission. Any proposed changes to approved plans shall be submitted for review to the City. Changes that are found to be substantial, as defined by Section 5.102.01, that conflict with original approvals by the Commission, or that otherwise may conflict with the standards of Section 5.102.04, shall be submitted to the Commission for supplemental review together with a fee equal to one-half (1/2) the original site plan review fee.

B. Revocation

Any departure from approved plans not authorized by the Commission shall be cause for revocation of applicable building and occupancy permits. Furthermore if, in the City's determination, a condition or conditions of site plan approval are not or cannot be satisfied, the site plan approval, or building and occupancy permits, shall be revoked.

5.102.04 Required Findings

No site plan approval shall be granted unless each of the following is found:

- A. The proposed development meets applicable zoning district standards and all provisions of Chapters 5, 6, 8 and 9.
- B. The proposed development can be adequately served by services conforming to the Community Development Plan, including but not limited to water, sanitary facilities, storm water, solid waste, parks and open space, public safety, electric power, and communications.
- C. Covenants, agreements, and other specific documents are adequate, in the City's determination, to assure an acceptable method of ownership, management, and maintenance of structures, landscaping, and other on-site features.

- D. The proposed development preserves significant natural features to the maximum feasible extent, including but not limited to natural drainageways, wetlands, trees, vegetation, scenic views, and topographical features, and conforms to the applicable provisions of Chapter 8 of this Code and Chapter 5 of the Community Development Code.

5.102.05 Approvals

The Commission shall conduct a public hearing pursuant to Section 3.200 and take action to approve, approve with conditions, or deny the application for site plan review. The Commission's action shall include appropriate findings of fact as required by Section 5.102.04. The action of the Commission may be appealed to the Council in accordance with Section 3.400.

5.102.06 Time Limits

Site plan approvals shall be void after one (1) year unless construction on the site has begun, as determined by the City. The Commission may extend site plan approvals for an additional period not to exceed one (1) year, upon written request from the applicant showing adequate cause for such extension, and payment of an extension application fee as per Section 3.301.

5.200 LANDSCAPING**5.201 LANDSCAPING PLAN**

All proposed developments for which a site plan is required pursuant to Section 5.102 shall submit a landscaping plan which meets the standards of Section 5.200. All areas not occupied by structures, paved roadways, walkways, or patios shall be landscaped or maintained according to an approved site plan.

5.202 LANDSCAPING MATERIALS**5.202.01 Varieties**

Required landscaped areas shall include an appropriate combination of evergreen or deciduous trees and shrubs, evergreen ground cover, and perennial plantings. Trees to be planted in or adjacent to public rights-of-way shall meet the requirements of Section 5.200.

5.202.02 Establishment of Healthy Growth and Size

Required landscaping materials shall be established and maintained in a healthy condition and of a size sufficient to meet the intent of the approved landscaping plan. Specifications shall be submitted showing that adequate preparation of the topsoil and subsoil will be undertaken.

5.202.03 Non-Vegetative Features

Landscaped areas as required by Section 5.200 may include architectural features interspersed with planted areas, such as sculptures, benches, masonry or stone walls, fences, rock groupings, bark dust, decorative paving, and graveled areas. Artificial plants are prohibited in any required landscaped area.

5.202.04 Existing Vegetation

All developments subject to site plan review as per Section 5.102.01 and required to submit landscaping plans as per Section 5.202 shall preserve existing trees, woodlands and vegetation on the site to the maximum extent possible, as determined by the Commission, in addition to complying with the provisions of Section 8.304.07.

5.203 LANDSCAPING STANDARDS**5.203.01 Perimeter Screening and Buffering**

A minimum six (6) foot high sight-obscuring wooden fence, decorative masonry wall, or evergreen screen shall be required along property lines separating single and two-family uses from multi-family uses, and along property lines separating residential zones from commercial or industrial uses. In addition, plants and other landscaping features may be required by the Commission in locations and sizes necessary to protect the privacy of residences and buffer any adverse effects of adjoining uses.

5.203.02 Parking and Loading Areas**A. Total Landscaped Area**

A minimum of ten percent (10%) of the lot area used for the display or parking of vehicles shall be landscaped in accordance with Section 5.200.

B. Adjacent to Public Rights-of-Way

A landscaped strip at least ten (10) feet in width shall be provided between rights-of-way and any abutting off-street parking, loading, or vehicle use areas. Landscaping shall include any combination of evergreen hedges, dense vegetation, earth berm, grade, change in grade, wall or fence, forming a permanent year-round screen, except in clear vision areas as per Section 2.303.

C. Perimeter Landscaping

A ten (10) foot wide landscaped strip shall be provided between off-street parking, loading, or vehicular use areas on separate abutting properties or developments. A minimum six (6) foot high sight-obscuring fence or plantings shall also be provided, except where equivalent screening is provided by intervening buildings or structures.

D. Interior Landscaping

A minimum of fifty percent (50%) of required parking area landscaping shall be placed in the interior of the parking area. Landscaped areas shall be distributed so as to divide large expanses of pavement, improve site appearance, improve safety, and delineate pedestrian walkways and traffic lanes. Individual landscaped areas

shall be no less than sixty-four (64) square feet in area and shall be provided after every fifteen (15) parking stalls in a row.

E. Landscaping at Points of Access

When an private accessway intersects a public right-of-way or when a property abuts the intersection of two (2) or more public rights-of-way, landscaping shall be planted and maintained so that minimum sight distances shall be preserved pursuant to Section 2.301.

5.203.03 Visual Corridors

New developments shall be required to establish landscaped visual corridors along Highway 99W and other arterial and collector streets, consistent with the Natural Resources and Recreation Plan Map, Appendix C of the of the Community Development Plan, Part II, and the provisions of Section 8.304.

5.204 INSTALLATION AND MAINTENANCE

5.204.01 Deferral of Improvements

Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping is filed with the City. "Security" may consist of a performance bond payable to the City, cash, certified check, or other assurance of completion approved by the City. If the installation of the landscaping is not completed within six (6) months, the security may be used by the City to complete the installation.

5.204.02 Maintenance of Landscaped Areas

All landscaping shall be maintained in a manner consistent with the intent of the approved landscaping plan. Failure to maintain landscaped areas shall result in the revocation of applicable occupancy permits and business licenses.

5.300 OFF-STREET PARKING AND LOADING**5.301 GENERALLY****5.301.01 Off-Street Parking Required**

No building permit shall be issued until plans are approved providing for off-street parking and loading space as required by this Code. Any change in uses or structures that reduces the current off-street parking and loading spaces provided on site, or that increases off-street parking or loading requirements shall be unlawful and a violation of this Code, unless additional off-street parking or loading areas are provided in accordance with Section 5.302.

5.301.02 Deferral of Improvements

Off-street parking and loading spaces shall be completed prior to the issuance of occupancy permits, unless the Commission determines that weather conditions, lack of available surfacing materials, or other circumstances beyond the control of the applicant make completion impossible. In such circumstances, security equal to one hundred and twenty five percent (125%) of the cost of the parking and loading area is provided the City. "Security" may consist of a performance bond payable to the City, cash, certified check, or other assurance of completion approved by the City. If the installation of the parking or loading area is not completed within six (6) months, the security may be used by the City to complete the installation.

5.301.03 Joint Use

Two (2) or more uses, structures, or parcels of land may utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory evidence is presented to the City, in the form of deeds, leases, or contracts, clearly establishing the joint use.

5.301.04 Multiple Uses

When several uses occupy a single structure or parcel of land, the total requirements for off-street parking and loading shall be the sum of the requirements of the several uses computed separately.

5.301.05 Prohibited Uses

Required parking, loading and maneuvering areas shall not be used for long-term storage or sale of vehicles or other materials, and shall not be rented, leased or assigned to any person or organization not using or occupying the building or use served.

5.301.06 Location

Residential off-street parking spaces shall be located on the same lot as the residential use. For other uses, required off-street parking spaces shall be located within five hundred (500) feet of the use.

5.301.07 Marking

All parking, loading or maneuvering areas shall be clearly marked and painted. All interior drives and access aisles shall be clearly marked and signed to show the direction of flow and maintain vehicular and pedestrian safety.

5.301.08 Drainage

Parking and loading areas shall include storm water drainage facilities approved by the City Engineer.

5.301.09 Repairs

Parking and loading areas shall be kept clean and in good repair. Breaks in paved surfaces shall be repaired, broken or splintered wheel stops shall be replaced and painted parking space boundaries and directional symbols shall be maintained in a readable condition.

5.301.10 Parking and Loading Plan

An off-street parking and loading plan, drawn to scale, shall accompany requests for building permits or site plan approvals, except for single and two-family dwellings, and manufactured homes on residential lots. The plan shall show but not be limited to:

- A. Delineation of individual parking and loading spaces and dimensions;
- B. Circulation areas necessary to serve parking and loading spaces;
- C. Location of accesses to streets, alleys and properties to be served, and any curb cuts;

- D. Landscaping as required by Section 5.200;
- E. Grading and drainage facilities;
- F. Signing and bumper guard specifications.
- G. Bicycle parking facilities as specified in Section 5.302.03E.

5.302 OFF-STREET PARKING STANDARDS

5.302.01 Generally

Where square feet are specified, the area measured shall be the gross building floor area primary to the functioning of the proposed use. Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Fractional space requirements shall be counted as a whole space. Off-street parking and loading requirements for a use not specifically listed in Section 5.302.02 shall be determined by the Commission based upon the requirements of comparable uses.

5.302.02 Minimum Standards

A. Residential

Single and two-family dwelling, and manufactured homes on single residential lots.	2 per dwelling unit
Multi-family dwelling	3 per 2 dwelling units
Sorority, fraternity or dormitory	1 per 2 occupants
Residential hotel, rooming or boarding house or club	2 per 3 guest rooms
Hotel or motel	1 per guest room or suite, plus 1 per 2 employees
Manufactured home park	1 per manufactured home site plus 1 per site for guest parking
Planned Unit Development	Applicable requirements for type of dwelling unit, and 1 per 2 units for guest parking.

B. Commercial

General retail or personal service	1 per 200 sq. ft. floor area
Furniture or appliance store	1 per 500 sq. ft. floor area
Auto, boat or trailer sales, or nursery	1 per 1,000 sq. ft. floor area, plus (1 per 2) employees
Barber shop or beauty parlor	1 per 100 sq. ft. floor area
General, professional or banking office	1 per 300 sq. ft. floor area
Medical or dental office or clinic	1 per 200 sq. ft. floor area
Eating or drinking establishment	1 per 100 sq. ft. floor area
Theater, gymnasium, race track, stadium or similar use	1 per 4 seats or (8 ft. bench length)
Bowling alley	2 per lane
Skating rink or dance hall	1 per 100 sq. ft. floor area, plus 1 per 2 employees
Amusement park	1 per 1,000 sq. ft. floor area, plus 1 per 2 employees
Service station	1 per 2,000 sq. ft. lot area

C. Institutional and Public

Child care center or kindergarten	1 per 2 employees, plus 1 per 5 children
School, elementary or junior high	2 per teacher
School, high school	2 per classroom, plus 1 per 10 students
College, university or trade school	2 per classroom, plus 1 per 5 students
Library	1 per 400 sq. ft. floor area, plus (1 per 2) employees
Church, chapel, mortuary, auditorium	1 per 4 seats or 8 ft. bench length
Nursing or convalescent home	1 per 4 seats or 8 ft. bench residents
Hospital	3 per 2 beds

Golf course	8 per hole
Utility (gas, telephone, etc.)	1 per 2 employees on largest shift, plus 1 per company vehicle

D. Industrial 1 per employee on
largest shift

5.302.03 Miscellaneous Standards

A. Dimensions

For the purpose of Section 5.300, a "parking space" generally means a minimum stall nine (9) feet in width and twenty (20) feet in length. Up to twenty five percent (25%) of required parking spaces may have a minimum dimension of eight (8) feet in width and eighteen (18) feet in length so long as they are signed as compact car stalls.

B. Layout

Parking space configuration, stall and access aisle size shall be of sufficient width for all vehicle turning and maneuvering. Groups of more than four (4) parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required. All parking areas shall meet the minimum standards shown in Appendix G.

C. Wheel Stops

Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least four (4) inches high, located three (3) feet back from the front of the parking stall as shown in Appendix G.

D. Service Drives

Service drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers, and shall have minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points fifteen (15) feet from their intersection.

E. Bicycle Parking Facilities

Bicycle parking must be located within fifty (50) feet of an entrance to the building. With the permission of the City, bicycle parking may be located in public right-of-way. The recommended minimum number of bicycle parking spaces for each use is described in the following:

MINIMUM RECOMMENDED BICYCLE PARKING SPACES

USE CATEGORIES	MINIMUM RECOMMENDED SPACES
RESIDENTIAL CATEGORIES	
Household Living	Multi-dwelling - 2, or 1 per 10 auto spaces All other residential structure type - None
Group Living	1 per 20 auto spaces
COMMERCIAL CATEGORIES	
Retail Sales/Service	2, or 1 per 20 auto spaces, whichever is greater
Office	
Drive-Up Vehicle Servicing	None
Vehicle Repair	None
Commercial Parking Facilities	4, or 1 per 20 auto spaces, whichever is greater
Commercial Outdoor Recreation	
Major Event Entertainment	
Self Service Storage	None
INDUSTRIAL CATEGORIES	
SERVICE CATEGORIES	
Basic Utilities	2, or 1 per 40 spaces, whichever is greater
Community Service, Providers	Park and Ride Facilities 2, or 1 per 20 auto spaces
Parks and Open Areas	2, or 1 per 20 auto spaces, Essential Service whichever is greater
Schools	High schools 4 per classroom Middle schools 2 per classroom Grade schools 2 per 4th and 5th grade classroom
Colleges Centers	2, or 1 per 20 auto spaces, Medical whichever is greater
Religious Institutions	
Daycare Uses	
OTHER CATEGORIES	
Agriculture	None
Aviation Facilities	Per CU Review
Detention Facilities	
Mining, Radio and TV Towers	None
Utility Corridors	

5.303 OFF-STREET LOADING STANDARDS**5.303.01 Minimum Standards**

- A. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers shall be located on the site of any school, or other public meeting place, which is designed to accommodate more than twenty five (25) persons at one time.
- B. The minimum loading area for non-residential uses shall not be less than ten (10) feet in width by twenty-five (25) feet in length and shall have an unobstructed height of fourteen (14) feet. The following additional minimum loading space is required for buildings in excess of twenty thousand (20,000) square feet of gross floor area:
 - 1. 20,000 to 50,000 sq. ft. - 500 sq. ft.
 - 2. 50,000 sq. ft. or more - 750 sq. ft.

5.303.02 Separation of Areas

Any area to be used for the maneuvering of delivery vehicles and the unloading or loading of materials shall be separated from designated off-street parking areas and designed to prevent the encroachment of delivery vehicles onto off-street parking areas or public streets. Off-street parking areas used to fulfill the requirements of Section 5.302 shall not be used for loading and unloading operations.

5.400 ON-SITE CIRCULATION**5.401 GENERALLY****5.401.01 Maintenance**

No building permit or other City permit shall be issued until plans for ingress, egress and circulation have been approved by the City. Any change increasing any ingress, egress or circulation requirements, shall be a violation of this Code unless additional facilities are provided in accordance with Section 5.400.

5.401.02 Joint Access

Two (2) or more uses, structures, or parcels of land may utilize jointly the same ingress and egress when the combined ingress and egress of all uses, structures, or parcels of land satisfied the other requirements of this Code, provided that satisfactory legal evidence is presented to the City in the form of deeds, easements, leases, or contracts to clearly establish the joint use.

5.401.03 Connection to Streets

- A. Except for joint access as per Section 5.401.02, all ingress and egress to a use or parcel shall connect directly to a public street, excepting alleyways.
- B. Required private sidewalks shall extend from the ground floor entrances or the ground floor landing of stairs, ramps or elevators to the public sidewalk or curb of the public street which provides required ingress and egress.

5.401.04 Maintenance of Required Improvements

Required ingress, egress and circulation improvements shall be kept clean and in good repair.

5.401.05 Access to Major Roadways

Points of ingress or egress to and from Highway 99W and arterials designated on the Transportation Plan Map, attached as Appendix C of the Community Development Plan, Part II, shall be limited as follows:

- A. Single and two-family uses and manufactured homes on individual residential lots developed after the effective date of this Code shall not be granted permanent driveway ingress or egress from Highway 99W

and arterial roadways. If alternative public access is not available at the time of development, provisions shall be made for temporary access which shall be discontinued upon the availability of alternative access.

- B. Other private ingress or egress from Highway 99W and arterial roadways shall be minimized. Where alternatives to Highway 99W or arterials exist or are proposed, any new or altered uses developed after the effective date of this Code shall be required to use the alternative ingress and egress.
- C. All site plans for new development submitted to the City for approval after the effective date of this Code shall show ingress and egress from existing or planned local or collector streets, consistent with the Transportation Plan Map and Section VI of the Community Development Plan.

5.401.06 Service Drives

Service drives shall be provided pursuant to Section 5.303.

5.402 MINIMUM RESIDENTIAL STANDARDS

The minimum standards for private, on-site circulation improvements in residential developments are:

5.402.01 Driveways

- A. **Single-Family:** One (1) driveway improved with hard surface pavement with a minimum width of ten (10) feet, not to exceed a grade of 14%.
- B. **Manufactured Home on Individual Residential Lot:** One (1) driveway improved with hard surface pavement with a minimum width of ten (10) feet.
- C. **Two-Family:** One (1) driveway improved with hard surface pavement with a minimum width of twenty (20) feet; or two (2) driveways improved with hard surface pavement with a minimum width of ten (10) feet each.

D. **Multi-Family:** Improved hard surface driveways are required as follows:

Units	# Driveways	Minimum Width	
		<u>One-Way Pair</u>	<u>Two-Way</u>
3 - 49	1	15 feet	24 feet
50 & above	2	15 feet	24 feet

5.402.02 Sidewalks and Curbs

A. **Single, Two-Family, and Manufactured Home on Individual Residential Lot:** No on-site sidewalks and curbs are required.

B. **Multi-family:** A minimum four (4) foot wide sidewalk shall be required on one side of approved driveways connecting a development to public rights-of-way. Curbs shall also be required at a standard approved by the Commission. Each dwelling shall be connected to vehicular parking stalls, and common open space and recreation facilities, by pedestrian pathways having a minimum width of four (4) feet and constructed of all-weather material.

5.403 MINIMUM NON-RESIDENTIAL STANDARDS

The minimum standards for private, on-site circulation improvements in non-residential developments are:

5.403.01 Driveways

A. **Commercial:** Improved hard surface driveways are required as follows:

Required Parking Spaces	# Driveways	Minimum Width	
		<u>One-Way Pair</u>	<u>Two-Way</u>
1 - 49	1	15 feet	24 feet
50 & above	2	15 feet	24 feet

- B. **Industrial:** Improved hard surfaced driveways are required as follows:

Required Parking Spaces	# Driveways	Minimum Width	
		<u>One-Way Pair</u>	<u>Two-Way</u>
1 - 249	1	15 feet	24 feet
250 & above	2	15 feet	24 feet

5.403.02 **Sidewalks and Curbs**

- A. **Commercial:** A minimum four (4) foot wide sidewalk shall be required on one (1) side of approved driveways connecting a development to public rights-of-way. Curbs shall also be required at a standard approved by the Commission. Sidewalks may be connected to public rights-of-way other than along driveways if approved by the Commission.
- B. **Industrial:** Sidewalks and curbs may be required at the discretion of the Commission.

5.500 ON-SITE STORAGE**5.501 RECREATIONAL VEHICLES AND EQUIPMENT**

Recreational vehicles and equipment may be stored only within designated and improved off-street parking areas. Such areas shall meet the screening and landscaping requirements of Section 5.203.

5.502 SOLID WASTE STORAGE

All uses shall provide solid waste storage receptacles which are adequately sized to accommodate all solid waste generated on site. All solid waste storage areas and receptacles shall be located out of public view. Solid waste receptacles for multi-family, commercial and industrial uses shall be screened by six (6) foot high sight-obscuring fence or masonry wall and shall be easily accessible to collection vehicles.

5.503 MATERIAL STORAGE**5.503.01 Generally**

Except as otherwise provided herein, external material storage is prohibited, except in commercial and industrial zones where storage areas are approved by the Commission as part of a site plan or as per Section 5.504.

5.503.02 Standards

Except as per Section 5.504, all service, repair, storage, and merchandise display activities carried on in connection with any commercial or industrial activity, and not conducted within an enclosed building, shall be screened from the view of all adjacent properties and adjacent streets by a six (6) foot high, sight obscuring fence. In addition, unless adjacent parcels to the side and rear of the storage area have existing solid evergreen screening or sight-obscuring fencing in place, new evergreen screening no less than three (3) feet in height shall be planted along side and rear property lines. Where other provisions of this Code require evergreen screening, fencing, or a landscaped berm along side and rear property lines, the additional screening stipulated by this Section shall not be required.

5.503.03 Hazardous Materials

Storage of hazardous, corrosive, flammable, or explosive materials, if such storage is otherwise permitted by this Code, shall comply with all local fire codes, and Federal and State regulations.

5.504 OUTDOOR SALES AND MERCHANDISE DISPLAY**A. Sales Permitted**

Outdoor sales and merchandise display activities shall be permitted when such activities are deemed by the Commission to be a customary and integral part of a permitted commercial or industrial use. Outdoor sales and merchandise display will be reviewed as conditional uses in accordance with Section 4.300.

B. Standards

1. Outdoor sales and merchandise display areas shall be kept free of debris. Merchandise shall be stacked or arranged, or within a display structure. Display structures shall be secured and stable.
2. Outdoor sales and merchandise display shall not be located within required yard, building, or landscape setbacks, except where there is intervening right-of-way of a width equal to or greater than the required setback; and shall not interfere with on-site or off-site pedestrian or vehicular circulation.
3. Outdoor retail sales and merchandise display areas for vehicles, boats, manufactured homes, farm equipment, and other similar uses shall be paved with asphalt surfacing, crushed rock, or other dust-free materials.
4. Additional standards may apply to outdoor sales and merchandise display in NC zones, as per Section 2.107.05A.

5.600 RESERVED

5.700 SIGNS

5.701 GENERALLY

5.701.01 Sign Permits

- A. Except as otherwise provided in Section 5.701, no person shall construct, install, structurally alter or relocate any sign without first obtaining an administrative sign permit from the City and making payment of the fee required by Section 3.302. In addition, all permitted illuminated signs shall be subject to the provisions of the State Electrical Code and any applicable permit fees.

5.701.02 Sign Application

Application for a sign permit shall be made upon forms provided by the City and shall include the following information:

- A. Name, address and telephone number of the applicant.
- B. Location of the building structure or lot to which or upon which the sign is to be attached or erected.
- C. A scaled drawing showing sign design including colors, dimensions, sign size, height above ground, method of attachment, construction and materials, type, source and intensity of illumination and the relationship to any building to which the sign will be attached.
- D. A plot plan approximately to scale indicating the location of all buildings, property lines, existing signs, street and overhead power lines on the same premises.
- E. Name, address and telephone number of the person or firm who will do the erection, construction or maintenance on the sign.

5.701.03 Exceptions

The following signs shall not require Commission review or a sign permit but shall conform to all other applicable provisions of Section 5.700:

- A. Real estate signs not exceeding twelve (12) square feet in area, exclusively advertising the sale, rental or lease of the premises upon which the signs are located.
- B. Nameplates not exceeding one (1) square foot in area.
- C. Messages on a legally erected, painted or printed advertising sign, theater marquee or similar sign specifically designed for the use of replaceable copy.
- D. On-site painting, repainting, cleaning and normal maintenance and repair of a sign.
- E. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.
- F. A construction site sign denoting an architect, engineer, contractor, subdivision or development, not exceeding thirty-two (32) square feet in area, provided that such sign is removed within thirty (30) days from date of issuance of the final occupancy permit or within two (2) years, whichever is less.
- G. Streamers, banners and similar signs calling attention to an opening of a new business, a City approved cultural event, or other similar occasion, provided such signs may be erected for one (1) week only.
- H. Signs not exceeding twelve (12) square feet in area relating to the nomination or election of any individual for a political office or advocacy of any measure to be voted upon at any special or general election, provided that such signs shall be removed within ten (10) days after the election.
- I. Public utility signs and other signs required by law.
- J. Directional or instructional signs on private property which are solely designed to direct pedestrians and vehicular traffic.

5.701.04 Violations

The City shall order the removal of any sign erected or maintained in violation of the provisions of Section 5.700. The City shall give ninety (90) days written notice to the owner of the sign or, if the owner of the sign cannot be notified, to the owner of the building, structure or premises on which such sign is located, to remove the sign

or to bring it into compliance. After ninety (90) days the City may remove such sign at cost to the owner of the building, structure or premises. All costs incurred by the City will be a lien against the land or premises on which the sign is located and may be collected or foreclosed in the same manner as similar liens.

5.701.05 Nonconforming Signs

Signs in existence prior to the effective date of this Code or located on land annexed to the City after the effective date of this Code, which do not conform to the provisions of Section 5.700, but which were constructed, erected, or maintained in compliance with all previous regulations, shall be regarded as non-conforming signs and shall be brought into compliance within five (5) years. Any nonconforming sign which is structurally altered, relocated or replaced shall immediately be brought into compliance.

5.701.06 Abandoned Signs

Any person who owns or leases a sign shall remove the sign and sign structure when the business advertised is discontinued or moves. The City shall give the owner of the building, structure or premises upon which an abandoned sign is located ninety (90) days written notice for removal of the sign. After ninety (90) days the City may remove such sign at cost to the owner of the building, structure or premises. All costs incurred by the City may be a lien against the land or premises on which such sign is located and may be collected or foreclosed in the same manner as similar liens.

5.701.07 Additional Setbacks

Where the supporting member of any sign is permanently erected or affixed to the ground within an setback area established pursuant to Section 2.302, no permit shall be issued for such sign until the owner(s) of the sign and premises upon which the sign will be erected, enter into a written agreement with the City providing the supporting member within ninety (90) days of written notice by the City. The agreement shall further provide that after ninety (90) days the City may remove such sign at the expense of the owner(s). All costs incurred by the City may be a lien against such land or premises and may be collected or foreclosed in the same manner as similar liens.

5.701.08 Construction and Maintenance

Except as otherwise provided in this Code, the construction of all signs or sign structures shall conform to applicable provisions of the Uniform Building Code. All signs, supports, braces, guys and anchors and sign sites shall be kept in good repair and maintained in a clean, safe condition.

5.702 PROHIBITED SIGNS**5.702.01 Unsafe or Unmaintained Signs**

All signs and sign structures must be constructed, erected and maintained to withstand the wind, seismic and other loads as specified in the Uniform Building Code. No sign shall be constructed, erected or maintained in violation of the maintenance provisions of Section 5.700.

5.702.02 Signs on Streets

No sign shall substantially obstruct free and clear vision along streets, or by reason of the position, shape or color, may interfere with, obstruct the view of, or be confused with any authorized traffic signal or device. No sign shall use the words "stop", "look", "danger", or any other similar word, phrase, symbol or character that interferes with or misleads motorists, pedestrians or bicyclists.

5.702.03 Obstructing Signs

No sign or sign structure shall be located or constructed so that it obstructs access to any fire escape, exit doorway or other means of egress from a building. No sign or supporting structure shall cover, wholly or partially, any window or doorway in any manner that will substantially limit access to the building in case of fire.

5.702.04 Rotating or Revolving Signs

Rotating or revolving signs are prohibited.

5.702.05 Illuminated Signs

Flashing signs, exposed reflective type bulbs, strobe lights, rotary beacons, par spots, zip lights and similar devices are prohibited. No exposed incandescent lamp which exceeds twenty-five (25) watts shall be used on the exterior surface of any sign so as to expose the face of such bulb or lamp to a public street. All permitted signs shall bear an approved Underwriters Laboratory label.

5.702.06 Off-Premise Signs

Except as otherwise permitted by this Code and Section 5.703.01C, off-premise signs are prohibited.

5.702.07 Directional Signs

Except as permitted by Section 5.703.01C, directional signs are prohibited.

5.703 SIGN REGULATIONS BY ZONE

5.703.01 Residential Zones

No sign requiring a permit shall be allowed in residential zones except for the following:

A. Public/Semi-Public Buildings

On churches, schools and other public or semi-public buildings located within a residential zone, signs not exceeding thirty six (36) square feet in size shall be permitted. Signs must be attached flat against buildings or setback a minimum of fifteen (15) feet from property lines adjacent to public streets.

B. Permanent Residential Development Sign

One (1) ground sign, not exceeding thirty-two (32) square feet in size, denoting a subdivision development may be permitted. Illumination may be permitted provided a public nuisance is not created.

C. Directional Signs

Directional signs may be located at street intersections with the approval of the Commission. Such signs shall be no more than one (1) foot by three and one-half (3 1/2) feet. Not more than eight (8) signs shall be permitted at any one street intersection. The signs shall be provided by the developer or applicant and turned over to the City with a fee as per Section 3.301. The City will erect the signs at heights and locations approved by the Commission.

Directional signs may only be permitted for the following uses:

1. Public and private institutions including but not limited to government services, schools, fraternal lodges, and churches.
2. Districts, neighborhoods and other major traffic generators, such as historic districts and shopping centers.

Directional signs for individual businesses and industries are prohibited.

D. Non-Residential Signs

One (1) sign not more than sixteen (16) square feet in area identifying a permitted use in a residential zone, shall be allowed.

5.703.02 Commercial Zones

No sign requiring a sign permit shall be allowed in commercial zones except for the following:

A. Free-Standing Signs

1. **Number Permitted:** One (1) multi-faced, free-standing sign designating the principal goods or services available on the premises shall be permitted per street frontage. Where a frontage exceeds three hundred (300) feet in length, one (1) additional free-standing sign is permitted.
2. **Height Limit:** The maximum height of any portion of a sign or sign structure shall be forty-five (45) feet from ground level at its base, provided that no sign shall exceed in height the distance from the sign to the centerline of an adjacent public right-of-way.
3. **Clearance:** The minimum clearance below the lowest portion of a free-standing sign shall be fourteen (14) feet over any driveway or parking area.
4. **Area:** Maximum sign area shall be one and one-half (1/2) square feet of area per lineal foot of street frontage, not exceeding seven hundred-fifty (750) square feet per sign face, or one thousand five hundred (1500) square feet for all sign faces. Multiple frontage properties may have more than one (1) sign, combine linear frontages and erect a larger sign, or combine with the frontage of adjacent premises to erect a single, common sign. The total combined sign area of any option shall not exceed the sizes otherwise permitted by Section 5.703.02.
5. **Location:** No free-standing sign or any portion of any free-standing sign shall be located within a public right-of-way.

B. Wall Signs

Wall signs shall not exceed twenty percent (20%) of the gross area face of the building to which the sign is attached. Signs placed on or within one (1) foot of display windows and designed to be viewed from the exterior of the building shall be included in determining the amount of signing. Wall signs may not project more than one and one-half (1 1/2) feet from the wall to which they are attached.

C. Projecting Signs

Projecting signs supported by a wall of a building or structure shall be permitted under the following conditions:

1. Only one (1) projecting sign will be permitted on the same business frontage with wall signs.
2. No projecting sign shall be permitted on the same premises where there is a free-standing sign or roof sign.
3. A projecting sign shall be used solely to identify a business and shall not be used to advertise services or products sold on the premises.
4. No projecting sign shall extend more than three (3) feet above the roof line at the wall or the top of a parapet wall, whichever is higher.
5. No projecting sign shall be located within twenty (20) feet of another projecting sign in the same horizontal plane.
6. No projecting sign shall be supported by a frame, commonly known as a "A frame" or other visible frame located on the roof of a building.
7. No sign shall project to within two (2) feet of the curb of a public street or beyond five (5) feet from the building face, whichever is less.

D. Directional Signs

The requirements of Section 5.703.01.C shall apply.

E. Roof Signs

Signs erected in or directly above a roof or parapet of a building or structure are permitted provided such sign meet the following conditions:

1. The size of the sign face shall not exceed fifty (50) square feet.
2. The height of a roof sign shall not exceed the highest point on the building or structure. Roof signs on flat roofs are prohibited.
3. Supporting members shall be completely enclosed with materials of compatible design and color to the building or structure.
4. Only one (1) roof sign may be permitted per building or structure.

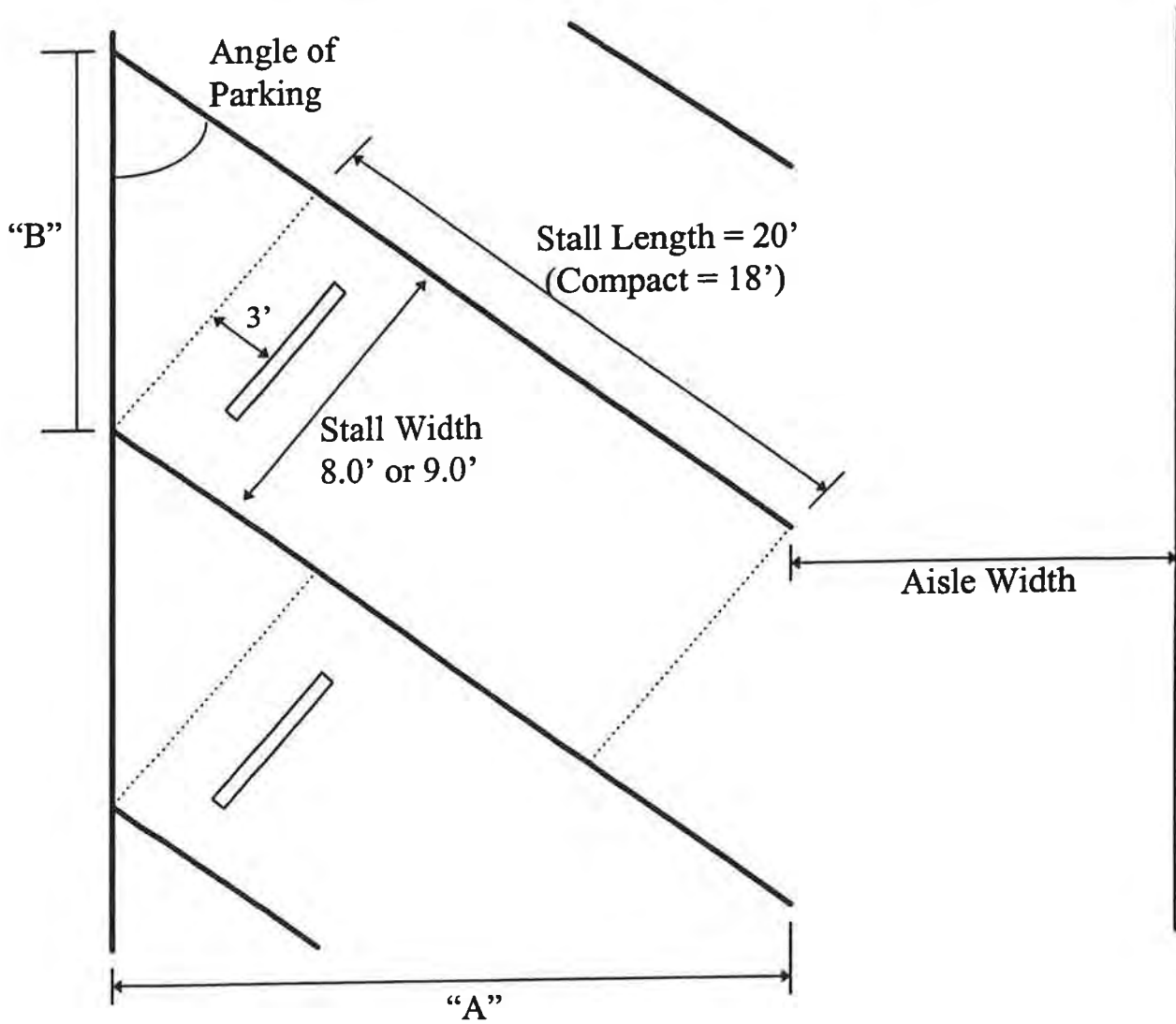
5.703.03 Industrial Zones

No sign requiring a permit shall be allowed in industrial zones except for the following:

- A. Signs permitted in commercial zones, provided that only one (1) multi-faced free-standing sign designating the principal uses of the premise shall be permitted in any setback area, if the area of any one face of such free-standing sign does not exceed sixty (60) square feet and the total area of all faces of such free-standing sign does not exceed one hundred and twenty (120) square feet.
- B. Directional Signs

The requirements of Section 5.703.01C shall apply.

Minimum Standards for Parking Areas



Angle of Parking	Direction of Parking	Aisle Width		"A"		"B"	
		Stall Width		Stall Width		Stall Width	
		8'	9'	8'	9'	8'	9'
30°	Drive-In	12.5	12.5	17.8	18.2	18.0	19.0
45°	Drive-In	12.5	12.5	20.5	20.9	12.7	13.4
60°	Drive-In	19.0	18.0	21.8	22.1	10.4	11.0
60°	Back-In	17.0	17.0	21.8	22.1	10.4	11.0
90°	Drive-In	23.0	23.0	20.0	20.0	9.0	9.6
90°	Back-In	22.0	22.0	20.0	20.0	9.0	9.6

**CHAPTER 6
PUBLIC IMPROVEMENTS**

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PUBLIC IMPROVEMENTS

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CHAPTER 6

PUBLIC IMPROVEMENTS

6.100 GENERALLY

6.101 STANDARDS

To ensure the health, safety, and the economic stability of the community, and to establish a quality system of public improvements, the City shall require proposed buildings and development for which public facilities and public rights-of-way are not fully provided or improved to current City standards, to install said improvements. The Council may establish specifications to supplement the standards of this Code and other applicable ordinances. Except as otherwise provided or authorized, private improvements serving substantially the same function as equivalent public facilities, shall generally be provided and improved at the standards established by this Code and other City regulations.

6.102 FUTURE IMPROVEMENTS

The location of future public improvements including water, sanitary sewer, storm water, streets, bicycle and pedestrian paths, and other public facilities and rights-of-way, as depicted in Chapters 4, 5, 6 and 7 of the Community Development Plan, are intended as general locations only. The precise alignments and locations of public improvements shall be established during the actual development process and shall be depicted on public improvement plans submitted and approved pursuant to Section 6.200 and other applicable sections of this Code.

6.103 IMPROVEMENT PROCEDURES

Except as otherwise provided, all public improvements shall conform to City standards and specifications and shall be installed in accordance with Section 6.200. No public improvements shall be undertaken until an improvement plan review fee has been paid, improvement plans have been approved by the City, and an improvement permit has been issued.

6.200 IMPROVEMENT PLAN REVIEW**6.201 PREPARATION AND SUBMISSION**

Required improvement plans shall be prepared and stamped by a Registered Civil Engineer certifying compliance with City specifications. Two (2) sets of said plans shall be submitted to the City for review. Improvements plans shall be accompanied by a review fee as per Section 6.201.01.

6.201.01 Review Fee

Plan review fees are calculated as a percentage of the estimated total cost of improvements and are set by the "Schedule of Development and Business Fees" adopted by Resolution of the Council. This schedule is included herein as Appendix J for the purposes of information, but is deemed to be separate from and independent of this Code.

6.201.02 Engineering Agreement

A copy of an agreement or contract between the a applicant and Registered Civil Engineer for:

- A. Surveying sufficient to prepare construction plans.
- B. Preparation of construction plans and specifications.
- C. Construction staking, and adequate inspection.
- D. Construction notes sufficient to develop accurate as-built plans.
- E. Drawing of accurate as-built plans and submission of mylar reproducibles to the City.
- F. Certificate stating that construction was completed in accordance with required plans and specifications.

6.202 CONSTRUCTION PERMIT**6.202.01 Approval**

The City will return one (1) set of plans to the applicant marked "approved" or "modify and resubmit." Plans marked for resubmittal must be corrected in accordance with notations or instructions. After correction and approval, additional plans shall be provided the City for office use, field inspection and submittal to affected agencies.

6.202.02 Permit and Fee

Upon approval the applicant shall obtain a construction permit. The construction permit fee is set by the "Schedule of Development Fees", adopted by Resolution of the Council. This schedule is included herein as Appendix J for the purposes of information, but is deemed to be separate from and independent of this Code.

6.202.03 Easement Documents

Necessary construction and/or permanent easements shall be provided in a form acceptable to the City prior to issuance of a construction permit.

6.202.04 Improvement Guarantees

Prior to issuance of a construction permit the applicant shall file the following documents with the City:

A. Liability Insurance

Evidence of public liability and property damage insurance adequate to protect the applicant and the City from all claims for damage or personal injury.

B. Performance Bond

To assure full and faithful performance in the construction of required improvements in accordance with approved construction plans, the applicant shall provide security in an amount equal to one hundred percent (100%) of the estimated cost of the improvements. In the event the applicant fails to carry out all provisions of the approved improvements plans and the City has unreimbursed costs or expenses resulting from such failure, the City shall call on the security for reimbursement. Security may be provided in the form of a surety bond executed by a surety company authorized to transact business in the State of Oregon, a cash deposit, or other form of security acceptable to the City.

6.203 CONSTRUCTION**6.203.01 Initiation of Construction**

Actual improvements shall not begin, or after a discontinuance, be restarted until the City is notified in writing.

6.203.02 Inspection

All construction shall be done to the City's specifications. The City shall perform inspections to verify compliance with approved plans and shall make a final inspection of the construction at such time as the improvements are complete. The City may require changes in typical sections and details, if unusual conditions warrant the change.

6.203.03 As-Built Plans

A complete set of reproducible plans showing the public improvements as built shall be filed with the City upon completion of the improvements.

6.202.04 Suspension of Improvements Activity

The City shall have the authority to cause a suspension of improvement construction or engineering when, in the opinion of the City, work is not being done to the City's satisfaction.

6.204 ACCEPTANCE OF IMPROVEMENTS**6.204.01 Final Inspection**

At such time as all public improvements, except those specifically approved for later installation, have been completed, the applicant shall notify the City of the readiness for final inspection.

6.204.02 Notification of Acceptance

The City shall give written notification of the acceptance of the improvements upon finding that the applicant has met the requirements of Section 6.200 and the specifications of all approved plans.

6.204.03 Maintenance Bond

At the time of City acceptance of public improvements, the applicant shall file with the City a maintenance bond computed at ten percent (10%) of the full value of the improvements, to provide for correction of any defective work or maintenance becoming apparent or arising within one (1) year after final acceptance of the public improvements.

6.300 STREETS**6.301 GENERALLY****6.301.01 Creation**

Public streets shall be created in accordance with provisions of Section 7.304. Except as otherwise provided, all street improvements and rights-of-way shall conform to standards for the City's functional classification of said streets, as shown on the Transportation Plan Map, attached as Appendix B, in Chapter 6 of the Community Development Plan, and in other applicable City standards.

6.301.02 Street Naming

- A. All streets created by the subdivision process will be named prior to submission of the final plat.
- B. Any street created by a public dedication shall be named prior to or upon acceptance of the deed of dedication.
- C. An action to name an unnamed street in the City may be initiated by the Council or by a person filing a petition as described in Section 6.301.03.
- D. All streets named shall conform to the general requirements as outlined in Section 6.301.04.
- E. Private streets, at the request of the owner(s), may be named and addresses issued with the approval of the City. Private streets are subject to the same street name standards as are public streets. All private street signs will be provided at the owner(s) expense.

6.301.03 Street Renaming

- A. An action to rename a street in the City may be initiated by the Council:
 - 1. On its own action; or
 - 2. If a person files a petition as described in this section accompanied by a fee reasonably related to the costs of the process.
- B. A petition for naming or renaming a street shall include the following:
 - 1. A statement of the reasons for the proposed name change.

2. The names and addresses of all persons owning any real property abutting the road proposed to be renamed.
3. Signatures of either owners of percent sixty (60%) of the land abutting the subject road or sixty percent (60%) of the owners of land abutting the subject road.

C. Notice and Hearing

1. When a proceeding has been initiated under this section, the Council shall establish a time and place for a hearing to consider whether the proposed name change is in the public interest.
2. At least ten (10) days prior to the date of hearing, notice of the proposed name change shall be provided as follows:
 - a. Notice by posting in no less than two (2) conspicuous places abutting the subject road; and
 - b. Notice by publication in a newspaper of general circulation in the area of the subject road.
3. During or before a hearing under this section, any person may file information with the Council that alleges any new matter relevant to the proceedings or controverts any matter presented to the Council.
4. After considering the matters presented under this section, the Council shall determine whether the name change is in the public interest and shall adopt findings and an ordinance granting or denying the request.
5. When the ordinance becomes final, the Council shall cause the ordinance to be recorded with the County Clerk who shall cause copies of the ordinance to be filed with the Department of Public Works, the Department of Assessment and Taxation and with the County Surveyor.
6. For the purposes of this section, "owner" means the record holder of legal title to the land, except that if there is a purchaser of the land according to a recorded land sale contract, the purchaser is the owner.

6.301.04 Street Name Standards

- A. All streets named or renamed shall comply with the following criteria:
1. Major streets and highways shall maintain a common name or number for the entire alignment.
 2. Whenever practicable, names as specified in Section 6.301.05 shall be utilized or retained.
 3. Hyphenated or exceptionally long names shall be avoided.
 4. Similar names such as Farview and Fairview or Salzman and Saltzman shall be avoided.
 5. Consideration shall be given to the continuation of the name of a street in another jurisdiction when it is extended into the City.
- B. The following classifications (suffixes) shall be utilized in the assignment of all street names:
1. Boulevards: North/south arterials providing through traffic movement across the community.
 2. Roads: East/west arterials providing through traffic movement across the community.
 3. Avenues: Continuous, north/south collectors or extensions thereof.
 4. Streets: Continuous, east-west collectors or extensions thereof.
 5. Drives: Curvilinear collectors (less than 180 degrees) at least 1,000 feet in length or more.
 6. Lanes: Short east/west local streets under 1,000 feet in length.
 7. Terraces: short north/south local streets under 1,000 feet in length.
 8. Court: All east/west cul-de-sacs.
 9. Place: All north/south cul-de-sacs.
 10. Ways: All looped local streets (exceeding 180 degrees).

11. Parkway: A broad landscaped collector or arterial.
- C. Except as provided for by this section, no street shall be given a name that is the same as, similar to, or pronounced the same as any other street in the City unless that street is an extension of an already-named street.
- D. All proposed street names shall be approved, prior to use, by the City.

6.301.05 Street Names

Whenever practicable, historical names will be considered in the naming or renaming of public roads. Historical factors to be considered shall include, but not be limited, to the following:

- A. Original holders of Donation Land Claims in Sherwood.
- B. Early homesteaders or settlers of Sherwood.
- C. Heirs of original settlers or long-time (50-100 years) residents of Sherwood.
- D. Explorers of, or having to do with, Sherwood.
- E. Indian tribes of Washington County.
- F. Early leaders and pioneers of eminence.
- G. Names related to Sherwood's flora and fauna.
- H. Names associated with the Robin Hood legend.

6.302 STREET SYSTEMS IMPROVEMENT FEES (SIF)

6.302.01 Purpose

The SIF shall be reserved and used exclusively for the acquisition, expansion, extension, and capital development and redevelopment of public rights-of-way, streets, bikepaths, sidewalks, traffic control devices, and appurtenant structures, designed to provide extra system capacity, and as designated on the Transportation Plan Map, attached as Appendix B, and in Chapter 6 of the Community Development Plan. The SIF may also be utilized for expenditures relating to repayment of debt for such improvements. The SIF may not be used for street preservation improvements or for routine street system maintenance and operations.

6.302.02 Schedule of Charges

SIF's shall be assessed against new development in the City to support extra-capacity street improvements. The SIF for streets shall be set by the "Schedule of Development Fees", adopted by Resolution of the Council. This schedule is included herein as Appendix J for purposes of information, but is deemed to be separate from and independent of this Code.

6.302.03 Assessment

Except as otherwise provided by this Code or by State Law, the SIF is immediately due and payable and shall be collected prior to issuance of any building permits for new residential construction; for alterations or additions to buildings that increase the number of residential dwelling units; or for commercial, industrial, or institutional construction requiring new or additional off-street parking as per Section 5.302.

6.302.04 Deferral

Where the SIF due and payable from a single building permit exceeds \$3,000.00, an administrative deferral may be granted until an occupancy permit is issued. No occupancy permit shall be issued until the full SIF is paid in full.

6.303 REQUIRED IMPROVEMENTS

6.303.01 Generally

Except as otherwise provided, all developments containing or abutting an existing or proposed street, that is either unimproved or substandard in right-of-way width or improvement, shall dedicate the necessary right-of-way prior to the issuance of building permits and/or complete acceptable improvements prior to issuance of occupancy permits.

6.303.02 Existing Streets

Except as otherwise provided, when a development abuts an existing street, the improvements requirement shall apply to that portion of the street right-of-way located between the centerline of the right-of-way and the property line of the lot proposed for development. In no event shall a required street improvement for an existing street exceed a pavement width of thirty (30) feet.

6.303.03 Proposed Streets

Except as otherwise provided, when a development includes or abuts a proposed street, in no event shall the required street improvement exceed a pavement width of forty (40) feet.

6.303.04 Extent of Improvements

Streets required pursuant to Section 6.300 shall be dedicated and improved consistent with Chapter 6 of the Community Development Plan, and applicable City standards and specifications and shall include curbs, sidewalks, and catch basins. Improvements shall also include any bikeways designated on the Natural Resources and Recreation Plan Map, attached as Appendix C, or in Chapter 5 of the Community Development Plan. Catch basins shall be installed and connected to storm sewers and drainage ways. Upon completion of the improvements, monuments shall be re-established and protected in monument boxes at every public street intersection and all points of curvature and points of tangency of their center lines. Street signs shall be installed at all street intersections and street lights shall be installed and served from an underground source of supply unless other electrical lines in the development are not underground.

6.303.05 Exceptions

Single and two-family dwelling units and manufactured homes on individual residential lots may be constructed on lots approved before the effective date of this Code without providing improvements to substandard City streets, subject to the dedication of all additional required right-of-way and the provision of a waiver of remonstrance against future public improvements.

6.304 LOCATION AND DESIGN**6.304.01 Generally**

The location, width and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, and proposed land uses. The proposed street system shall provide adequate, convenient and safe traffic circulation, and intersection angles, grades, tangents, and curves shall be adequate for expected traffic volumes. Street alignments shall be consistent with solar access requirements as per Section 8.311, and topographical considerations.

6.304.02 Future Street Systems

The arrangement of public streets shall provide for the continuation and establishment of future street systems as shown on the Transportation Plan Map, attached as Appendix C, or in Section VI of the Community Development Plan, except for deviations to meet a particular situation where topographical or other conditions make continuance or conformance to existing or planned streets impractical.

6.304.03 Underground Utilities

All public and private underground utilities, including sanitary sewers and storm water drains, shall be constructed prior to the surfacing of streets. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

6.305 STREET DESIGN STANDARDS**6.305.01 Right-of-Way and Pavement Width**

Unless otherwise provided in this Code, on the Transportation Plan Map, attached as Appendix C, by Section VI of the Community Development Plan, or by a separately approved future street plan, right-of-way and roadway widths shall not be less than:

Street Type	ROW	Road Surface	Sidewalk
A. Minor Arterial (with bikelane)	80 ft.	54 ft.	6 ft.
B. Minor Arterial (without bikelane)	70 ft.	44 ft.	6 ft.

C.	Major Collector (with bikelane)	70 ft.	50 ft.	5 ft.
D.	Major Collector (without bikelane)	60 ft.	40 ft.	5 ft.
E.	Minor Collector	60 ft.	40 ft.	5 ft.
F.	Local (on-street parking allowed)	50 ft.	36 ft.	5 ft.
G.	Local (on-street parking one side)	50 ft.	32 ft.	5 ft.
H.	Local (no on-streetparking)	50 ft.	28 ft.	5 ft.
I.	Turnaround	50 ft.	40 ft.	5 ft.
J.	Alleyway	20 ft.	20 ft.	none

6.305.02 Reserve Strips

Reserve strips or street plugs controlling access or extensions to streets shall not be allowed unless necessary for the protection of the public welfare or of substantial property rights. All reserve strips shall be dedicated to the City.

6.305.03 Alignment

All proposed streets shall, as far as practicable, be in alignment with existing streets. In no case shall the staggering of streets create a "T" intersection or a dangerous condition. Street offsets of less than one hundred (100) feet will not be allowed.

6.305.04 Future Extension

Where necessary to access or permit future subdivision of adjoining land, streets shall extend to the boundary of the development and the resulting cul-de-sacs may be approved without a turnaround.

6.305.05 Intersection Angles

A. Streets shall intersect as near to ninety (90) degree angles as practical, except where topography requires a lesser angle. In no case shall the permitted angle be less than eighty (80) degrees without an approved special intersection design. Streets which contain an acute

angle of less than eighty (80) degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway edge radius of twenty (20) feet and maintain a uniform width between the roadway and the right-of-way line.

- B. Arterial or collector streets intersecting with another street shall have at least one hundred (100) feet on tangent adjacent to intersections unless topography requires a lesser distance. Other streets, except alleys, shall have at least fifty (50) feet on tangent adjacent to intersections.

6.305.06 Cul-de-Sacs

Cul-de-sacs shall be no more than six hundred (600) feet in length and shall terminate with a circular turnaround fifty (50) feet in radius, except as otherwise provided. The length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac.

6.305.07 Grades and Curves

Grades shall not exceed six percent (6%) for arterials, ten percent (10%) for collector streets, or twelve percent (12%) for other streets. Center line radii of curves shall not be less than three hundred (300) feet for major arterials, two hundred (200) feet for minor arterials or one hundred (100) feet for other streets. Where existing conditions, such as topography, make buildable sites impractical, steeper grades and sharper curves may be approved. Finished street grades shall have a minimum slope of one-half percent (1/2%).

6.305.08 Streets Adjacent to Railroads

Streets adjacent to railroads shall run approximately parallel to the railroad and be separated by a distance suitable to allow landscaping and buffering between the street and railroad. Due consideration shall be given at cross streets for the minimum distance required for future grade separations and to provide sufficient depth to allow screening of the railroad.

6.305.09 Buffering of Major Streets

Where a development abuts Highway 99W, or an existing or proposed arterial or a collector street, adequate protection for residential properties shall be provided and through and local traffic shall be separated and traffic conflicts minimized. In addition, visual corridors pursuant to Section

8.304.04, and all applicable access provisions of Section 5.400, shall be met. Buffering may be achieved by: parallel access streets, lots of extra depth abutting the major street with frontage along another street, or other treatment suitable to meet the objectives of this Code.

6.305.10 Median Islands

Median islands may be used on arterial or collector streets for the purpose of controlling access, or for aesthetic purposes.

6.305.11 Curbs

Curbs shall be installed on both sides of public streets and shall be at least six (6) inches in height.

6.305.12 Transit Facilities

Developments along existing or proposed transit routes may be required to provide areas and facilities for bus turnouts, shelters, and other transit-related facilities, to Tri-Met specifications.

6.305.13 Traffic Controls

For developments of five (5) acres or more, the City may require a traffic impact analysis to determine the number and types of traffic controls necessary to accommodate anticipated traffic flow. Such analysis will be completed according to specifications established by the City. Review and approval of the analysis by the City, and any improvements indicated, shall be required prior to issuance of a construction permit.

6.306 SIDEWALKS

6.306.01 Required Improvements

- A. Except as otherwise provided, sidewalks shall be installed on both sides of a public street and in any special pedestrian way within new development.
- B. For Highway 99W, major or minor arterials, or in special industrial districts, the Commission may approve a development without sidewalks if alternative pedestrian routes are available.
- C. In the case of approved cul-de-sacs serving less than fifteen (15) dwelling units, sidewalks on one side only may be approved by the Commission.

6.306.02 Sidewalk Design Standards**A. Arterial Streets**

Arterial streets shall have minimum six (6) foot wide sidewalks, located as required by this Code.

B. Collector and Local Streets

Collector and local streets shall have minimum four (4) foot wide sidewalks, located as required by this Code.

C. Handicapped Ramps

Sidewalk handicapped ramps shall be provided at all intersections.

6.307 RESERVED**6.308 BIKE PATHS**

If shown on the Transportation Plan Map, attached as Appendix B, or in Chapter 5 of the Community Development Plan, bicycle paths shall be installed in public rights-of-way, in accordance with City specifications. Bike lanes shall be installed on both sides of designated roads, should be separated from the road by a twelve (12) inch stripe, not a curb, and should be a minimum of five (5) feet wide. Bike paths should not be combined with a sidewalk.

6.400 SANITARY SEWERS**6.401 REQUIRED IMPROVEMENTS**

Sanitary sewers shall be installed to serve all new developments and shall connect to existing sanitary sewer mains. Provided, however, that when impractical to immediately connect to a trunk sewer system, the use of septic tanks may be approved, if sealed sewer laterals are installed for future connection and the temporary system meets all other applicable City, Unified Sewerage Agency and State sewage disposal standards.

6.402 DESIGN STANDARDS**6.402.01 Capacity**

Sanitary sewers shall be constructed, located, sized, and installed at standards consistent with this Code, the Sanitary Sewer Service Plan Map attached as Appendix F, Chapter 7 of the Community Development Plan, and other applicable Unified Sewerage Agency and City standards, in order to adequately serve the proposed development and allow for future extensions.

6.402.02 Over-Sizing

- A. When sewer facilities will, without further construction, directly serve property outside a proposed development, gradual reimbursement may be used to equitably distribute the cost of that over-sized system.
- B. Reimbursement shall be in an amount estimated by the City to be a proportionate share of the cost for each connection made to the sewer by property owners outside of the development, for a period of ten (10) years from the time of installation of the sewers. The boundary of the reimbursement area and the method of determining proportionate shares shall be determined by the City. Reimbursement shall only be made as additional connections are made and shall be collected as a surcharge in addition to normal connection charges.

6.403 SERVICE AVAILABILITY

Approval of construction plans for new facilities pursuant to Section 6.200, and the issuance of building permits for new development to be served by existing sewer systems shall include certification by the City that existing or proposed sewer facilities are adequate to serve the development.

6.500 WATER SUPPLY**6.501 REQUIRED IMPROVEMENTS**

Water lines and fire hydrants conforming to City and Fire District standards shall be installed to serve all building sites in a proposed development. All waterlines shall be connected to existing water mains.

6.502 DESIGN STANDARDS**6.502.01 Capacity**

Water lines providing potable water supply shall be sized, constructed, located and installed at standards consistent with this Code, the Water Service Plan Map, attached as Appendix D, Chapter 7 of the Community Development Plan, and with other applicable City standards and specifications, in order to adequately serve the proposed development and allow for future extensions.

6.502.02 Fire Protection

All new development shall comply with the fire protection requirements of Section 6.700, the applicable portions of Chapter 7 of the Community Development Plan, and the Fire District.

6.502.03 Over-Sizing

- A. When water mains will, without further construction, directly serve property outside a proposed development, gradual reimbursement may be used to equitably distribute the cost of that over-sized system.
- B. Reimbursement shall be in an amount estimated by the City to be the proportionate share of the cost of each connection made to the water mains by property owners outside the development, for a period of ten (10) years from the time of installation of the mains. The boundary of the reimbursement area and the method of determining proportionate shares shall be determined by the City. Reimbursement shall only be made as additional connections are made and shall be collected as a surcharge in addition to normal connection charges.

6.503 SERVICE AVAILABILITY

Approval of construction plans for new water facilities pursuant to Section 6.200, and the issuance of building permits for new development to be served by existing water systems shall include certification by the City that existing or proposed water systems are adequate to serve the development.

6.600 STORM WATER**6.601 REQUIRED IMPROVEMENTS**

Storm water facilities, including appropriate source control and conveyance facilities, shall be installed in new developments and shall connect to the existing downstream drainage systems consistent with the Comprehensive Plan.

6.602 STORM WATER SYSTEM IMPROVEMENT FEES (SIF)**6.602.01 Purpose**

The SIF shall be reserved and used exclusively for the acquisition, expansion, extension, and capital development or redevelopment of public storm water conveyance systems, specific street improvements designed to direct and control storm water flows, storm water treatment facilities, storm water detention or retention ponds, or other storm water facilities, designed to provide extra system capacity, and as designated on the Storm Drainage Plan Map, attached as Appendix E, in Chapter 7 of the Community Development Plan, or in the plans of Washington County's storm water management authority. The SIF may also be utilized for expenditures relating to repayment of debt for such improvements. The SIF may not be used for storm water system preservation improvements or for routine storm water system maintenance and operations.

6.602.02 Schedule of Charges

SIF's shall be assessed against new development in the City to support extra-capacity storm water improvements. The SIF for storm water shall be set by the "Schedule of Development Fees" adopted by Resolution of the Council. This schedule is included herein as Appendix J for the purposes of information, but is deemed to be separate from and independent of this Code.

6.602.03 Assessment

Except as otherwise provided, the SIF is immediately due and payable and shall be collected prior to the issuance of any building permits for new construction, or for alterations or additions to buildings or sites that increase the area of impermeable surface.

6.602.04 Deferral

Where the SIF due and payable from a single building permit exceeds \$3,000.00, an administrative deferral may be granted until an occupancy permit is issued. No occupancy permit shall be issued until the SIF is paid in full.

6.603 DESIGN STANDARDS**6.603.01 Capacity**

Storm water drainage systems shall be sized, constructed, located, and installed at standards consistent with this Code, the Storm Drainage Master Plan Map, attached as Exhibit E, Chapter 7 of the Community Development Plan, other applicable City standards, applicable Washington County storm water management authority standards, and hydrologic data and improvement plans submitted by the developer.

6.603.02 On-Site Source Control

Storm water detention and groundwater recharge improvements, including but not limited to such facilities as dry wells, detention ponds, and roof top ponds shall be constructed to limit the site discharge of storm water from a development to a level below that produced by a twenty-five (25) year storm on the undeveloped site.

6.603.03 Conveyance System

The size, capacity and location of storm water sewers and other storm water conveyance improvements shall be adequate to serve the development and accommodate upstream and downstream flow. If an upstream area discharges through the property proposed for development, the drainage system shall provide capacity to receive the floodwater discharge from the upstream area. If downstream drainage systems are not sufficient to receive an increase in floodwater caused by new development, provisions shall be made by the developer to increase the downstream capacity.

6.604 SERVICE AVAILABILITY

Approval of construction plans for new storm water drainage facilities pursuant to Section 6.200, and the issuance of building permits for new development to be served by existing storm water drainage systems shall include certification by the City that existing or proposed drainage facilities are adequate to serve the development.

6.700 FIRE PROTECTION**6.701 REQUIRED IMPROVEMENTS**

When land is developed so that any commercial or industrial structure is further than two hundred and fifty (250) feet or any residential structure is further than five hundred (500) feet from an adequate water supply for fire protection, as determined by the Fire District, the developer shall provide fire protection facilities necessary to provide adequate water supply and fire safety.

6.702 STANDARDS**6.702.01 Capacity**

All fire protection facilities shall be approved by and meet the specifications of the Fire District, and shall be sized, constructed, located, and installed consistent with this Code, Chapter 7 of the Community Development Plan, and other applicable City standards, in order to adequately protect life and property in the proposed development.

6.702.02 Fire Flow

Standards published by the Insurance Services Office, entitled "Guide for Determination of Required Fire Flows" shall determine the capacity of facilities required to furnish an adequate fire flow. Fire protection facilities shall be adequate to convey quantities of water, as determined by ISO standards, to any outlet in the system, at no less than twenty (20) pounds per square inch residual pressure. Water supply for fire protection purposes shall be restricted to that available from the City water system. The location of hydrants shall be taken into account in determining whether an adequate water supply exists.

6.702.03 Access to Facilities

Whenever any hydrant or other appurtenance for use by the Fire District is required by Section 6.700, adequate ingress and egress shall be provided. Access shall be in the form of an improved, permanently maintained roadway or open paved area, or any combination thereof, designed, constructed, and at all times maintained, to be clear and unobstructed. Widths, height clearances, ingress and egress shall be adequate for District fire-fighting equipment. The Fire District, may further prohibit vehicular parking along private accessways in order to keep them clear and unobstructed, and cause notice to that effect to be posted.

6.702.04 Hydrants

Hydrants located along private, accessways shall either have curbs painted yellow or otherwise marked prohibiting parking for a distance of at least fifteen (15) feet in either direction, or where curbs do not exist, markings shall be painted on the pavement, or signs erected, or both, given notice that parking is prohibited for at least fifteen (15) feet in either direction.

6.703 MISCELLANEOUS REQUIREMENTS**6.703.01 Timing of Installation**

When fire protection facilities are required, such facilities shall be installed and made serviceable prior to or at the time any combustible construction begins on the land unless, in the opinion of the Fire District, the nature or circumstances of said construction makes immediate installation impractical.

6.703.02 Maintenance of Facilities

All on-site fire protection facilities, shall be maintained in good working order. The Fire District may conduct periodic tests and inspection of fire protection and may order the necessary repairs or changes be made within ten (10) days.

6.703.03 Modification of Facilities

On-site fire protection facilities, may be altered or repaired with the consent of the Fire District; provided that such alteration or repairs shall be carried out in conformity with the provisions of Section 6.700.

6.800 PRIVATE IMPROVEMENTS**6.801 UTILITY STANDARDS**

Private utilities shall be sized, constructed, located and installed consistent with this Code, Chapter 7 of the Community Development Code, and applicable utility company and City standards.

6.802 UNDERGROUND FACILITIES

Except as otherwise provided, all utility facilities, including but not limited to, electric power, telephone, natural gas, lighting, and cable television, shall be placed underground, unless specifically authorized for above ground installation, because the points of connection to existing utilities make underground installation impractical, or for other reasons deemed acceptable by the Commission.

6.803 EXCEPTIONS

Surface-mounted transformers, surface-mounted connection boxes and meter cabinets, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at fifty thousand (50,000) volts or more may be located above ground. The City reserves the right to approve location of all surface-mounted transformers.

6.804 PRIVATE STREETS

Private streets are permitted only if provisions are made to assure private responsibility for future maintenance. Unless otherwise specifically authorized, a private street shall comply with the same standards as a public street. A private street shall be distinguished from public streets and reservations or restrictions relating to the private street shall be described in land division documents and deed records.

**CHAPTER 7
SUBDIVISIONS AND
LAND PARTITIONS**

CHAPTER 7
SUBDIVISIONS AND PARTITIONS

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CHAPTER 7

SUBDIVISIONS AND PARTITIONS

7.100 **GENERALLY**7.101 **PURPOSE**

Subdivision and land partitioning regulations are intended to promote the public health, safety and general welfare; lessen traffic congestion; provide adequate light and air; prevent overcrowding of land; and facilitate adequate water supply, sewage and drainage.

7.102 **PLATTING AUTHORITY**7.102.01 **Planning Commission**

A. The Commission shall be the approving authority for preliminary and final plats of subdivision, and partitions, in accordance with this Code.

B. Approval by the Commission of subdivisions and partitions is required in accordance with this Code before a plat for any such subdivision or partition may be filed or recorded with Washington County. Appeals to a decision of the Commission may be filed pursuant to Section 3.400.

7.102.02 **Future Partitioning**

When subdividing tracts into large lots which may be resubdivided, the Commission shall require that the lots be of a size and shape, and apply additional building site restrictions, to allow for the subsequent division of any parcel into lots of smaller size and the creation and extension of future streets.

7.102.03 **Required Setbacks**

All required building setback lines as established by this Code, shall be shown in the subdivision plat or included in the deed restrictions.

7.102.04 **Property Sales**

No property shall be disposed of, transferred, or sold until required subdivision or partition approvals are obtained, pursuant to this Code.

7.200 PRELIMINARY PLATS**7.201 GENERALLY****7.201.01 Approval Required**

All subdivisions and major partitions are subject to preliminary plat approval by the Commission. Approval of the preliminary plat shall not constitute final acceptance of the plat for recording. Approval shall however, be binding upon the City for the purpose of preparation of the final plat or map, and the City may only require such changes in the plat or map as are necessary for compliance with the terms of preliminary plat approval.

7.201.02 Commission Action

The Commission shall review preliminary plat applications submitted in accordance with Section 4.100 and approve, approve with conditions, or deny the application. The action of the Commission shall be noted on two (2) copies of the preliminary plat, including references to any attached documents describing any conditions or restrictions. One (1) copy shall be returned to the applicant with a notice of decision and one (1) retained by the City along with other applicable records.

7.201.03 Required Findings

No preliminary plat shall be approved unless:

- A. Streets and roads conform to plats approved for adjoining properties as to widths, alignments, grades, and other standards, unless the Commission determines that the public interest is served by modifying streets or road patterns.
- B. Streets and roads held for private use are clearly indicated on the plat and all reservations or restrictions relating to such private roads and streets are set forth thereon.
- C. The plat complies with the Comprehensive Plan and applicable zoning district regulations.
- D. Adequate water, sanitary sewer, and other public facilities exist to support the use of land proposed in the plat.

- E. Development of additional, contiguous property under the same ownership can be accomplished in accordance with this Code.
- F. Adjoining land can either be developed independently or is provided access that will allow development in accordance with this Code.
- G. Tree and woodland inventories have been submitted and approved as per Section 8.304.07.

7.300 FINAL PLATS

7.301 GENERALLY

7.301.01 Time Limits

Within twelve (12) months after approval of the preliminary plat, a final plat shall be submitted. The subdivider shall submit to the City the original drawings, the cloth, and fifteen (15) prints of the final plat, and all supplementary information required by or pursuant to this Code. The final plat application shall be submitted at least thirty (30) days prior to the Commission meeting at which consideration of the plat is desired.

7.301.02 Extensions

After the expiration of the twelve (12) month period following preliminary plat approval, the plat must be resubmitted for new approval. The Commission may, upon written request by the applicant, grant an extension up to six (6) months upon a written finding that the facts upon which approval was based have not changed to an extent sufficient to warrant refiling of the preliminary plat and that no other development approval would be affected.

7.301.03 Staging

The Commission may authorize platting and development to proceed in stages that exceed one (1) year, but in no case shall the total time period for all stages be greater than five (5) years. Each stage shall conform to the applicable requirements of this Code. Portions platted or developed after the passage of one (1) year may be required to be modified in accordance with any change to the Comprehensive Plan or this Code.

7.302 FINAL PLAT INFORMATION**7.302.01 Shown on Plat**

The following information shall be shown on the final plat:

- A. Date of approval, scale, north arrow, legend, and controlling topography such as creeks, highways, and railroads.
- B. Legal description of the plat boundaries.
- C. Existing surveys related to the plat by distances and bearings, and referenced as follows:
 - 1. The location and description of all stakes, monuments, and other evidence used to determine the boundaries of the subdivision.
 - 2. Adjoining corners of all contiguous subdivisions.
 - 3. Section, township, range, donation land claim lines and boundaries of any lots within previously recorded subdivision plats within or adjacent to the plat.
 - 4. Location and description of all monuments found or established in making the survey of the subdivision or required to be installed by the provisions of this Code.
- D. Tract, block and lot boundary lines, and street rights-of-way and centerlines, with dimensions, bearings, radii, arcs, delta angles, points of curvature and tangent bearings. Normal highwater lines for any creek or other body of water shall be shown. Error of closure shall be within the limits of one (1) foot in four thousand (4,000) feet. No ditto marks shall be used. Lots containing one (1) acre or more shall be shown to the nearest 0.01 feet. Bearings shall be shown to the nearest thirty (30) seconds with basis of bearings.
- E. The width of streets being dedicated, the width of any existing rights-of-way, and the widths on each side of the centerline. For streets on curvature, curve data shall be based on the street centerline, and in addition to centerline dimensions shall indicate the radius and central angle. This data may be shown in a table.
- F. Easements within or adjacent to the plat denoted by fine dotted lines, clearly identified, and, if already of

record, a recorded reference. If any easement is not of record, a statement of the easement showing the widths of the easement and the lengths and bearings of the lines thereof, and sufficient ties thereto, shall be properly referenced in the certificate of dedication.

- G. Lot numbers beginning with the number "1" and numbered consecutively in each block. Block numbers, if used, should begin with the number "1" and continue consecutively without omission or duplication. The numbers shall be solid, of sufficient size and thickness to stand out, and so placed as not to obliterate any figure. Block numbers in addition to a subdivision of the same name shall be a continuation of the numbering in the plat last filed.
- H. Land parcels to be dedicated for any purpose are to be distinguished from lots intended for sale, and titled to identify their intended use.
- I. The following certificates, which may be combined where appropriate:
 1. A certificate signed and acknowledged by all parties having any record title interest in and to the land subdivided, consenting to the preparation and recording of the map and dedicating all parcels of land shown on the final map and intended for public use.
 2. An affidavit signed by the engineer or the surveyor responsible for the survey and final map, the signature of such engineer or surveyor to be accompanied by a professional seal.
 3. Provisions for all other certifications required.

7.302.02 Submitted With Plat

The following information shall be submitted with the final plat:

- A. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing the interest of all parties.
- B. Sheets and drawings showing the following:
 1. Traverse data showing the error of closure, including the coordinates of the boundary of the

subdivision and ties to section corners and donation land claim corners.

2. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and state highway stationing.
- C. Copies of any deed restrictions and dedications, including building setbacks.
 - D. Proof that all taxes and assessments on the tract are paid for the current year.

7.303 FINAL PLAT REVIEW

7.303.01 Subdivision Agreement

The subdivider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision pursuant to the Chapter 6, or execute and file with the City an agreement specifying the period within which all required improvements and repairs shall be completed, and providing that if such work is not completed within the period specified, the City may complete the same and recover the full cost and expense thereof from the subdivider. Such agreement may also provide for the construction of the improvements in stages.

7.303.02 Performance Security

The subdivider shall provide monetary assurance of full and faithful performance in the form of a bond, cash, or other security acceptable to the City in an amount equal to one hundred percent (100%) of the estimated cost of the improvements.

7.303.03 Staff Review

If City review determines that the final plat is in full conformance with the preliminary plat and this Code, the final plat shall be referred to the Commission for final approval. If the final plat is not in full conformance, the subdivider shall be advised of necessary changes or additions.

7.303.04 Commission Approval

When Commission determines that the plat conforms to all requirements, the plat shall be approved. Approval of the plat does not constitute an acceptance by the City of the responsibility for maintenance or development of any street or other easement shown on the plat.

7.303.05 County Approval

After approval by the Commission, the City shall transmit the final map, tracing, and other data to Washington County, to determine that there has been compliance with all provisions of State and local statutes. The County may make such checks in the field as necessary to verify that the map is sufficiently correct on the ground. When the County finds the documents in full conformance and has been paid the statutory fee for such service, approval of the plat shall be given by applicable County officers. Approval of the final plat shall be null and void if the plat is not recorded within sixty (60) days after the date of the last required approving signatures have been obtained.

7.303.06 Effective Date

Subdivision approval shall become final upon the recording with the County of the approved subdivision plat or partition map together with any required documents. Development permits may be issued only after final approval, except for activities at the preliminary plat phase, specifically authorized by this Code.

7.303.07 Required Findings

No final subdivision plat shall be approved unless:

- A. All required public streets and floodplain areas are dedicated without any reservation or restriction other than easements for public utilities and facilities.
- B. Streets and roads held for private use have been approved by the City.
- C. The plat complies with the standards of the underlying zoning district and other applicable standards of this Code and is in conformity with the approved preliminary plat.
- D. The plat dedicates to the public all required common improvements and areas, including but not limited to streets, floodplains, parks, and sanitary sewer, storm water, and water supply systems.
- E. Adequate water, sanitary sewer and other public facilities exist to support the proposed use of the subdivided land, as determined by the City and are in compliance with City standards. For the purposes of this section:

1. Adequate water service shall be deemed to be connection to the City water supply system.
 2. Adequate sanitary sewer service shall be deemed to be connection to the City sewer system.
 3. The adequacy of other public facilities such as storm water and streets shall be determined by the Commission based on applicable City policies, plans, and standards for said facilities.
- F. Adjoining land can be developed, or is provided access that will allow future development, in accordance with this Code.

7.304 CREATION OF STREETS

7.304.01 Approval

The final plat shall provide for the dedication of all streets for which approval has been given by the City. Approval of the final plat shall constitute acceptance of street dedications.

7.304.02 Exceptions

The Council, upon Commission recommendation, may approve the creation and dedication of a street without full compliance with this Code. The applicant may be required to submit additional information and justification necessary to determine the proposal's acceptability. The City may attach such conditions as necessary to provide conformance to the standards of this Code. One or more of the following conditions must apply:

- A. The street creation is required by the City and is essential to general traffic circulation.
- B. The tract in which the road or street is to be dedicated is an isolated ownership of one (1) acre or less.

7.304.03 Easements

Any access which is created to allow partitioning for the purpose of development, or transfer of ownership shall be in the form of a dedicated street, provided however that easements may be allowed when:

- A. The access is to a parcel exceeding five (5) acres in size, and used for agriculture, horticulture, grazing, or timber growing, or

- B. The easement is the only reasonable method by which the rear portion of an unusually deep lot, large enough to warrant partitioning into two (2) or more parcels, may obtain access. Such easement shall conform to all other access provisions of this Code.

7.400 DESIGN STANDARDS

7.401 BLOCKS

7.401.01 Size

The length, width, and shape of blocks shall be designed to provide adequate building sites for the uses proposed, and for convenient access, circulation, traffic control and safety.

7.401.02 Length

Blocks shall not exceed one thousand two hundred (1,200) feet in length, except blocks adjacent to arterial streets which shall not exceed one thousand eight hundred (1,800) feet, unless adjacent subdivisions or topographical conditions justify a variation.

7.402 EASEMENTS

7.402.01 Utilities

Easements for sewers, drainage, water mains, electric lines, or other utilities shall be dedicated or provided for by deed. Easements shall be a minimum of ten (10) feet in width and centered on rear or side lot lines; except for tie-back easements, which shall be six (6) feet wide by twenty (20) feet long on side lot lines at the change of direction.

7.402.02 Drainages

Where a subdivision is traversed by a watercourse, drainage way, channel or street, drainage easements or rights-of-way shall be provided conforming substantially to the alignment and size of the drainage.

7.403 PEDESTRIAN AND BICYCLE WAYS

Pedestrian or bicycle ways may be required to connect cul-de-sacs, divide through an unusually long or oddly shaped block, or to otherwise provide adequate circulation.

7.404 LOTS**7.404.01 Size and Shape**

Lot size, width, shape, and orientation shall be appropriate for the location and topography of the subdivision, and shall comply with applicable zoning district requirements, with the following exceptions:

- A. Lots in areas not served by public sewer or water supply, shall conform to any special Washington County Health Department standards.

7.404.02 Access

All lots in a subdivision shall abut a public street.

7.404.03 Double Frontage

Double frontage and reversed frontage lots are prohibited except where essential to provide separation of residential development from railroads, traffic arteries, adjacent nonresidential uses, or to overcome specific topographical or orientation problems. A five (5) foot wide or greater easement for planting and screening, may be required.

7.404.04 Side Lot Lines

Side lot lines shall, as far as practicable, run at right angles to the street upon which the lots face, except that on curved streets side lot lines shall be radial to the curve of the street.

7.404.05 Grading

Grading of building sites shall conform to the following standards, except when topography of physical conditions warrant special exceptions:

- A. Cut slopes shall not exceed one and one-half (1 1/2) feet horizontally to one (1) foot vertically.
- B. Fill slopes shall not exceed two (2) feet horizontally to one (1) foot vertically.

7.500 LAND PARTITIONS**7.501 GENERALLY****7.501.01 Approval Required**

A tract of land or contiguous tracts under a single ownership shall not be partitioned into two (2) or more parcels until a minor partition application has been approved by the Commission.

7.501.02 Commission Action

The Commission shall review the minor partition applications submitted in accordance with Section 4.100 and shall approve, approve with conditions or deny the application. The action of the Commission shall be noted on two (2) copies of the partition, including references to any attached documents describing any conditions or restrictions. One (1) copy shall be returned to the applicant with a notice of decision and one (1) retained by the City with other applicable records.

7.501.03 Required Findings

Minor partitions shall not be approved unless:

- A. No new rights-of-way, roads, or streets are created, except for widening of existing rights-of-way. Partitions creating such new streets shall be processed as subdivisions.
- B. The partition complies with the standards of the underlying zoning district and other applicable standards of this Code.
- C. The partition dedicates to the public all required common improvements and areas including but not limited to streets, parks, floodplains, and sanitary sewer, storm water, and water supply systems.
- D. Adequate water, sanitary sewer and other public facilities exist to support the proposed use of the partitioned land, as determined by the City and are in compliance with City standards. For the purposes of this section:
 1. Adequate water service shall be deemed to be connection to the City water supply system.

2. Adequate sanitary sewer service shall be deemed to be connection to the City sewer system if sewer lines are within one-hundred fifty (150) feet of the partition or if the lots created are less than 15,000 square feet in area. Installation of private sewage disposal facilities shall be deemed adequate on lots of 15,000 square feet or more if the private system is permitted by County Health and City sewer lines are not within one hundred fifty (150) feet.
 3. The adequacy of other public facilities such as storm water and streets shall be determined by the Commission based on applicable City policies, plans and standards for said facilities.
- E. Adjoining land can be developed, or is provided access that will allow future development, in accordance with this Code.

7.501.04 Future Developability

In addition to the findings required by Section 7.501.03, the Commission must find, for any partition creating lots averaging one (1) acre or more, that the lots may be re-partitioned or resubdivided in the future in full compliance with the standards of this Code. The Commission may require the applicant to submit partition drawings or other data confirming that the property can be resubdivided. If re-partitioning or resubdividing in full compliance with this Code is determined not to be feasible, the Commission shall either deny the proposed partition, require its redesign, or make a finding and condition of approval that no further partitioning or subdivision may occur, said condition to be recorded against the property.

7.502 SUBDIVISION COMPLIANCE

7.502.01 Generally

If a partition exceeds two (2) acres and within one (1) year is re-partitioned into more than two (2) parcels, and any single parcel is less than one (1) acre in size, full compliance with the subdivision regulations of this Code may be required.

7.503 DEDICATIONS**7.503.01 Generally**

The City's requirements for dedication of public lands as per this Code, including road rights-of-way and greenways, shall apply to partitions. Actual public improvements may not be required at the time of partition, at the Commission's discretion.

7.503.02 Dedications Acceptance

The City Manager shall accept all public dedications by his or her signature on the partition plat prior to filing with the County.

7.503.03 Owner Declaration

If a property is being dedicated or donated for public use, the mortgage of trust deed holder of the property shall sign a declaration to that effect on the partition plat, or file an affidavit consenting to the plat.

7.504 FILING REQUIREMENTS**7.504.01 Generally**

Within twelve (12) months after City approval of a minor land partition, a partition plat shall be submitted to Washington County in accordance with its final partition plat and recording requirements.

7.504.02 Extension

After expiration of the twelve (12) months period following partition approval, the partition must be resubmitted for new approval. The Commission may upon written request by the applicant, grant an extension up to twelve (12) months upon a written finding that the facts have not changed to an extent sufficient to warrant refileing of the partition and that no other development approval would be affected.

7.600 PROPERTY LINE ADJUSTMENTS**7.601 GENERALLY**

The City Manager or his or her designee may approve a property line adjustment without public notice or a public hearing provided that no new lots are created and that the adjusted lots comply with the applicable zone requirements. If the

property line adjustment is processed with another development application, all applicable standards of the Code shall apply.

7.602 FILING REQUIREMENTS

If a property line adjustment is approved by the City, it does not become final until reviewed and approved by Washington County in accordance with its property line adjustment recording requirements.

CHAPTER 8
ENVIRONMENTAL RESOURCES

CHAPTER 8
ENVIRONMENTAL RESOURCES

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CHAPTER 8**ENVIRONMENTAL RESOURCES****8.100 PURPOSE**

Chapter 8 is intended to protect, preserve, and otherwise properly manage the City's natural and environmental resources for the benefit of the general public, to regulate land development so as to protect the public from natural and environmental hazards, and to establish performance standards allowing the City to properly and uniformly assess the impact of residential, commercial, industrial, and institutional development and activities on the quality of the City's environment.

8.200 SPECIAL RESOURCE ZONES**8.201 GENERALLY**

Special resource zones are established to provide for the preservation, protection, and management of unique natural and environmental resources in the City that are deemed to require additional standards beyond those contained elsewhere in this Code. Special resource zones may be implemented as underlying or overlay zones depending on patterns of property ownership and the nature of the resource. A property or properties may be within more than one (1) resource zone. In addition, the City may identify special resource areas and apply a PUD overlay zone in advance of any development in order to further protect said resources.

8.202 FLOOD PLAIN (FP) OVERLAY**8.202.01 Purpose**

- A. The FP zoning district is an overlay district that controls and regulates flood hazard areas, in order to protect the public health, safety and general welfare; to reduce potential flood damage losses; and to protect floodways and natural drainageways from encroachment by uses which may adversely affect water quality and waterflow and subsequent upstream or downstream flood levels. The FP zone shall be applied to all areas within the base flood, and shall supplement the regulations of the underlying zoning district.
- B. FP zoning districts are defined as areas within the base flood as identified by the Federal Emergency Management Agency (FEMA) in a Flood Insurance Study (FIS) and in

Flood Insurance Rate Maps (FIRM) published for the City and surrounding areas, or as otherwise identified in accordance with Section 8.202.01.C. These FEMA documents are adopted by reference as part of this Code, and are on file in the office of the City Public Works Director.

- C. When base flood elevation data is not available from the FIS or FIRM, the City shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, and standards developed by the FEMA, in order to administer the provisions of this Code.

8.202.02 Greenways

The FP zoning districts overlaying the Rock Creek and Cedar Creek flood plains are designated greenways in accordance with Chapter 5 of the Community Development Plan. All development in these two flood plains shall be governed by the policies in Chapter 5, and Section 8.304 of this Code, in addition to the requirements of Section 8.202. For any new development subject to subdivision, partition, conditional use permit, or site plan review as per this Code, all lands within a designated greenway or any other land within the base flood shall be dedicated outright to the public as per Chapter 5, Natural Resources, Policy 1, and Chapter 5, Recreational Resources, Part 6, notwithstanding any development allowances contained in Section 8.202.

8.202.03 Development Application

- A. Provided land is not required to be dedicated as per Section 8.202.02, a conditional use permit (CUP) shall be approved before any use, construction, fill, or alteration of a flood plain, floodway, or watercourse, or any other development begins within any FP zone, except as provided in Section 8.202.04.
- B. Application for a CUP for development in a flood plain shall conform to the requirements of Section 4.300 and may include, but is not limited to, plans and scale drawings showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, and drainage facilities.
- C. The following specific information is required in a flood plain CUP application and shall be certified and verified by a Registered Civil Engineer or Architect. The City shall maintain such certifications as part of the public record. All certifications shall be based on the as-built

elevations of lowest building floors.

1. Elevations in relation to mean sea level of the lowest floor (including basement) of all structures;
 2. Elevations in relation to mean sea level to which any structure has been floodproofed;
 3. That the floodproofing methods for any structure meet the requirements of Section 8.202.08.
 4. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
 5. A base flood survey and impact study made by a Registered Civil Engineer.
 6. Proof all necessary notifications have been sent to, and permits have been obtained from, those Federal, State, or other local government agencies for which prior approval of the proposed development is required.
 7. Any other information required by Section 8.202, by any applicable Federal regulations, or as otherwise determined by the City to be necessary for the full and proper review of the application.
- D. Where elevation data is not available as per Section 8.202.01.B, or from other sources as per Section 8.202.01.C, a flood plain CUP shall be reviewed using other relevant data, as determined by the City, such as historical information, high water marks, and other evidence of past flooding. The City may require utility structures and habitable building floor elevations, and building floodproofing, to be at least two (2) feet above the probable base flood elevation, in such circumstances where more definitive flood data is not available.

8.202.04 Permitted Uses

In the FP zone the following uses are permitted outright, and do not require a CUP, provided that floodway flow, or flood plain capacity, will not be impeded, as determined by the City, and when greenway dedication is not required as per Section 8.202.02:

- A. Agricultural uses, provided that associated structures are not allowed, except for temporary building and boundary fences that do not impede the movement of floodwaters and flood-carried materials.
- B. Open space, park and recreational uses, and minor associated structures, if otherwise allowed in the underlying zoning district, that do not impede the movement of floodwaters and flood-carried materials.
- C. Public streets and appurtenant structures, and above and underground utilities, subject to the provisions of Sections 8.202.07 and 8.202.08.
- D. Other accessory uses allowed in the underlying zoning district that do not involve structures, and will not, in the City's determination, materially alter the stability or storm drainage absorption capability of the flood plain.

8.202.05 Conditional Uses

In the FP zone the following uses are permitted as conditional uses, subject to the provisions of Section 8.202 and Section 4.300, and when greenway dedication is not required as per Section 8.202.02:

- A. Any permitted or conditional use allowed in the underlying zoning district, when located in the flood fringe only, as specifically defined by this Code.

8.202.06 Prohibited Uses

In the FP zone the following uses are expressly prohibited:

- A. The storage or processing of materials that are buoyant, flammable, contaminants, explosive, or otherwise potentially injurious to human, animal or plant life.
- B. Public and private sewerage treatment systems, including drainfields, septic tanks and individual package treatment plants.
- C. Any use or activity not permitted in the underlying zoning district.
- D. Any use or activity that, in the City's determination, will materially alter the stability or storm drainage absorption capability of the flood plain.

- E. Any use or activity that, in the City's determination, could create an immediate or potential hazard to the public health, safety and welfare, if located in the flood plain.
- F. Any use, activity, or encroachment located in the floodway, including fill, new construction, improvements to existing developments, or other development, except as otherwise allowed by Section 8.202.04, and unless certification by a Registered Engineer or Architect is provided demonstrating that the use, activity, or encroachment shall not result in any increase to flood levels during the occurrence of the base flood discharge.

8.202.07 Flood Plain Development

A. Flood Plain Alterations

1. Flood Plain Survey

The flood plain, including the floodway and flood fringe areas, shall be surveyed by a Registered Civil Engineer, and approved by the City, based on the findings of the Flood Insurance Study and other available data. Such delineation shall be based on mean sea level data and be field-located from recognized valid benchmarks.

2. Grading Plan

Alteration of the existing topography of flood plain areas may be made upon approval of a grading plan by the City. The plan shall include both existing and proposed topography and a plan for alternate drainage. Contour intervals for existing and proposed topography shall be included and shall be not more than one (1) foot for ground slopes up to five percent (5%) and for areas immediately adjacent to a stream or drainageway, two (2) feet for ground slopes between five and ten percent (5% - 10%), and five (5) feet for greater slopes.

3. Fill and Diked Lands

- a. Proposed flood plain fill or diked lands may be developed if a site plan for the area to be altered within the flood plain is prepared and certified by a Registered Civil Engineer and approved by the Commission pursuant to the applicable provisions of this Code.

- b. Vehicular access shall be provided from a street above the elevation of the base flood to any proposed fill or dike area if the area supports structures for human occupancy. Unoccupied fill or dike areas shall be provided with emergency vehicle access.

4. Alteration Site Plan

The certified site plan prepared by a Registered Civil Engineer or Architect for an altered flood plain area shall show that:

- a. Proposed improvements will not alter the flow of surface water during flooding such as to cause a compounding of flood hazards or changes in the direction or velocity of floodwater flow.
- b. No structure, fill, storage, impervious surface or other uses alone, or in combination with existing or future uses, will materially reduce the capacity of the flood plain or increase in flood heights.
- c. Proposed flood plain fill or diked areas will benefit the public health, safety and welfare and incorporate adequate erosion and storm drainage controls, such as pumps, dams and gates.
- d. No serious environmental degradation shall occur to the natural features and existing ecological balance of upstream and downstream areas.
- e. Ongoing maintenance of altered areas is provided so that flood-carrying capacity will not be diminished by future erosion, settling, or other factors.

5. Subdivisions and Partitions

All proposed subdivisions or partitions including land within an FP zone shall establish the boundaries of the base flood by survey and shall dedicate said land as per Section 8.202.02. The balance of the land and development shall:

- a. Be designed to include adequate drainage to reduce exposure to flood damage, and have

public sewer, gas, electrical and other utility systems so located and constructed to minimize potential flood damage, as determined by the City.

- b. Provide, for each parcel or lot intended for structures, a building site shall be provided, which is at, or above, the base flood elevation, and meets all setback standards of the underlying zoning district.

8.202.08 Flood Plain Structures

Structures in the FP zone shall be subject to the following conditions, in addition to the standards of the underlying zoning district:

A. Generally

1. All structures, including utility equipment, and manufactured housing, shall be anchored to prevent lateral movement, flotation, or collapse during flood conditions, and shall be constructed of flood-resistant materials, to standards approved by the City, State Structural and Plumbing Specialty Codes and applicable building codes.
2. The lowest floor elevation of a structure designed for human occupancy shall be at least one and one-half (1-1/2) feet above the base flood elevation and the building site shall comply with the provisions of Section 8.202.07.A.
3. The lower portions of all structures shall be floodproofed according to the provisions of the State Structural and Plumbing Specialty Code to an elevation of at least one and one-half (1/2) feet above the base flood elevation.
4. The finished ground elevation of any underfloor crawl space shall be above the grade elevation of an adjacent street, or natural or approved drainageway unless specifically approved by the City. A positive means of drainage from the low point of such crawl space shall be provided.

B. Utilities

1. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities located within structures shall be

designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

2. Electrical service equipment, or other utility structures, shall be constructed at or above the base flood elevation. All openings in utility structures shall be sealed and locked.
3. Water supply and sanitary sewer systems shall be approved by the Washington County Health Department, and shall be designed to minimize or eliminate the infiltration of floodwaters into the systems, or any discharge from systems into floodwaters.

C. Residential Structures

1. All residential structures shall have the lowest floor, including basement, elevated to at least one and one-half (1-1/2) feet above the base flood elevation.
2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Registered Engineer or Architect, or must meet or exceed the following minimum criteria:
 - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one (1) foot above grade.
 - c. Openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic entry and exit of floodwaters.

D. Nonresidential Construction

1. All commercial, industrial or other nonresidential structures shall have either the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
 - a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. Be certified by a Registered Professional Engineer or Architect that the design and methods of construction are in accordance with accepted standards of practice for meeting all provisions of Section 8.202.
 - d. Nonresidential structures that are elevated, not floodproofed, must meet same standards for space below the lowest floor as per Section 8.202.08.C2.

8.202.09 Additional Requirements

- A. Dimensional standards for developments in the FP zone shall be the same as in the underlying zoning district, except as provided in Section 8.202.09.
- B. Approval of a site plan pursuant to Section 5.100, may be conditioned by the City to protect the best interests of the surrounding area or the community as a whole, and to carry out the terms of the Comprehensive Plan. These conditions may include, but are not limited to:
 1. Increasing the required lot sizes, yard dimensions, street widths, or off-street parking spaces.
 2. Limiting the height, size, or location of buildings.
 3. Controlling the location and number of vehicle access points.
 4. Limiting the number, size, location, or lighting of signs.

5. Requiring diking, fencing, screening, landscaping, or other facilities to protect the proposed development, or any adjacent or nearby property.
6. Designating sites for open space or water retention purposes.
7. Construction, implementation, and maintenance of special drainage facilities and activities.

8.300 STANDARDS**8.301 PROCEDURES****8.301.01 Applicability**

The standards of Section 8.300, and applicable portions of Chapter 5 of the Community Development Plan, shall apply to any new uses or changes to existing uses in commercial, industrial and institutional zones, except as per Section 8.301.05.

8.301.02 Conformance

Conformance with the standards of Section 8.300 shall, at a minimum, be certified in writing by a professional engineer and submitted with the application for site plan review required by Section 5.100, except as per Section 8.301.05. The written certification shall include:

- A. Statement certifying that the proposed commercial, industrial or institutional use, if properly managed and operated, will comply with City environmental performance standards, and citing evidence supporting the certification.
- B. Copies of any applicable State permits or recent test results, if available, which would indicate compliance with City environmental performance standards.

8.301.03 Additional Information

- A. Prior to accepting any land use application to which Section 8.300 applies, the City Manager or his or her designee, may determine that additional expertise in evaluating the application, due to the complexity of its impact on environmental resources, is warranted. Under such circumstances, the City may contract with a professional engineer or other qualified consultant to evaluate and make recommendations on specific application elements relative to City environmental resource standards.
- B. Upon the City's determination that additional expertise is needed, the applicant shall deposit a sum equal to the estimated cost, as determined by the City, of such professional services. If the actual cost of such services is more than estimate, the applicant shall be responsible for the difference, provided however, that the applicant's financial responsibilities will not exceed ten percent (10%) of the estimate without prior

written authorization. If the cost of such services is less than the estimate, the balance of the deposit shall be returned to the applicant upon final action on their land use application.

8.301.04 Referenced Statutes and Rules

The Federal, State, or regional statutes and rules cited in Section 8.300 are made part of this Code by reference. The statutes and rules cited are as current at the time of adoption of this Code. If a referenced statute or rule is amended by Federal, State or regional agencies, this Code must be amended for the new statute or rule to take precedence.

8.301.05 Exceptions

The City shall make an initial determination whether a proposed development is subject to any of the standards of this Chapter, or whether the development is exempt. The City Manager or his or her designee is authorized to waive all or some of these standards when a proposed development clearly does not represent a substantial impact on the City's environmental resource standards as per Section 8.300. The findings of the City Manager or his or her designee shall be made in writing, and copies shall be forwarded to the applicant and the Commission. The action of the City Manager or his or her designee may be appealed as per Section 3.400.

8.302 MINERAL RESOURCES

8.302.01 Permitted Activities

Mineral extraction and processing, including sand and gravel pits, rock crushers, concrete and asphalt mixing plants, are permitted in the GI Zone as conditional uses, subject to Section 4.300, and the following special conditions.

8.302.02 Special Conditions

The following special conditions apply to mineral extraction and processing activities:

- A. The applicant shall provide a plan for the land from which the sand and gravel will be excavated showing contours on at least five (5) foot intervals, and all improvements on the land and within three hundred (300) feet of the property.
- B. Mineral extraction and processing shall not be permitted closer than thirty (30) feet to the boundary of adjacent property, nor closer than three hundred (300) feet to any

existing residence, unless the owner or owners of such adjacent property sign a written consent to a lesser distance, and the Commission approves such lesser distance. The Commission may set greater separations as warranted by specific site conditions.

- C. The Commission shall specify depth, degree of bank slopes and the distance from any public structures, for all excavations made in or near stream beds. The Commission shall determine setbacks from public rights-of-way when excavations are near such rights-of-way.
- D. Sand and gravel shall be excavated in such a manner so as to leave an average of two (2) feet, or more if specified by the Commission, of undisturbed material over the entire excavation tract. Excavations shall be conducted so that excavated areas will not collect and retain stagnant water.
- E. After dry pit sand and gravel excavations have been completed, the operator shall evenly spread excess waste materials over the bottom of the pit, and then shall evenly spread topsoil to a minimum depth of one and one-half (1-1/2) feet, unless evidence is produced that the land excavated had less than one and one-half (1-1/2) feet of topsoil prior to commencement of operations.
- F. Haulage roads within the excavation tract shall be maintained in a reasonably dust-free condition. Hours of operation, unless otherwise specified by the Commission, shall be from 6:00 a.m. to 7:00 p.m.
- G. Rock crushers, concrete and asphalt mixing plants may be permitted; providing that the crushers and plants are accessory to the sand and gravel operations and primarily use materials excavated on-site.
- H. The operator shall post security in a form acceptable to the City in a sum equal to the number of acres within the excavation tract, multiplied by five-hundred dollars (\$500.00), to ensure full compliance with all of the terms and regulations pertaining to the extraction and processing of sand and gravel. The minimum amount of such bond shall be two thousand five hundred (\$2,500.00) and the maximum amount twenty five thousand dollars (\$25,000.00).

- I. The operator shall furnish evidence of liability insurance of not less than fifty thousand dollars (\$50,000.00) for any negligent act or omission in the operation or maintenance of sand and gravel pit, and the extraction and production of sand and gravel, and all activities connected with, or incidental thereto.
- J. Prior to Commission action on a conditional use permit, the action shall be advertised as per Section 3.200, and the property shall be posted as to the proposed use for a period of fifteen (15) days. This posting shall consist of a sign or signs, the number of which shall be determined by the City, three (3) feet by four (4) feet, posted in conspicuous locations visible from public rights-of-way.

8.303 SOLID WASTE

8.303.01 Solid Waste Facilities.

Solid waste facilities are permitted in the General Industrial (GI) and Light Industrial (LI) Zones as described in those Sections of the Code. Permitted solid waste facilities are subject to the review procedures, site improvements and other standards of Section 8.303.

8.303.02 Solid Waste Incinerators

The operation of solid waste incinerators for any commercial, industrial, or institutional purpose is prohibited in the City. For the purposes of this Section, solid waste is defined as per ORS 459.005(24), and includes infectious wastes as per ORS 459.386(2). Provided said incineration or burning is otherwise properly permitted, this prohibition shall not apply to furnaces, incinerators, or stoves burning wood or wood-based products, petroleum products, natural gas, or to other fuels or materials not defined as solid waste, to yard debris burning, or to small-scale specialized incinerators utilizing solid waste produced as a by-product on-site and used only for energy recovery purposes. Said small-scale specialized incinerators must be integral to and part of, but clearly ancillary secondary and incidental to, a permitted or conditionally permitted use in the City, and cannot utilize infectious wastes or any fuels derived from infectious wastes. This prohibition shall not apply to solid waste incinerators lawfully permitted to operate prior to September 5, 1990, but shall apply to any expansion, alteration, or modification of such a use or any applicable permits.

8.303.03 Accessory Use Solid Waste Facilities

The following solid waste facilities are permitted, subject to the applicable regulations of the zone, as an accessory use to a permitted or conditional use without being subject to the conditional use review:

1. Household hazardous waste depot, provided the facility is accessory to a public facility or to a use in an industrial zone.
2. Small scale specialized incinerator, provided the facility complies with Section 8.303.02 and does not accept more than two hundred and twenty (220) pounds per day of waste from off-site.
3. Recycling drop boxes, provided they also comply with Section 8.303.09.E.5.

8.303.04 Multiple Purpose Solid Waste Facility

A solid waste facility may include more than one kind of facility as defined in Section 1.200, Definitions. An application that includes more than one (1) kind of facility is permitted in a given zone only if all of the uses proposed in the facility are permitted in that zone. If any of the uses proposed are allowed only as a conditional use in the zone, then all of the uses proposed shall be considered conditional uses.

8.303.05 Temporary Solid Waste Facility.

Temporary solid waste facility. The following solid waste facilities may be approved as a temporary use in any zone without being subject to conditional use review if the use operates not more than three (3) days per calendar month, subject only to the dimensional requirements of the underlying zone (e.g., setbacks and height), and the applicable provisions of Section 8.303.09, Site Improvements, and the appropriate requirements of Sections 8.303.06 through 8.303.08:

1. Household hazardous waste.
2. Resource Recovery Facility.
3. Yard debris depot.

8.303.06 Application Contents

- A. In addition to submitting land use application forms provided by the City of Sherwood, and in accordance with other sections of this Code, the applicant shall describe at least the following features of the proposed facility:
1. Capacity and projected life.
 2. The population or industries to be served.
 3. The amount of solid waste that is expected to be accommodated at the facility from the population or industries to be served, including maximum daily and monthly amounts and average annual volume and weight of waste to be received.
 4. For a landfill, planned future uses of the site after closure.
 5. The quantity of each type of waste stream projected to be accommodated at the facility. Examples of waste streams include domestic waste, commercial and institutional waste, industrial waste, construction and demolition waste, agricultural waste, sewage sludge, and contaminated clean-up materials.
 6. The operating characteristics of the facility, including equipment used, hours of operation, and volume, distribution, and type of traffic associated with the use, and a traffic study if required by Section 8.303.09 of this Code.
 7. The kind or kinds of facility or facilities proposed, based on the solid waste facility definitions in Section 1.200, Definitions.
- B. The applicant shall submit the following information as part of the application, unless the Planning Director finds that, given the scale and nature of the facility, a requested item will not materially aid the approval authority in reviewing the proposal, and the item is not otherwise required to be submitted under this Code.
1. A written description of the location of the site with respect to known or easily identifiable landmarks and access routes to and from the area the facility will serve.

2. A legal description of the tract or tracts to be used for the facility.
3. Except for an accessory facility, a map or maps showing the location of the site, existing and approved land uses within a minimum two hundred and fifty (250)-foot radius of the boundary of the site inside the regional urban growth boundary or within a minimum five hundred (500)-foot radius of the site outside the regional urban growth boundary; public water supply wells, surface waters, access roads within that radius; historic sites, areas of significant environmental concern or resources, or significant environmental features identified in the Community Development Plan, Part 2, within the applicable radius; other existing or approved manmade or natural features relating to the facility; and a north arrow, bar scale, and drawing date.
4. Except for an accessory use or temporary facility, an aerial photograph of the site and the area within the relevant radius with the boundary of the site outlined.
5. Except for an accessory or temporary facility, a map or maps showing the existing topography of the site with contour intervals not to exceed two (2) feet if slopes are less than five percent (5%), not to exceed five (5) feet if slopes are more than five percent (5%), and not to exceed ten (10) feet if slopes are more than twenty percent (20%); natural features of the site including water bodies and wetlands; the boundary of the one hundred (100)-year flood plain based on Federal Emergency Management Agency data; public easements of record; manmade features including buildings, utilities, fences, roads, parking areas, and drainage features; boundaries of existing waste disposal areas and soil borrow areas, if any; locations of borings, piezometers, monitoring wells, test pits, water supply wells, and facility monitoring or sampling points and devices; a benchmark; and a north arrow, bar scale, and drawing date.
6. For a landfill, data regarding average annual and monthly precipitation and evaporation and prevailing wind direction and velocity, based on data from the National Oceanic and Atmospheric Administration or other federal or state agency, or from on-site measurements.

7. For a landfill, information regarding minimum, maximum, and average annual flow rates and monthly variations of streams on the site, based on stream gauging data collected by the U.S. Geological Service or other federal or state agency supplemented with reliable site specific data as available.
8. A map or maps showing and describing the type and size of existing vegetation on the site, and identifying vegetation to be removed and retained.
9. A grading plan showing site elevations when grading is completed, including any modifications to drainage channels and any required retaining walls or other means of retaining cuts or fills.
10. A site plan showing proposed structures, signs, parking, outdoor storage, landscaping, berms, fencing, and other features of the facility.
11. Responses to the applicable standards of Section 8.303.09 of this Code.
12. If other local, state or federal permits are required for construction and operation of the proposed facility:
 - a. The applicant shall submit a copy of such permit(s); or
 - b. The applicant shall submit:
 - (1) A schedule for submitting the required permits; a description of the requirements of the laws and regulations applicable to such other local, state or federal permits; a summary of how the applicant proposes to comply with the requirements; a list of which regulations require local land use approval; and a list of potentially conflicting local, state or federal standards; and
 - (2) A copy of any application filed for another local, state or federal permit for the proposed facility within ten (10) working days after it is filed with the local, state or federal agency; and

- c. A copy of any written correspondence or published notice from the local, state or federal agency regarding that application within ten (10) working days after the applicant receives that correspondence or notice from the local, state or federal agency.

8.303.07 Review Procedures and Burden of Proof

- A. Before accepting an application as complete, the Planning Director may decide additional expertise is warranted to evaluate it due to exceptional circumstances, the complexity of the proposed facility, or its potential impacts. The Planning Director may hire a professional engineer with the necessary expertise to make a written evaluation of the specific application elements required pursuant to this Code.
1. The written evaluations shall be available no later than thirty (30) days after the applicant submits a deposit to pay for the work. Within ten (10) days after the written evaluation is available, the Planning Director shall determine whether the application is complete and advise the applicant in writing accordingly, listing any additional information required to make the application complete.
 2. The Planning Director shall draft a work program and estimate the cost of hiring a professional engineer with the necessary expertise for the written evaluation and shall advise the applicant of that cost, which shall not exceed ten (10) times the application fee (or other reasonable limit) unless approved by the applicant. The applicant shall deposit a sum equal to the estimated cost of such services before the application is deemed complete. If the cost of such services is less than estimated, the City shall refund any excess to the applicant. If the cost of such services is more than estimated, the City shall bill the applicant for such additional cost; provided, the cost of such services shall not exceed one hundred ten percent (110%) of the estimated cost unless the applicant or the City agrees in writing to assume such additional cost.
 3. The provision does not authorize the City to collect money from an applicant for independent evaluation of ongoing operations or performance

- review of a facility. A fee may be required pursuant to Section 8.303.08.F. before renewal, but not at the time of application or approval.
- B. An application for a solid waste facility under this Code is complete if any written evaluation required under Section 8.303.07.A. has been completed, and if:
1. The application includes substantial evidence that the proposed facility will comply with the applicable development standards in Section 8.303.09 or conditions that may be necessary to ensure compliance; or
 2. The application includes substantial evidence that the proposed facility is likely to comply with the applicable development standards in Section 8.303.09, identifies any necessary evidence not yet submitted, and provides a reasonable schedule for its submission;
 3. The application includes information required to be submitted under Section 8.303.06 of this Code, except to the extent waived by the Planning Director.
- C. The City shall provide public notice and an opportunity for submission of written information and/or for a public hearing to consider compliance within the terms of this Code.
- D. An applicant for a solid waste facility bears the burden of proving that a facility complies with this Code. The following presumptions and procedures apply when evaluating compliance with the burden of proof:
1. An applicant is rebuttably presumed to have met the burden of proof if the application includes substantial evidence that the facility will comply with the standards for establishment of the facility in Section 8.303.09 and conditions proposed by the Planning Director to ensure such compliance.
 2. Substantial evidence can be rebutted only by evidence of equal or greater probative value. For instance, testimony from a professional engineer about a given subject in which an engineer has expertise may be rebutted only by testimony or evidence from another professional engineer or a person similarly qualified about that subject.

Testimony from an expert witness regarding matters relevant to the expertise of the witness cannot be rebutted by testimony from a non-expert witness. This subsection does not limit what may be introduced as testimony; it affects the weight to be accorded that testimony.

3. If evidence of equal probative value is offered that a given facility does and does not comply with a given standard or that a proposed condition is or is not adequate to ensure compliance, the approval authority shall weight the evidence, identify which evidence it accepts as the basis for its decision, and explain why that evidence is accepted and why contrary evidence is rejected.
4. The approval authority shall issue all necessary land use compatibility statements to the applicant or to applicable local, state, or federal agencies, and a final decision with appropriate findings, conclusions and conditions of approval if, after the appropriate review process, it finds there is substantial evidence that the facility complies with all applicable provisions of this Code and City laws incorporated by reference, subject to appropriate conditions, and that such evidence was not effectively rebutted and does not need to be supplemented.
5. If, after a public hearing (or another initial level of review; for instance, the close of the public record following public notice and an opportunity to file written comments), the approval authority finds that:
 - a. There is substantial evidence that the facility complies with some applicable provisions of this Code and such evidence was not rebutted and does not need to be supplemented to resolve disputes;
 - b. There is not substantial evidence that the facility complies with one or more applicable provisions of this Code, or evidence necessary for approval was rebutted or requires augmenting to resolve disputes; and
 - c. It is likely that the applicant will provide the remaining necessary substantial evidence within six (6) months, the approval authority shall:

(1) Issue a written final decision approving the proposed facility in concept that, among other things:

(a) Identifies standards with which the application complies and provide findings and conclusions showing why it complies, based on substantial evidence in the record, and subject to appropriate conditions of approval;

(b) Identifies evidence the applicant must submit to show the proposed facility complies with other applicable provisions of this Code, imposes a schedule for its submission, and includes any requirements pursuant to Section 8.303.07.A above; and

(c) Describes how that substantial evidence will be reviewed, including any public notice and hearing requirements.

(2) Issues all necessary land use compatibility statements to the applicant or to applicable local, state, or federal agencies.

6. The approval authority shall issue a final decision that denies the application if, after the appropriate review process, it finds that:

a. The record does not contain substantial evidence that the facility complies with all applicable provisions of this Code or could comply given the imposition of conditions, in which case the decision shall identify the section(s) about which the record does not contain substantial evidence; or

b. There is more persuasive and at least equally substantial evidence contrary to evidence that the proposed use complies with applicable standards of this Code or could comply given the imposition of conditions, in which case the decision shall identify the provisions for which evidence against the facility overwhelmed the evidence in favor, and

c. The applicant declines to supplement the record regarding standards identified pursuant to Sections 8.303.07.D and 6. a. and b. above,

or it is not likely that substantial evidence necessary to address standards identified pursuant to Sections 8.303.07.D and 6. a. and b. above will be available within six (6) months after the date of the decision.

8.303.08 Conditions of Approval and Enforcement

- A. The approval authority may approve an application for a facility subject to conditions of approval. Conditions of approval shall be reasonably related to impacts of the facility, the requirements of this Code and provisions incorporated herein. In no instance may an approval authority impose as a condition of approval a requirement that a facility be publicly or privately owned. All facilities approved pursuant to this Code shall be subject to a condition requiring that landscaping, air and water quality structures and devices, signs, structures, paved areas, and other features of the facility be maintained in good condition, and that such features be replaced if they fail to survive or are rendered ineffective over time.
- B. Conditions of approval may require an applicant to submit a written statement or permit from state or federal agencies responsible for administering a regulation to which the proposed facility is subject, if the record does not contain such a statement or permit.
1. Such a condition may fulfill provisions of Code Sections relating to Noise, Odors, Ground and Surface Water, Air Quality and Treatment and Storage that the facility comply with state or federal regulations, subject to a further condition that the applicant submit a written statement or permit showing the proposed facility complies with the applicable state or federal regulation before a building permit is issued for the facility; and
 2. Such a condition shall require appropriate review and allow modification of the decision and conditions of approval regarding the application if a state or federal permit substantially changes a proposed facility from what was approved by the City in ways relevant to applicable provisions of Section 8.303.09.

- C. All facilities approved pursuant to this Code shall comply with applicable state and federal regulations as a condition of approval. Approval of a facility pursuant to this Code does not preclude imposition of more stringent state or federal regulations adopted after the effective date of this Code.
- D. Any facility that is required to obtain a franchise or license from the Metropolitan Service District (Metro) shall obtain the franchise or license and provide a copy of it to the City before a building permit is issued for the facility.
- E. The City shall enforce the conditions of approval pursuant to Section 1.101.04, Violations. If Metro issues a franchise or license for the facility, the City shall send to Metro a copy of any written correspondence or notices City sends to the applicant regarding enforcement of conditions of approval. Metro may remedy violations of conditions of approval regarding the facility and charge the franchisee or licensee for the cost of such remedial action unless provided otherwise in the franchise or license.
- F. The City may periodically conduct a performance review of an approved facility to determine whether it continues to comply with the criteria and standards then applicable and to modify conditions of approval that apply to the facility so that it continues to comply. The approval authority shall specify the time for any performance review. The City may impose a fee for performance review.

8.303.09 Site Improvements

- A. Setbacks, Landscaping and site design impacts:
 - 1. The facility shall comply with the setback requirements and height limits of the underlying zone. However, if the facility adjoins a commercial zone, the minimum setback shall be one hundred (100) feet, and if the facility adjoins a residential or open space zone, the minimum setback shall be two hundred (200) feet.

2. Structures, exterior storage and processing areas, and vehicle maneuvering and parking are prohibited in setbacks required pursuant to Section 8.303.09.A.1 above, except that:
 - a. The approval authority may reduce the required setback if it finds that a lesser setback will not adversely affect the privacy, use, or visual character of existing uses on adjoining land, based on the scale and design of the use or structure(s), landscaping and buffers, or on the topography, vegetation, or other natural features of the site;
 - b. Minor building features such as eaves, chimneys, fire escapes, bay windows, uncovered stairs, wheelchair ramps, and uncovered decks no more than three (3) feet above grade may extend up to twenty percent (20%) into a required setback;
 - c. Attached mechanical structures such as heat pumps, air conditioners, emergency generators, and water pumps may extend into a required setback, except adjoining or across a street from an abutting residential zone;
 - d. Fences, walls, berms, landscaping, access drives, and an entry sign(s) are permitted in the setback; and
 - e. Notwithstanding the preceding, structures shall be situated so they comply with the Uniform Building Code, State of Oregon Structural Specialty Code, as adopted in Oregon.
3. Exterior building surfaces shall be finished. Metal used on the exterior of the building shall be anodized or painted; galvanized or coated steel shall not be left unpainted.
4. Buildings with walls containing more than twenty-five hundred (2,500) square feet above grade shall incorporate fascias, canopies, arcades, or multiple colors or building materials to break up large wall surfaces visually into areas of one thousand (1,000) square feet or less, unless it would be contrary to the purpose of the wall, such as for retaining earth or for structural support.

5. Attached mechanical structures and roof-mounted equipment shall be screened from ground-level view at adjoining public streets and property zoned residential or open space. Screening may include landscaping, sight obscuring fencing or other features.
6. The facility shall not cause glare or lights to shine off site in excess of one-half (0.5) footcandle onto non-industrial zoned land, based on a written statement certified by a professional engineer.
7. Structures shall not obstruct scenic views or vistas identified in the Community Development Plan, Part 2, although structures may be visible from off site.
8. Major activity areas of the site, such as loading and delivery areas, shall be oriented away from adjoining land zoned for residential or open space uses.
9. At least twenty percent (20%) of the facility site shall be landscaped with living vegetation in an appropriate medium, such as yard debris compost. Landscaped areas shall have a permanent irrigation system equipped with automatic controls. Where landscaping is situated in required setbacks or adjoins buildings and other structures, it shall include evergreen species at least six (6) feet above grade at planting and situated not farther apart than the radius of the crown of a mature specimen. The approval authority may waive or reduce the level of landscaping where necessary to allow sight distance for vehicular traffic, to enable views of signs or other features of the facility that should be visible to enhance the function of the facility, or to protect solar access to adjoining property. The approval authority may require larger or more numerous trees where necessary to reduce the potential adverse visual effects of a facility. Existing significant vegetation shall be retained, where feasible, and may substitute for other required vegetation. Landscaping in setbacks and parking lots counts toward the twenty percent (20%).

B. Historic Resource Impacts

The facility shall not adversely affect historic

resources listed in the Community Development Plan, Part 2, (or inventory of historic resources adopted by the City). A facility complies with this standard if the site and adjoining land do not contain an identified historic resource and are not in an historic district. If the site or adjoining land contains such a resource, then the applicant shall show the facility design preserves the historic resource character.

C. Operating Impacts

1. Exterior activities are prohibited between 10:00 p.m. and 7:00 a.m. daily, except that vehicles may continue to enter and exit the site and maintenance may be conducted at all hours if they do not violate applicable provisions of Sections 8.304, Noise, 8.305 Vibration, and Sections 8.303.09 A. 6. and 8 and I.2 during any hours.
2. For a solid waste transfer station, most solid waste may be stored in an open pit or floor inside a building for up to twenty-four (24) hours or in a sealed container on the site for up to seventy-two (72) hours. Separated recycled materials may be stored on the site for up to thirty (30) days in unsealed containers.

D. Signage Impacts

1. Signs shall comply with sign regulations of Section 5.700, except as provided herein.
2. If the facility is open to the public, the applicant shall provide a sign(s) at each public entrance to the facility that is clearly legible and visible from the adjoining public road. The sign shall identify the name of the facility, the name and telephone number of the operator, and hours of operation of the facility. The entry sign(s) may be up to thirty-two (32) square feet per side and up to ten (10) feet above grade, unless the zone allows larger signs. Directional information to orient drivers shall be included on the entry sign(s) or on interior signs.
3. A sign(s) describing recommended access routes to the facility, materials accepted, instructions for correct preparation of accepted materials, recycling services, and fees for disposing materials shall be posted at the facility. Signs interior to the site shall be coordinated and

consistent in appearance.

4. Signs that use recycled materials, including recycled plastic, are encouraged. Sign quality and appearance shall be appropriate to the character of the area, as determined by the approval authority.

E. Outdoor storage Impacts.

1. No mixed solid waste or recovered material shall be stored outside in unsealed containers, except:
 - a. In a landfill or composting facility approved for that purpose;
 - b. Solid waste or recovered material that is inert; or
 - c. As otherwise allowed in this Section 8.303.09 E. In all circumstances, outdoor storage of hazardous waste is prohibited.
2. Source-separated materials other than yard debris and wood waste shall be stored in containers in an area enclosed on at least three (3) sides and roofed except that in a rural zone, such materials shall be enclosed on any side visible from adjoining public or private property and roofed.
3. Wood waste, yard debris, and solid waste in sealed containers may be stored outdoors if it complies with the applicable dimensional and design standards. Yard debris shall be removed from the site on at least a weekly basis.
4. Storage areas larger than two (2) cubic yards for recovered materials shall be enclosed.
5. Drop boxes for recyclable materials on the site of a solid waste facility shall be painted and maintained in good repair, situated on a paved surface and emptied before collected items exceed the height of the box or within five (5) days of becoming full. The applicant shall post a notice on any recycling drop box, stating that only domestic recyclable or reusable materials, such as paper, cardboard, glass, tin, aluminum, plastic and clothing are permitted. The notice shall also state that yard debris, appliances, or other large items that may be repairable, recyclable or reusable are prohibited, unless the box is designed

for that purpose. The name and telephone number of the operator shall also be posted on the box.

6. Outdoor storage areas shall not be visible when viewed from a height of five (5) feet at the edge of the property, except as provided above. A facility complies with this standard when outdoor storage is enclosed within a sight obscuring fence, wall, berm, or landscaping at least six (6) feet high, but not more than ten (10) feet high. A wood fence is sight obscuring when attached vertical or horizontal fence boards are separated by not more than one-fourth ($1/4$) inch. A metal fence consisting of chain link or woven fabric is sight obscuring when water and insect resistant wood or plastic slats are inserted in the fence material so they are separated by not more than three-eighths ($3/8$) inch. Landscaping is sight obscuring when it includes evergreen material at least six (6) feet high and not more than two (2) feet on center at planting.

F. Litter Impacts

1. For purposes of litter control, an area described as the "Primary Impact Area" shall be established around the proposed facility. The Primary Impact Area is the area within which litter and illegally dumped solid waste is presumed to be a result of the presence of a solid waste facility. Illegally dumped waste consists of solid waste in excess of two (2) cubic yards at a given location, and litter includes lesser amounts of solid waste at a given location.
2. The Primary Impact Area shall extend at least one-half ($1/2$) mile from the facility boundary a long primary routes to the facility, as identified in the traffic study. The approval authority may expand the Primary Impact Area based on specific conditions or if otherwise warranted based on annual review of illegal dumping and litter patterns in the area.
3. Except as specified in Subsection 5 of this Section, the applicant shall submit to City a plan to eliminate litter in the Primary Impact Area. The plan shall include at least the following:
 - a. A proposed delineation of the Primary Impact Area;

- b. Appropriate gates, signs and other traffic control devices to direct traffic to the facility along approved routes that, to the extent possible, avoid public parks, residential and retail districts and major public attractions;
 - c. Establishment of a patrol to remove litter along designated routes within the Primary Impact Area on a schedule that, in the opinion of the approval authority, is sufficient to prevent accumulation of litter;
 - d. Provisions for the removal of illegally dumped waste within the primary impact area within twenty-four (24) hours of discovery;
 - e. Provisions to make available written information that describes access routes to the facility, fees for wastes permitted at the facility, surcharges for delivery of uncovered loads, if appropriate, and recycling incentives; and
 - f. For a landfill, a description of measures to be used to minimize blowing of litter from the site, such as periodic application of cover material, spraying with liquid, or use of portable fencing.
4. The facility operator shall be responsible for the cost of collecting, removing and disposing of litter and illegally dumped waste within the Primary Impact Area. In addition, the operator shall take reasonable measures to assist the City in identifying sources of illegal waste. If the City identifies a source of illegal waste, the City may take measures to reimburse the operator for the cost of collection and proper disposal of the waste.
5. The requirements of this Section 8.303.09.F. shall not apply to a facility that is not open to the public and receives waste only in sealed containers, or to any facility involved exclusively in recycling.

G. Vector Control Impacts

For any facility where solid waste could sustain or attract rodents or insects, because of the solid waste in question or the environmental characteristics of the site, the applicant shall submit and implement a plan to reduce the potential for rodent and insect propagation using methods designed to minimize nuisance conditions and health hazards.

H. Traffic Circulation and Access

1. Access requirements for a facility shall be based on the number and type of vehicle trips generated by the facility. The number of trips generated per day shall be based on the most recent version of the Trip Generation Manual of the Institute of Traffic Engineers, except that the applicant may submit a trip generation study certified by a professional traffic engineer of other similar facilities as the basis for trip generation by the proposed facility. If a proposed facility is not listed in the Trip Generation Manual and a trip generation study of other similar facilities is not available, then the number and type of vehicle trips generated by the proposed facility shall be based on the figures for the use most similar to the proposed facility for which the Trip Generation Manual contains data.
2. The applicant shall identify designated routes for vehicular traffic generated by the proposed facility and shall provide written information to facility users describing and promoting use of those routes. Designated routes shall be selected to minimize traffic on non-arterial streets and shall not include streets in residential zones if nonresidential streets provide access.
3. For a facility that generates more than two hundred (200) vehicle trips per day, the applicant shall submit a traffic study by a professional traffic engineer that shows the facility will not cause traffic volumes that exceed the capacity of the street based on the capacity assumptions of the Transportation Master Plan of the City, or that cause any intersection affected by that traffic to have a Level of Service E. If the proposed facility will cause street capacity to be exceeded or create a Level of Service E at any intersection, the applicant shall propose street modifications

acceptable to the City to meet the requirements of this subsection. Unless otherwise provided by agreement with the City, all expenses related to street improvements necessitated by the proposed facility shall be borne by the applicant.

4. A facility in an urban zone shall provide for a deceleration/turn lane at proposed access points to separate facility-bound traffic from other traffic if deemed warranted by the traffic study required in Section 8.303.09.I.3. The lane shall accommodate at least two (2) stacked vehicles and shall taper at a ratio of not less than twenty-five in one (25:1) to match the standard roadway width.

I. Odor Impacts

1. The applicant shall demonstrate that the facility meets the requirements of Section 8.309 and:
 - a. Will incorporate the best practicable design and operating measures to reduce the potentials or odors detectable off-site from such things as waste stored or being processed on site, spillage of waste, venting of dust, residual amounts of waste in operating areas of the site, and vehicle odors in stacking, maneuvering and staging areas; and
 - b. Will not cause unusual or annoying odors, considering the density of the surrounding population, the duration of the emissions, and other factors relevant to the impact of such emissions.
2. Open burning of solid waste will not be allowed unless:
 - a. Open burning is consistent with standards of the DEQ; or
 - b. The facility is outside the area where open burning is banned, and a permit is not required by DEQ.

J. Ground and surface water impacts.

1. The applicant shall demonstrate that the facility will:
 - a. Collect all waste water from production, washing down of equipment and vehicles, and similar activities and discharge the water to a public sanitary sewer if:
 - (1) The sewer adjoins or can be extended to the site based on applicable rules of the sewer service provider, and
 - (2) The sewer has the capacity to accommodate waste water from the facility as determined by the sewer service provider or by a professional civil engineer; or
 - b. Incorporate an alternative sanitary waste disposal method that is or will be approved by DEQ; or
 - c. Incorporate an alternative waste disposal method that is consistent with applicable water quality standards and will not cause drinking water supplies to violate applicable water quality standards; or
 - d. Not generate waste water, and will divert and/or contain storm water so that it does not enter solid waste on the site.
2. Prior to construction of the facility, the applicant shall obtain all required permits relating to discharges of waste water and storm water from the facility. The operator of the facility shall comply with all directives of state and federal agencies related to protection of ground and surface water resources potentially affected by the facility.
3. At the request of the approval authority, the applicant shall submit to the approval authority copies of any groundwater self-monitoring programs and analyses of potential surface and groundwater impacts related to the facility that are required to be submitted to the DEQ.

4. At the request of the approval authority, an applicant for a landfill, mixed waste compost facility, wood waste recycling facility, yard debris depot or processing facility shall submit copies of its leachate collection and treatment plan and program prepared by a professional civil engineer for submittal to the DEQ, if one has been required by the DEQ.
5. An applicant for a household hazardous waste depot, hazardous waste treatment and storage facility, material recovery facility, solid waste depot or transfer station shall submit and implement a plan and program prepared by a professional civil engineer to collect, pretreat and dispose waste water from the floor or operating area of such facility and to prevent surface water from mixing with solid waste spills.
6. The applicant shall submit and implement a plan prepared by a professional civil engineer to reduce the amount of waste water caused by hosing down equipment, tipping areas, platforms and other facility features, such as by using high pressure/low flow washing systems, compressed air or vacuum equipment for cleaning.
7. The applicant shall submit and implement a plan prepared by a professional civil engineer or landscape architect to collect storm water from all impervious areas of the site and to properly manage storm water. The applicant shall comply with state and federal regulations governing storm water discharges, and obtain required storm water discharge permits in a timely fashion. To the extent consistent with a storm water discharge permit issued for the facility, storm water shall be managed in the following manner:
 - a. Storm water disposal shall comply with the Storm Drainage Master Plan of the City.
 - b. If a storm sewer with adequate capacity is not available, the applicant shall:
 - (1) Retain storm water on site; and/or
 - (2) Detail storm water on-site and discharge it from the site at no greater rate than before development of the facility; or

- (3) Discharge storm water at full rate to public drainage features, such as a roadside ditch or regional drainage facility, if there is adequate capacity to accommodate it as determined by a professional civil engineer or landscape architect. If discharging water at full rate would exceed the capacity of downstream drainage features, the applicant shall:
- (a) Provide a detention pond or ponds to contain water in excess of the system's capacity; and/or
 - (b) Identify improvements to downstream drainage features necessary to accommodate the increased volume or rate of flow without adversely affecting adjoining property and either:
 - (i) Provide such improvements before operation of the facility, or
 - (ii) Contribute necessary funds to the City and USA so that the City and USA can undertake such improvements.
 - (c) If off-site improvements are required to accommodate storm water from the site, prior to issuance of a building permit for the facility, the applicant, the City and USA shall execute an agreement to pay back the applicant for the cost of improvements to the extent those improvements exceed the storm drainage needs generated by the facility.
8. Except as otherwise provided by the storm drainage master plan of the City and USA, the collection and disposal system shall be sized to accommodate peak flows from a twenty-five (25) year storm event, based on the flow from the area that includes the site and the basin that drains onto it, assuming permitted development of that area, as determined by a professional civil engineer or landscape architect.
9. Before storm water is discharged from the site or into the ground, the applicant will direct it

through features to remove sediment, grease and oils, and water soluble materials in the water. Such features shall comply with the storm drainage standards of the City and USA.

10. The applicant shall submit and implement a plan prepared by a professional civil engineer or landscape architect to reduce the potential for erosion along natural and constructed drainageways and across slopes during and after construction.
11. For a landfill, the approval authority may require that the applicant submit a copy of its closure plan as prepared for submittal to the DEQ.

K. Methane Gas Impacts

1. The applicant shall submit a statement from a professional engineer that the facility will not generate significant quantities of methane gas emissions; or
2. The applicant shall submit and implement a methane gas control program prepared by a professional engineer that describes how:
 - a. The facility will not generate methane gas in excess of twenty-five percent (25%) of the lower explosive limit for methane in facility structures or in excess of the lower explosive limit at the facility boundary;
 - b. The gas shall be collected and vented, incinerated, or put to or prepared for a productive use; and
 - c. Methane will be measured in structures and at the facility boundary, consistent with applicable DEQ standards.

L. Air Quality Impacts

A facility shall not cause detrimental air quality impacts. A facility complies with this standard if the applicant obtains all required Air Contaminant Discharge Permits and the facility is operated in conformance with Section 8.306 and all applicable DEQ air quality standards and requirements.

M. Treatment and Storage Facilities (Hazardous Waste)

The applicant for a proposed treatment and storage facility shall comply with Oregon Administrative Rules Chapter 340, Division 120, and any other applicable state or federal law, by obtaining all state and federal permits necessary for operation of the facility.

8.304 PARKS AND OPEN SPACE**8.304.01 Purpose**

Section 8.304 is intended to assure the provision of a system of public and private recreation and open space areas and facilities consistent with this Code and applicable portions of Chapter 5 of the Community Development Plan.

8.304.02 Parks and Open Space System Improvement Fees (SIF)**A. Purpose**

The SIF shall be reserved and used exclusively for the acquisition, expansion, and capital development or redevelopment of greenways, parks, open space, or recreational facilities, designed to provide extra system capacity, and as designated on the Natural Resources and Recreation Plan Map, attached as Appendix C, or in Chapter 5 of the Community Development Plan. The SIF may also be utilized for expenditures relating to repayment of debt for such improvements. The SIF may not be used for parks system preservation improvements or for routine parks system maintenance or operations.

B. Schedule of Charges

SIFs shall be assessed against new residential development in the City to support extra-capacity parks and open space improvements. The SIF for parks and open space development shall be set by the "Schedule of Development Fees" adopted by Resolution of the Council. This schedule is included herein as Appendix J for the purposes of information, but is deemed to be separate from and independent of this Code.

C. Assessment

Except as otherwise provided, the SIF is due and payable and shall be collected prior to issuance of any building permits for new residential construction, or for alterations or additions to buildings that increase the number of residential dwelling units.

D. Deferral

Where the SIF due and payable from a single building permit exceeds \$3,000.00, an administrative deferral may be granted until an occupancy permit is issued. No occupancy permit shall be issued until the SIF is paid in full.

E. Waiver

When a proposed development contains lands designated on the Natural Resources and Recreation Plan Map, attached as Appendix C, or in Chapter 5 of the Community Development Plan, for greenways, parks, open space, or recreational facilities, such land may be dedicated to the City in lieu of an equivalent portion of the SIF, or in the case of multi-family development, in lieu of the equivalent portion of common open space, as per Section 8.304.03. The value of the dedication shall be established by a formal appraisal provided at the developers cost, by County Assessors records, or some other method deemed acceptable by the City. The value of the dedication, as determined by the City, shall be deducted from the SIF.

8.304.03 Multi-Family Developments

A. Standards

Except as otherwise provided, recreation and open space areas shall be provided in new multi-family residential developments to the following standards:

1. Open Space

A minimum of twenty percent (20%) of the site area shall be retained in common open space. Required yard, parking, or maneuvering areas may not be substituted for open space.

2. Recreation Facilities

A minimum of fifty percent (50%) of the required common open space shall be suitable for active recreational use. Recreational spaces shall be planted in grass or otherwise suitably improved. A minimum area of eight hundred (800) square feet and a minimum width of fifteen (15) feet shall be provided.

3. Minimum Standards

Common open space and recreation areas and facilities shall be clearly shown on site development plans and shall be physically situated so as to be readily accessible to and usable by all residents of the development.

4. Terms of Conveyance

Rights and responsibilities attached to common open space and recreation areas and facilities shall be clearly specified in a legally binding document which leases or conveys title, including beneficial ownership to a home association, or other legal entity. The terms of such lease or other instrument of conveyance must include provisions suitable to the City for guaranteeing the continued use of such land and facilities for its intended purpose; continuity of property maintenance; and, when appropriate, the availability of funds required for such maintenance and adequate insurance protection.

8.304.04 Visual Corridors

A. Corridors Required

New developments with frontage on Highway 99W, or arterial or collector streets designated on the Transportation Plan Map, attached as Appendix C, or in Section VI of the Community Development Plan, shall be required to establish a landscaped visual corridor according to the following standards:

Category	Width
Highway 99W	25 feet
Arterial	15 feet
Collector	10 feet

In residential developments where fences are typically desired adjoining the above described major streets, the corridor may be placed in the road right-of-way between the property line and the sidewalk.

B. Landscape Materials

The required visual corridor areas shall be planted as specified by the Commission to provide a continuous visual and/or acoustical buffer between major streets and developed uses. Except as provided for above, fences and walls shall not be substituted for landscaping within the visual corridor. Uniformly planted, drought resistant street trees and ground cover, as specified in Section 8.304.06, shall be planted in the corridor by the developer. The improvements shall be included in the subdivision compliance agreement.

C. Establishment and Maintenance

Designated visual corridors shall be established as a portion of landscaping requirements pursuant to Section 5.200. To assure continuous maintenance of the visual corridors, the Commission may require that the development rights to the corridor areas be dedicated to the City or that restrictive covenants be recorded prior to the issuance of a building permit.

D. Required Yard

Visual corridors may be established in required yards, except that where the required visual corridor width exceeds the required yard width, the visual corridor requirement shall take precedence. In no case shall buildings be sited or trees be removed from within the required visual corridor.

8.304.05 Density Transfer and Park Reservation

A. Density Transfer

1. When a proposed development includes lands designated on the Natural Resources and Recreation Plan Map, attached as Appendix C, or in Chapter 5 of the Community Development Plan, for the uses specified in Section 8.304.02.E, density transfers may be authorized to other portions of the site in exchange for the dedication of those lands.
2. Residential densities as a result of density transfers shall not exceed the maximum allowed for the zone in which the development is proposed, as measured against the area of the site prior to dedication.
3. Non-residential densities shall as a result of density transfers not exceed eighty percent (80%) building coverage on buildable portions of the site.
4. Density transfers shall be allowed only when the portion of the site to which density is transferred can accommodate the additional density without causing undue adverse effects on the surrounding area, including public facilities and services, and is otherwise compatible with the applicable zoning district, as determined by the City.

B. Park Reservations

Areas designated on the Natural Resources and Recreation Plan Map, attached as Appendix C, or in Chapter 5 of the Community Development Plan, which have not been dedicated pursuant to Section 8.304.02 E or 8.202.02, may be required to be reserved upon the recommendation of the City Parks Board, for purchase by the City within a period of time not to exceed three (3) years.

8.304.06 Trees Along Public Streets or on Other Public Property**A. Trees Along Public Streets**

Trees are required to be planted by the land use applicant to the following specifications along public streets abutting or within any new development. Planting of such trees shall be a condition of development approval. The City shall be subject to the same standards for any developments involving City-owned property, or when constructing or reconstructing City streets.

1. Tree location: On private property within the front yard setback area or within public street right-of-way between front property lines and street curb lines. The land use applicant may, at their option, provide for a minimum four (4') foot deep continuous planter strip between curb and sidewalk for the purposes of street tree planting. The City may grant a corresponding reduction in right-of-way or street width, or equivalent on-street parking requirements.
2. Tree size: A minimum trunk diameter of two (2") inches DBH and minimum height of six (6') feet.
3. Tree spacing: A minimum of one (1) tree for every twenty-five (25') feet of public street frontage, or two (2) trees for every buildable lot, whichever yields the greater number of trees. Double fronting lots shall have a minimum of one (1) street tree for every twenty-five (25') feet of frontage. Corner lots shall have a minimum of three (3) street trees.
4. For minor arterial and major collector streets, the City may require planted medians in lieu of paved twelve (12') foot wide center turning lanes, planted with trees to the specifications of Section 8.304.06.A.

5. Tree types: As per Appendix J of this Code.

B. Prohibited Trees and Shrubs

1. Poplar, conifer, cottonwood, willow, ailanthus, any other native tree species, and fruit and nut trees, are prohibited along public streets as such trees tend to grow in such manner as to interfere with or damage public streets and utilities, or cause an unwarranted increase in the maintenance costs of same.
2. Poplar, cottonwood, and willow trees are prohibited on other public or private property not along public streets, when, in the City's determination, such trees may tend to interfere with or damage public streets and utilities, or cause an unwarranted increase in the maintenance costs of same. English ivy, holly and Himalayan blackberries are also prohibited on public property.

C. Removal and Cutting of Trees

1. For the purposes of this Section, "removal and cutting" shall be defined as the falling or removal of a tree, or any other deliberate action by any person, the natural result of which is to cause the death or substantial destruction of the tree. Prohibited removal and cutting activities do not include normal trimming or pruning when done in accordance with generally accepted arboricultural practices. The authorizations required by Section 8.304.06.C shall not apply to any removal or cutting associated with development activities authorized by the land use approvals contemplated by Section 8.304.07. Section 8.304.06.C shall only govern the removal or cutting of trees along public streets or of trees and woodlands on public property not part of a land use application.
2. Any tree located on public property or along public streets, as per this Section, shall not be subsequently removed or cut without the authorization of the Parks Advisory Board, unless removal or cutting is necessitated by the tree:
 - a. Dying, becoming severely diseased, or infested or diseased so as to threaten the health of other trees, or

- b. Obstructing public ways or sight distance so as to cause a safety hazard, or
 - c. Interfering with or damaging public or private utilities, or
 - d. Being defined as a nuisance as per City nuisance abatement ordinances, or
 - e. Otherwise becoming a hazard to life or property, in the City's determination.
3. All requests for authorization to remove or cut trees or woodland shall be made in writing stating the reasons and circumstances necessitating said removal or cutting. The Parks Advisory Board shall consider the request in open session at any duly convened Board meeting. Any Board authorization for the removal and cutting of such trees or woodlands shall be made in writing, setting out the reasons for the removal or cutting, and any limitations or conditions attached thereto. Such written authorization shall be issued to the party requesting the removal or cutting, and maintained in City records, as per other Notices of Decision required by this Code. Any tree or woodland removed as per this Section shall be replaced with a new tree or trees selected from Appendix J of this Code. The party initiating the request for tree or woodland removal shall be responsible for all costs of said replacement, including installation. This Section shall apply to any party requesting tree or woodland removal or cutting, including the City.
4. In the specific circumstances listed in Section 8.304.06.C2 only, the City Manager or his or her designee may administratively authorize the immediate removal of such trees or woodlands without Parks Advisory Board review. Any administrative authorization for the removal or cutting of such trees or woodlands shall be made in writing setting out the reasons for the removal or cutting, and any limitations or conditions attached thereto. Such written authorization shall be issued to the party requesting the removal or cutting, and maintained in City records as per other Notices of Decision required by this Code. Any tree or woodland removed as per this Section shall be replaced with a new tree or trees selected from Appendix J of this Code. The party initiating

the request for tree or woodland removal shall be responsible for all costs of said replacement, including installation. This Section shall apply to any party requesting tree or woodland removal or cutting, including the City.

D. Trees on Private Property

Any tree, woodland or any other vegetation located on private property, regardless of species or size, that interferes with or damages public streets or utilities, or causes an unwarranted increase in the maintenance costs of same, may be ordered removed or cut by the City Manager or his or her designee without Parks Advisory Board review. Any order for the removal or cutting of such trees, woodlands or other vegetation, shall be made and processed as per applicable City nuisance abatement ordinances.

E. Penalties

The abuse, destruction, defacing, cutting, removal, mutilation or other misuse of any tree planted on public property or along a public street as per this Section, shall be subject to the penalties defined by Section 1.101.04, and other penalties defined by applicable ordinances and statutes, provided that each tree so abused shall be deemed a separate offense.

8.304.07 Trees on Property Subject to Certain Land Use Applications

A. Generally

The purpose of Section 8.304.07 is to establish processes and standards which will minimize cutting or destruction of certain trees and woodlands within the City. This Section is intended to help protect the scenic beauty of the City; to retain a livable environment through the beneficial effect of trees on air pollution, heat and glare, sound, water quality, and surface water and erosion control; to encourage the retention and planting of tree species native to the Willamette Valley and Western Oregon; to provide an attractive visual contrast to the urban environment, and to sustain a wide variety and distribution of viable trees and woodlands in the community over time.

1. All Planned Unit Developments subject to Section 2.202, site developments subject to Section 5.202, and subdivisions subject to Section 7.200, shall be

required to preserve trees or woodlands, as defined by this Section to the maximum extent feasible within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, as determined by the City. Section 8.304.07 shall not apply to any PUD, site development or subdivision, or any subdivision phase of any PUD, having received an approval by the Commission prior to the effective date of Ordinance No. 94-991, except for Subsection 8.304.07.C5, which shall apply to all building permits issued after the effective date to that Ordinance.

2. For the inventory purposes of Section 8.304.07, a tree is a living woody plant having a trunk diameter as specified below at four and one-half (4-1/2') feet above mean ground level at the base of the trunk, also known as Diameter Breast Height (DBH). Trees planted for commercial agricultural purposes, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition, and from regulation under Section 8.304.07, as are any living woody plants under five (5") inch DBH.
 - a. Douglas fir, ponderosa pine, western red cedar, white oak, big leaf maple, American chestnut.....Ten (10") inches or greater
 - b. All other tree species..Five (5") inches or greater

In addition, any trees of any species of five (5") inch or greater DBH that are proposed for removal as per the minimally necessary development activities defined in Section 8.304.07.C3 shall be inventoried.

3. For the inventory purposes of Section 8.304.07, a woodland is a biological community dominated by trees covering a land area of 20,000 square feet or greater at a density of at least fifty (50) trees per every 20,000 square feet with at least fifty percent (50%) of those trees of any species having a five (5") inch or greater DBH. Woodlands planted for commercial agricultural purposes, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition, and from regulation under Section 8.304.07.

B. Tree and Woodland Inventory

1. To assist the City in making its determinations on the retention of trees and woodlands, the land use applications referenced in Section 8.304.07.A shall include a tree and woodland inventory and report, in both map and narrative form, addressing the standards in Section 8.304.07.C, and a written report by an arborist, forester, landscape architect, botanist, or other qualified professional, as determined by the City, that generally evaluates the nature and quality of the existing trees and woodlands on the site and also provides information as to the extent and methods by which trees and woodlands will be retained. The inventory shall include a resume detailing the qualified professional's applicable background and experience. The City may also require the submission of additional information as per Section 8.301.03.
2. In addition to the general requirements of this Section, the tree and woodland inventory's mapping and reports shall include, but are not limited to, the following specific information. Mapping shall include a composite map, illustrating as much required information as possible while retaining map readability.
 - a. The location of the property subject to the land use application and tree and woodland inventory, including street addresses, assessors' map and tax lot numbers, and a vicinity map.
 - b. Mapping indicating the location of trees and woodlands, as defined by Section 8.304.07.A2-3. Mapping shall include typical tree root zones, given tree species, size, condition and location. For any woodland, inventory data and mapping is required only for the group, rather than on a tree by tree basis.
 - c. Mapping and other inventory data shall include, but is not limited to, the boundaries and/or types of soils, wetlands, and floodplains underlying the tree or woodland; site hydrology, drainage, and slope characteristics; the condition, density, form, root zone and aspect of the tree or woodland, including in the case of a woodland,

associated understory.

- d. Mapping and other inventory data shall be of sufficient detail and specificity to allow for field location of trees and woodlands by the City, and shall include but is not limited to, existing and proposed property lines, topography at the intervals otherwise specified for the type of land use application being considered, and any significant man-made or natural features that would tend to aid in such field location.
- e. The number, size, species, condition, and location of trees and woodlands proposed for removal, the timing and method of such removal, and the reason(s) for removal.
- f. The number, size, species, condition, and location of trees and woodlands proposed for retention, and the methods by which such trees and woodlands shall be maintained in a healthy condition both during and subsequent to development activity.
- g. Proposed mitigation and replacement efforts as per Section 8.304.07.D, including a description of how proposed replacement trees will be successfully replanted and maintained on the site.

C. Tree and Woodland Retention

1. The Commission, or in the case of Planned Unit Developments (PUD), the Council acting on the Commission's recommendation, shall make findings identifying all trees and woodlands, or additional trees not inventoried, that merit retention. Alternatively, the City may require planting of new trees in lieu of retention as per Section 8.304.07.D1-3, or acquire said trees and woodlands as per Section 8.304.07.D4. Prior to making any such determinations or recommendations, the Commission and Council shall receive and consider the recommendations of the City Parks Advisory Board. Special consideration shall be given in making these determinations to the retention of replanting of trees native to the Willamette Valley and Western Oregon, except in areas where such trees are prohibited as per Section 8.304.06.B.

2. To require retention of trees or woodlands as per Section 8.304.07.B, the Commission or Council must make specific findings that retention of said trees or woodlands furthers the purposes and goals of this Section, is feasible and practical both within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, and are:
 - a. Within a Significant Natural Area, 100-year floodplain, City greenway, jurisdictional wetland or other existing or future public park or natural area designated by the City Comprehensive Plan, or
 - b. A landscape or natural feature as per applicable policies of the City Comprehensive Plan, or are necessary to keep other identified trees or woodlands on or near the site from being damaged or destroyed due to windfall, erosion, disease or other natural processes, or
 - c. Necessary for soil stability and the control of erosion, for managing and preserving surface or groundwater quantities or quality, or for the maintenance of a natural drainageway, as per Unified Sewerage Agency stormwater management plans and standards or the City Comprehensive Plan, or
 - d. Necessary as buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or
 - e. Otherwise merit retention because of unusual size, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the City.
3. In general, the City shall permit only the removal of trees, woodlands, and associated vegetation, regardless of size and/or density, minimally necessary to undertake the development activities contemplated by the land use application under consideration. For the development of PUDs and subdivisions, minimally necessary activities will typically entail tree removal for the purposes of constructing City and private utilities, streets, and other infrastructure, and minimally required

site grading necessary to construct the development as approved. For site developments, minimally necessary activities will typically entail tree removal for the purposes of constructing City and private utilities, streets and other infrastructure, minimally required site grading necessary to construct the development as approved, construction of permitted buildings, and City required site improvements such as driveways and parking lots.

4. The Notice of Decision issued for the land use applications subject to this Section shall indicate which trees and woodlands will be retained as per Section 8.304.07.C2, which may be removed or shall be retained as per Section 8.304.07.B, and which shall be mitigated as per Section 8.304.07.D, and any limitations or conditions attached thereto. The applicant shall prepare and submit a Final Tree and Woodland Plan prior to issuance of any construction permits, illustrating how identified trees and woodlands will be retained, removed or mitigated as per the Notice of Decision. Such Plan shall specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, selective pruning and root treatments, excavation techniques, temporary drainage systems, and like methods.
5. At the time of building permit issuance for any development of a site containing trees or woodlands identified as per Section 8.304.07C, the Building Official shall permit only the removal of trees, woodlands and associated vegetation, regardless of size and /or density, minimally necessary to undertake the development activities contemplated by the building permit application under consideration. The permit shall specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, selective pruning and root treatments, excavation techniques, temporary drainage systems, and like methods. Minimally necessary activities will typically entail tree removal for the purposes of construction of City and private utilities, streets and other infrastructure, minimally required site grading necessary to construct the development as approved, construction of permitted buildings, and City required site improvements such as driveways and

parking lots. A fee for this inspection shall be established as per Section 3.301, provided however that said inspection is not deemed to be a land use action.

6. When a tree or woodland within an approved site plan, subdivision or Planned Unit Development subsequently proves to be so located as to prohibit the otherwise lawful siting of a building or use, retention of said trees or woodlands may be deemed sufficient cause for the granting of a variance as per Section 4.400, subject to the satisfaction of all other applicable criteria in Section 4.400.
7. All trees, woodlands, and vegetation located on any private property accepted for dedication to the City for public parks and open space, greenways, Significant Natural Areas, wetlands, floodplains, or for storm water management or for other purposes, as a condition of a land use approval, shall be retained outright, irrespective of size, species, condition or other factors. Removal of any such trees, woodlands, and vegetation prior to actual dedication of the property to the City shall be cause for reconsideration of the land use plan approval.

D. Mitigation

1. The City may require mitigation for the removal of any trees and woodlands identified as per Section 8.304.07.C if, in the City's determination, retention is not feasible or practical within the context of the proposed land use plan or relative to other policies and standards of the City Comprehensive Plan. Such mitigation shall not be required of the applicant when removal is necessitated by the installation of City utilities, streets and other infrastructure in accordance with adopted City standards and plans. Provided, however, that the City may grant exceptions to established City street utility and other infrastructure standards in order to retain trees or woodlands if, in the City's determination, such exceptions will not significantly compromise the functioning of the street, utility or other infrastructure being considered. Mitigation shall be in the form of replacement by the planting of new trees.

2. Replacement trees required as part of mitigation as per this Section shall, as determined by the City, be generally of a substantially similar species, size and quantity to those trees proposed for removal, taking into account soils, slopes, hydrology, site area, and other relevant characteristics of the site on which the mitigation is proposed. In consideration of the foregoing factors the City may require replacement trees to be replanted at greater than a 1:1 ratio. Exotic or non-native trees shall generally be replaced with species native to the Willamette Valley or Western Oregon, except where such native trees are prohibited by Section 8.304.06.B2. Said replacement trees shall be in addition to trees along public streets required by Section 8.304.06.A. Standards for trees along public streets may be different than those for trees required for retention or replacement under this Section.
3. If replacement trees of the species, size or quantity being removed are not available, or cannot be successfully replanted due to soils, slopes, hydrology, site area, or other relevant characteristics of the site, the City may require:
 - a. Different species of trees to be submitted or
 - b. Replacement trees to be planted on another, more suitable site within the City, or
 - c. Cash payments equivalent to the fair market value of the otherwise required replacement trees, including estimated installation costs, said payments to be set aside by the City in a dedicated fund for eventual purchase and planting of trees when suitable sites become available.
4. The Commission may also make recommendation to the Council, based on the recommendation of the Parks Advisory Board, that trees or woodlands identified as per this Section be purchased by the City, if such trees cannot otherwise be retained as part of the proposed land use plan, obtained as a parks and open space or other dedication to the City, or otherwise be mitigated as per Section 8.304.07.D.

E. Penalties

Violations of Section 8.304.07 shall be subject to the penalties defined by Section 1.101.04, provided that each designated tree or woodland unlawfully removed or cut shall be deemed a separate offense.

APPENDIX J

City of Sherwood
Recommended Street Trees

Acer - MapleAcer platanoides cavalier - Cavalier Norway Maple

- p. cleveland - Cleveland Norway Maple
- p. cleveland - Cleveland II Norway Maple
- p. columnare - Columnar Norway Maple
- p. fairway - Fairway Sugar Maple
- p. olmsted - Olmsted Norway Maple
- p. summershade - Summershade Maple

Acer, rubrum red sunset - Red Sunset Maple (Old Town)

- r. royal red - Royal Red Maple
- r. gerling - Gerling Red Maple
- r. tilford - Tilford Red Maple

Carpinus - HornbeamCarpinus betulus pyramidalis - Pyramidal European Hornbeam

- b. columnaris - Pyramidal European Hornbeam
- b. fastigiata - Pyramidal European Hornbeam

Cercidiphyllum - Katsura Tree

- c. japonicum - Katsura Tree

Cercix, canadensis - Canadian Red BudFraxinus - Ash

- americana - White Ash
- americana - Autumn Purple Ash
- angustifolia dr. pirone - Dr. Pirone Ash
- oxycarpa flame - Flame Ash
- raywoodi - Raywood Ash
- latifolia - Oregon Ash

Ginkgo

- bilboa - Maidenhair Tree
- bilboa - Autumn Gold
- bilboa - Fairmount

Gleditsia

- triacanthos sunburst - Honey Locust

Liquidamber

- styraciflua - American Sweetgum

Liriodenrod

- tulipifera - Tulip Tree

Magnolia

grandiflora vars - Evergreen Magnolia
 grandiflora - Southern Magnolia
 kobus dr. merrill - Dr. Merrill Magnolia

Platanus

aceriflora - London Plane Tree

Purnus - Cherry - Plum

avium plena - Double Flowering Cherry
 avium scanlon - Scanlon Globe Cherry
 serrulata vars (nonweeping) - Japanese Cherry
 okame - Okame Cherry
 blireana - Blireana Plum
 cerasifera newport - Newport Plum
 pissardi - Pissardi Plum
 thundercloud - Thundercloud Plum
 vesuvius - Krauter's Vesuvius Plum
 maacki - Amur Chokecherry
 serrula - Redbark Cherry
 padus alberti - Alberti Cherry
 spaethi - Spaethi Cherry
 virginiana var. mellanocarpa canada red - Chokecherry
 padus - European Birdcherry
 grandiflora - Bigflowered Birdcherry
 berg - Rancho Birdcherry
 purpurea - Purpleleaf Birdcherry

Quercus

palustris - Pin Oak
 rubra - Red Oak

Tilia - Linden

americana - American Linden
 cordata - Little Leaf Linden
 glenleven - Glenleven Linden
 redmond - Redmond Linden
 euchlora - Crimean Linden
 tomentosa - Silver Linden
 bicentennial - Bicentennial Linden
 greenspire - Greenspire Linden
 salem - Salem Linden

PROHIBITED STREET TREES

Acer, Silver Maple

Acer, Boxelder

Ailanthus, glandulosa - Tree-of-heaven

Betula; common varieties of birch

Ulmus; common varieties of elm

Morus; common varieties of mulberry

Salix; common varieties of willow

Coniferous evergreen (Fir, Pine, Cedar, etc..)

8.305 WETLAND, HABITAT AND NATURAL AREAS

8.305.01 Generally

Unless otherwise permitted, commercial, industrial, and institutional uses in the City shall comply with the following wetland, habitat and natural area standards if applicable to the site as identified on the City's Wetland Inventory and the Comprehensive Plan Natural Resource Inventory.

8.305.02 Standards

- A. The applicant shall identify and describe the significance and functional value of wetlands on the site and protect those wetlands from adverse effects of the development. A facility complies with this standard if it complies with Section 8.305.02.1 a or 8.305.02.1 b below:
1. The facility will not reduce the area of wetlands on the site, and development will be separated from such wetlands by a minimum of sixty (60) feet, which shall be retained in its existing condition or enhanced for compatibility with the wetland. The setback may be reduced to as little as twenty (20) feet if the applicant shows such lesser setback will not adversely affect the wetland, provided Section 8.303.09.A does not require more than the requested setback. Lack of adverse effect can be demonstrated by showing the following among other means:
 - a. A natural condition such as topography, soil, vegetation or other feature isolates the area of development from the wetland.
 - b. Impact mitigation measures will be designed, implemented, and monitored to provide effective protection against harm to the wetland from sedimentation, erosion, loss of surface or ground water supply, or physical trespass.
 - c. A lesser setback complies with federal and state permits, or standards that will apply to state and federal permits, if required.
 2. Where existing wetlands are eliminated by the facility, the applicant will develop or enhance an area of wetland on the site or in the same drainage basin that is at least equal to the area and functional value of wetlands eliminated.

- B. The applicant shall provide appropriate plans and text that identify and describe the significance and functional value of natural features on the site (if identified in the Community Development Plan, Part 2) and protect those features from impacts of the development or mitigate adverse effects that will occur. A facility complies with this standard if:
1. The site does not contain an endangered or threatened plant or animal species or a critical habitat for such species identified by Federal or State government (and does not contain significant natural features identified in the Community Development Plan, Part 2, Natural Resources and Recreation Plan).
 2. The facility will comply with applicable requirements of the zone.
 3. The applicant will excavate and store topsoil separate from subsurface soil, and shall replace the topsoil over disturbed areas of the site not covered by buildings or pavement or provide other appropriate medium for re-vegetation of those areas, such as yard debris compost.
 4. The applicant will retain significant vegetation in areas that will not be covered by buildings or pavement or disturbed by excavation for the facility; will replant areas disturbed by the development and not covered by buildings or pavement with native species vegetation unless other vegetation is needed to buffer the facility; will protect disturbed areas and adjoining habitat from potential erosion until replanted vegetation is established; and will provide a plan or plans identifying each area and its proposed use.
 5. Development associated with the facility will be set back from the edge of a significant natural area by a minimum of sixty (60) feet, and the setback area shall be retained in its existing condition or enhanced for compatibility with the natural area. The setback may be reduced to as little as twenty (20) feet if the applicant shows such lesser setback will not adversely affect the natural area, provided Section 8.303.09.A does not require more than the requested setback. Lack of adverse effect can be demonstrated by showing the same sort of evidence as in Section 8.305.02.A.1 above.

8.306 NOISE**8.306.01 Generally**

All otherwise permitted commercial, industrial institutional uses in the City shall comply with the noise standards contained in OAR 340-35-035. The City may require proof of compliance with OAR 340-35-035 in the form of copies of all applicable State permits or certification by a professional acoustical engineer that the proposed uses will not cause noise in excess of State standards.

8.306.02 Noise Sensitive Uses

When proposed commercial and industrial uses do not adjoin land exclusively in commercial or industrial zones, or when said uses adjoin special care, institutional, or parks and recreational facilities, or other uses that are, in the City's determination, sensitive to noise impacts, then:

- A. The applicant shall submit to the City a noise level study prepared by a professional acoustical engineer. Said study shall define noise levels at the boundaries of the site in all directions.
- B. The applicant shall show that the use will not exceed the noise standards contained in OAR 340-35-035, based on accepted noise modeling procedures and worst case assumptions when all noise sources on the site are operating simultaneously.
- C. If the use exceeds applicable noise standards as per Section 8.306.02B, then the applicant shall submit a noise mitigation program prepared by a professional acoustical engineer that shows how and when the use will come into compliance with said standards.

8.306.03 Exceptions

Section 8.306 does not apply to noise making devices which are maintained and utilized solely as warning or emergency signals, or to noise caused by automobiles, trucks, trains, aircraft, and other similar vehicles when said vehicles are properly maintained and operated and are using properly designated rights-of-way, travel ways, flightpaths or other routes. Section 8.306 also does not apply to noise produced by humans or animals. Nothing in Section 8.306 shall preclude the City from abating any noise problem as per applicable City nuisance and public safety ordinances.

8.307 VIBRATION**8.307.01 Generally**

All otherwise permitted commercial, industrial and institutional uses shall not cause discernable vibrations that exceed a peak of 0.002 gravity at the property line of the originating use, except for vibrations that last five (5) minutes or less per day, based on a certification by a professional engineer.

8.307.02 Exceptions

Section 8.307 does not apply to vibration caused by construction activities including vehicles accessing construction sites, or to vibrations caused by automobiles, trucks, trains, aircraft, and other similar vehicles when said vehicles are properly maintained and operated and are using properly designated rights-of-way, travelways, flightpaths or other routes. Nothing in Section 8.307 shall preclude the City from abating any vibration problem as per applicable City nuisance and public safety ordinances.

8.308 AIR QUALITY**8.308.01 Generally**

All otherwise permitted commercial, industrial, and institutional uses shall comply with applicable State air quality rules and statutes:

- A. All such uses shall comply with standards for dust emissions as per OAR 340-21-060.
- B. Incinerators, if otherwise permitted by Section 8.303.02, shall comply with the standards set forth in OAR 340-25-850 through 340-25-905.
- C. Uses for which a State Air Contaminant Discharge Permit is required as per OAR 340-20-140 through 340-20-160 shall comply with the standards of OAR 340-220 through 340-20-276.

8.308.02 Proof of Compliance

Proof of compliance with air quality standards as per Section 8.308.01 shall be in the form of copies of all applicable State permits, or, if permits have not been issued, submission by the applicant, and acceptance by the City, of a report certified by a professional engineer indicating that the proposed use will comply with State air quality standards. Depending on the nature and size of the use proposed, the applicant may, in the City's determination, be required to submit to the City a report or reports substantially identical to that required for issuance of State Air Contaminant Discharge Permits.

8.308.03 Exceptions

Nothing in Section 8.308 shall preclude the City from abating any air quality problem as per applicable City nuisance and public safety ordinances.

8.309 ODORS**8.309.01 Generally**

All otherwise permitted commercial, industrial and institutional uses shall incorporate the best practicable design and operating measures so that odors produced by the use are not discernable at any point beyond the boundaries of the development site.

8.309.02 Standards

The applicant shall submit a narrative explanation of the source, type and frequency of the odorous emissions produced by the proposed commercial, industrial or institutional use. In evaluating the potential for adverse impacts from odors, the City shall consider the density and characteristics of surrounding populations and uses, the duration of any odorous emissions, and other relevant factors.

8.309.03 Exceptions

Nothing in Section 8.309 shall preclude the City from abating any odor problem as per applicable City nuisance and public safety ordinances.

8.310 HEAT AND GLARE

Except for exterior lighting, all otherwise permitted commercial, industrial, and institutional uses shall conduct any operations producing excessive heat or glare entirely within enclosed buildings. Exterior lighting shall be directed away from adjoining properties, and the use shall not cause such glare or lights to shine off site in excess of one-half (.5) foot candle when adjoining properties are zoned for residential uses.

8.310.01 Exceptions

Nothing in Section 8.310 shall preclude the City from abating any heat and glare problem as per applicable City nuisance and public safety ordinances.

8.311 ENERGY CONSERVATION**8.311.01 Purpose**

Section 8.311 and applicable portions of Chapter 5 of the Community Development Plan provide for natural heating and cooling opportunities in new development. The requirements of Section 8.311 shall not result in development exceeding allowable densities or lot coverage, or the destruction of existing trees.

8.311.02 Standards**A. Building Orientation**

The maximum number of buildings feasible shall receive sunlight sufficient for using solar energy systems for space, water or industrial process heating or cooling. Buildings and vegetation shall be sited with respect to each other and the topography of the site so that unobstructed sunlight reaches the south wall of the greatest possible number of buildings between the hours of 9:00 a.m. and 3:00 p.m. Pacific Standard Time on December 21st.

B. Wind

The cooling effects of prevailing summer breezes and shading vegetation shall be accounted for in site design. The extent solar access to adjacent sites is not impaired, vegetation shall be used to moderate prevailing winter wind on the site.

8.311.03 Variance to Permit Solar Access

Variances from zoning district standards relating to height, setback and yard requirements, approved as per Section 4.400, may be granted by the Commission where necessary for the proper functioning of solar energy systems, or to otherwise preserve solar access on a site or to an adjacent site.

CHAPTER 9
HISTORIC RESOURCES

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HISTORIC RESOURCES

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CHAPTER 9**HISTORIC RESOURCES****9.100 PURPOSE**

Chapter 9 is intended to protect, preserve, and otherwise properly manage the City's historic and cultural resources for the benefit and education of the general public, to retain and strengthen the community's historic heritage and unique identity, and to establish performance standards allowing the City to properly and uniformly assess the impact of residential, commercial, industrial, and institutional development and activities on the quality of the City's historic and cultural resources.

9.200 SPECIAL RESOURCE ZONES**9.201 GENERALLY**

Special resource zones are established to provide for the preservation, protection, and management of unique historic and cultural resources in the City that are deemed to require additional standards beyond those contained elsewhere in this Code. Special resource zones may be implemented as underlying or overlay zones depending on patterns of property ownership and the nature of the resource. A property or properties may be within more than one (1) resource zone. In addition, the City may identify special resource areas and apply a PUD overlay zone in advance of any development in order to further protect said resources.

9.202 Old Town (OT) Overlay and Historic District**9.202.01 Purpose**

The OT zoning district is an overlay district generally applied to commercially zoned property, and to adjacent residential properties supporting and complementing the commercial area and providing a diversity of uses, in the Smockville Subdivision, also known as Old Town. The OT overlay zone recognizes the unique and significant characteristics of Old Town, and is intended to provide development flexibility with respect to uses, site size, setbacks, heights, and site design elements, in order to preserve and enhance the area's commercial viability and historic character. The OT overlay zone is designated a historic district as per Sections 9.400 and 9.500.

9.202.02 Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Chapter 8:

- A. Uses permitted outright in the RC zone, Section 2.108.02, and the MDRL zone, Section 2.103.02 provided that uses permitted outright on any given property are limited to those permitted in the underlying zoning district, unless otherwise specified by Sections 9.202.02 through 9.202.04.
- B. In addition to the home occupations permitted under Section 2.203.02, antique and curio shops, cabinet making, arts and crafts galleries, artists cooperatives, and bookshops, are permitted subject to the standards of Sections 2.203 and 9.202, in either the underlying RC or MDRL zones.
- C. Boarding and rooming houses, bed and breakfast inns, and similar accommodations, containing not more than five (5) guest rooms, in either the underlying RC or MDRL zones.
- D. Motels and hotels, in the underlying RC Zone only.
- E. Residential apartments when located on upper or basement floors, to the rear of, or otherwise clearly secondary to commercial buildings, in the underlying RC Zone only.
- F. Other similar commercial uses or similar home occupations, subject to Section 4.600.

9.202.03 Conditional Uses

The following uses are permitted as conditional uses, provided such uses meet the applicable environmental performance standards contained in Chapter 8, and are approved in accordance with Section 4.300.

- A. Uses permitted as conditional uses in the RC zone, Section 2.108.03, and the MDRL zone, Section 2.103.03, provided that uses permitted as conditional uses on any given property are limited to those permitted in the underlying zoning district, unless otherwise specified by Sections 9.202.02 through 9.202.04.

9.202.04 Prohibited Uses

The following uses are expressly prohibited in the OT overlay zone, notwithstanding whether such uses are permitted outright or conditionally in the underlying RC or MDRL zones:

- A. Adult entertainment businesses.
- B. Manufactured homes on individual lots.
- C. Manufactured home parks.

9.202.05 Dimensional Standards

In the OT overlay zone, the dimensional standards of the underlying RC and MDRL zones shall apply, with the following exceptions:

A. Lot Dimensions

Minimum lot area (RC zoned property only): Twenty-five hundred (2,500) square feet.

B. Setbacks

Minimum yards (RC zoned property only): None, including structures adjoining a residential zone, provided that Uniform Building Code, Fire District regulations, and the site design standards of this Code, not otherwise varied by Section 9.202, are met.

C. Height

The maximum height of structures on RC zoned property shall be three (3) stories or forty (40) feet, whichever is less. Limitations in the RC zone to the height of commercial structures adjoining residential zones, and allowances for additional building height as a conditional use, shall not apply in the OT overlay zone. Chimneys, solar and wind energy devices, radio and TV antennas, and similar devices may exceed height limitations in the OT overlay zone by twenty (20) feet.

D. Coverage

Home occupations permitted as per Section 2.203.02 and 9.202.02 may occupy up to fifty percent (50%) of the entire floor area of all buildings on a lot.

9.202.06 Community Design

Standards relating to off-street parking and loading, environmental resources, landscaping, historic resources, access and egress, signs, parks and open space, on-site storage, and site design as per Chapters 5, 8 and 9 shall apply, with the following exceptions:

A. Generally

In reviewing site plans, as required by Section 5.100, the City shall utilize the design guidelines originally contained in the "Sherwood Old Town Revitalization Action Plan", as subsequently adapted and made a part of this Code by reference, and attached as Appendix I, and, when applicable, the standards of Sections 9.400 and 9.500.

B. Landscaping

1. Perimeter screening and buffering, as per Section 5.203.01, is not required for approved home occupations.
2. Minimum landscaped areas are not required for off-street parking for approved home occupations.
3. Landscaped strips, as per Sections 5.203.02 and 8.304.04A, may be a minimum of five (5) feet in width, except when adjoining alleys, where landscaped strips are not required.
4. Fencing and interior landscaping, as per Section 5.203.02, are not required.

C. Off-Street Parking

1. Required residential, home occupation, and commercial off-street parking spaces may be located on the same property as the use which the parking serves, or off-site within five hundred (500) feet of the use served. Off-site parking shall be permitted only if satisfactory evidence is presented to the City, in the form of deeds, leases or contracts, establishing control of the site by the proposed use for vehicle parking purposes.
2. Except as otherwise provided in this Section minimum standards for off-street parking spaces for commercial uses and home occupations shall be one-half (1/2) of the standards established under Section 5.302.02B.

3. For Blocks 1 and 2, and the southern halves of Blocks 5 and 6, all on Washington County Assessors Map 2S1 32BC, off-street parking is not required.
4. Minimum requirements for off-street parking established by Section 9.202.06C2, may be further reduced by a percentage equal to the number of public off-street parking spaces provided within the OT overlay zone, compared to the total off-street parking for existing and proposed uses, as computed by the City, that would otherwise be required in the OT overlay zone.
5. Up to fifty percent (50%) of required off-street parking spaces may have minimum dimensions of eight (8) feet in width and eighteen (18) feet in length.

D. Off-Street Loading

1. Off-street loading spaces for commercial uses may be shared and aggregated in one or several locations in a single block, provided that the minimum area of all loading spaces in a block, when taken together, shall not be less than fifty percent (50%) of the minimum standard that is otherwise required by Section 5.303.01B.
2. For Blocks 1 and 2, and the southern halves of Blocks 5 and 6, all on Washington County Assessors Map 2S1 32BC, off-street loading is not required.

E. Signs

In addition to signs otherwise permitted for home occupations, as per Section 2.203.01, one (1) exterior sign, up to a maximum of sixteen (16) square feet in surface area, may be permitted for each approved home occupation.

F. Non-conforming Uses

When a nonconforming lot, use, or structure within the OT overlay zone has been designated a landmark as per Section 9.400, or when a nonconforming lot within the OT overlay zone is vacant, and the proposed change will, in the City's determination, be fully consistent with the goals and standards of the OT overlay zone and other City guidelines to preserve, restore, and enhance historic resources, nonconforming use restrictions contained in Section 2.206 may be waived by the Commission.

9.300 LANDMARKS ADVISORY BOARD**9.301 GENERALLY**

- A. The City Landmarks Advisory Board shall consist of seven (7) members to be appointed by the Council for terms of two (2) years. Two (2) members may be non-residents of the City, provided they reside within the Sherwood portion of the Urban Growth Boundary. Landmarks Board members shall receive no compensation for their services, but shall be reimbursed for duly authorized expenses.
- B. A Landmarks Board member may be removed by a majority vote of the Council for misconduct or non-performance of duty, as determined by the Council. Any vacancy shall be filled by the Council for the unexpired term of the predecessor in office.
- C. Landmarks Board membership may be drawn from all segments of the community, provided however, that the Council shall strive to appoint individuals in a variety of professions to the Landmarks Board, and shall give preference to owners of historic properties, architects, real estate brokers, attorneys, builders, historians, and other professions providing background and expertise relevant to historic preservation.
- D. No more than two (2) Landmarks Board members shall be engaged principally in the buying, selling, or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two (2) members shall be engaged in the same kind of business, trade, or profession.

9.301.01 Officers, Minutes, and Voting

- A. The Landmarks Board shall, at its first meeting in each odd-numbered year, elect a chair and vice-chair who shall be voting members and who shall hold office at the pleasure of the Landmarks Board.
- B. Before any meeting of the Landmarks Board, public notice shall be given as required by State Statute and this Code. Accurate records of all Landmarks Board proceedings shall be kept by the City, and maintained on file in the City Recorder's office.
- C. A majority of members of the Landmarks Board shall constitute a quorum. A majority vote of those members,

not less than a quorum, present at an open meeting of the Landmarks Board shall be necessary to legally act on any matter before the Landmarks Board. The Landmarks Board may make and alter rules of procedure consistent with the laws of the State of Oregon, the City Charter, and City ordinances.

9.301.02 Conflicts of Interest

- A. Landmarks Board members shall not participate in any Landmarks Board proceeding or action in which they hold a direct or substantial financial interest, or when such interest is held by a member's immediate family. Additionally, a member shall not participate when an action involves any business in which they have been employed within the previous two (2) years, or any business with which they have a prospective partnership or employment.
- B. Any actual or potential interest by a Landmarks Board member in an action as per Section 9.303.03A shall be disclosed by that member at the meeting of the Landmarks Board where the action is being taken. Landmarks Board members shall also disclose any pre-hearing or ex-parte contacts with applicants, officers, agents, employees, or any other parties to an application before the Landmarks Board. Ex-parte contacts with a Landmarks Board member shall not invalidate a final decision or action of the Landmarks Board provided that the member receiving the contact indicates the substance of the content of the ex-parte communication and of the right of parties to rebut said content at the first hearing where action will be considered or taken.

9.301.03 Powers and Duties

Except as otherwise provided by law, the Landmarks Board shall be vested with all powers and duties, and shall conduct all business, as set forth in the laws of the State of Oregon, the City Charter, and City ordinances. The Landmarks Board shall:

- A. Recommend to the Council the designation of certain historic and cultural resources, structures, buildings, places, sites, landscapes and areas as landmarks or historic districts, in accordance with Section 9.400. Subject to the approval of the Council, the Board may employ the services of a qualified architect or historian in the designation process. The landmark alteration criteria contained in Section 9.500 shall only apply to designated landmarks or historic districts.

- B. Review and take action, or make recommendations, on building alteration applications for designated landmarks and in designated historic districts, in accordance with Section 9.500, and if the building alteration involves a site plan application as per Section 5.100, the Board shall substitute for the Planning Commission and act as the approving authority for such applications.
- C. For any land use application, other than site plan review, that is for a designated landmark or in a designated historic district, the Board shall provide formal written recommendations to the Planning Commission, prior to the Commission's decision on the application.
- D. Cooperate with and enlist the assistance of persons, organizations, corporations, foundations, and public agencies in matters involving historic preservation, rehabilitation, and reuse.
- E. Advise and assist owners of landmarks on the physical and financial aspects of historic preservation, rehabilitation, and reuse, especially with respect to publishing or making available guidelines on historic preservation, and identifying and publicizing tax benefits and grant and loan opportunities.
- F. Determine an appropriate system of marks and signs for designated landmarks and historic districts.

9.400 LANDMARK DESIGNATION**9.401 DESIGNATION STANDARDS AND PROCEDURES****9.401.01 Generally**

- A. The Landmarks Board shall make recommendations on the designation of structures, buildings, places, landscapes and sites, having special historical, architectural, or cultural significance, as historic landmarks or historic districts.
- B. Subject to the procedures and standards of Sections 9.401.03 and 9.401.04, historic resources may be designated as landmarks having Primary or Secondary significance based on the historic, architectural, site, and use evaluation criteria contained in Section 9.401.04.

9.401.02 Effect of Designation

- A. Any historic resource designated as per Section 9.400, shall be subject to Section 9.500, except as otherwise provided by this Code. Any building or site that is considered for landmarks designation, but rejected as per Section 9.400, may not be reconsidered for a minimum period of two (2) years. The classification of any designated landmark once established as per Section 9.400 may not be reconsidered for a minimum period of two (2) years.
- B. The landmark alteration criteria contained in Section 9.500 shall apply only to designated landmarks or historic districts. Historic resources designated as landmarks of either Primary or Secondary significance that are within a special historic resource zone or historic district are subject to Section 9.500. Historic resources designated as landmarks of either Primary or Secondary significance that are not within a special historic resource zone or historic district shall not be subject to Section 9.500, except that such Primary resources shall be subject to an advisory and non-binding review by the Board prior to issuance of any building or other applicable City permits.
- C. Notwithstanding its listing and rating in, or omission from, a historic resources inventory, or its designation or rejection as a landmark, any structure, building, place, landscape, site, or area within a special historic resource zone may be subject to the standards of that zone. Any structure, building, place, site, or area

within a designated historic district shall be subject to Section 9.500 where so required by this Code, and may be subject to the standards of that district.

9.401.03 Procedures

- A. Except as otherwise provided herein, the Council, Commission, Landmarks Board, the owners of a potential landmark, or a citizen may initiate historic landmark or district designation in accordance with Section 9.401. Application for landmark designation shall be made on forms provided by the City. A proposed designation shall be processed as a plan amendment. The Landmarks Board shall conduct a public hearing concerning the proposed designation and provide public notice in accordance with Section 3.200 of this Code. The Landmarks Board shall provide a report and recommendation on the proposed designation to the Council.
- B. Initiation of consideration of a new historic district designation, or amendment to any established historic district, may be initiated by the Council, Commission, or Landmarks Board, or by petition specifying a proposed district boundary and signed by at least twenty-five percent (25%) of the property owners within the proposed district. A proposed designation shall be processed as a plan amendment. The Landmarks Board shall conduct a public hearing concerning the proposed designation and provide public notice in accordance with Section 3.200 of this Code. The Landmarks Board shall provide a report and recommendation on the proposed designation to the Council.
- C. Upon receipt of the report and recommendation of the Landmarks Board, the Council shall conduct a further public hearing as per Section 3.200. Approval of the landmark or district designation shall be in the form of an ordinance. If a resource or area is approved for designation by the Council, it shall be listed as a designated historic landmark or district in the Community Development Plan element of the City Comprehensive Plan.

- D. Once City action on historic district designation is complete, the designation shall not go into effect until the City has adopted design guidelines and standards for the district, similar to those adopted for the Smockville Old Town Historic District, Appendix I. Unless otherwise impractical, historic district design guidelines and standards should be developed and considered concurrently with historic district designation.

9.401.04 Standards

In determining whether historic resources or groups of historic resources should be designated as landmarks of either Primary or Secondary significance or as historic districts, the Landmarks Board and Council shall make written findings with respect to the following factors.

- A. That the potential historic resource has a quality or significance in American or local history, architecture, archeology, engineering, or culture, and retains its historic integrity in terms of location, design, setting, materials, workmanship, feeling and association, and:
1. Is associated with events or persons significant in American or local history; or
 2. Embodies the distinctive characteristics of a type, style, period, or method of construction or architecture, or represents the work of a master craftsman, architect or builder, or possesses significant artistic, aesthetic or architectural values; or
 3. Has yielded, or may be likely to yield, information important in American or local prehistory or history; or
 4. Is listed on the National Register of Historic Places.
- B. The Board and Council shall also examine and make findings regarding specific uses allowed in the zoning districts where the proposed landmark lies, identify consistencies and/or conflicts with the allowed uses and proposed designation, and determine the economic, social, environmental and energy (ESEE) impacts of designation on the proposed landmark and adjacent allowed uses.

- C. The Board, after considering the criteria in Section 9.401.04A of this Section and the ESEE analysis required by Section 9.401.04B, shall recommend to the Council approval of the landmark's designation as a Primary or Secondary historic resource approval with conditions, or determine that the resource should not receive any landmarks designation. The Council's final decision on the Board's recommendation shall be in the form of an ordinance amending the Community Development Plan element of the City Comprehensive Plan and listing the resource as a designated historic site, approving the designation with conditions, or determining that the resource should not receive any landmarks designation.

9.500 LANDMARK ALTERATION

9.501 PROCEDURES

9.501.01 Alteration Application

- A. Application for any alteration of a designated landmark, except as per Section 9.501.03, shall be made on forms provided by the City.
- B. The following information shall be required in an application for alteration of a landmark:
1. The applicant's name and address.
 2. The property owner's name(s) and address(es), if different from the applicant's and a statement of authorization to act on behalf of the owner signed by the owner.
 3. The street address or other easily understood geographical reference to the landmark property.
 4. A drawing or site map illustrating the location of the landmark.
 5. A statement explaining compliance with the applicable approval criteria 9.500, as appropriate.
 6. Ten (10) sets of plan drawings to include site, landscaping and elevations, drawn to scale.
 7. Photographs of the landmark which show all exterior features.
 8. A list of owners of property (fee title) within one hundred (100') feet of the subject property together with their current mailing addresses.
 9. Any other information deemed necessary by the City Manager or his or her designee.
- C. The Landmarks Board shall conduct a public hearing concerning the proposed landmark alteration and provide public notice in accordance with Section 3.200 of this Code. If the alteration involves site plan review as per Section 5.100, the Board shall also act for the Commission as the site plan approving authority. The Landmarks Board decision shall be based on compliance with the review standards in Section 9.502 and shall consider the original finding made in the landmark

designation process as per Section 9.400.

- D. In any alteration action, the Landmarks Board shall give full consideration and weight to the importance of the landmark, its landmarks classification and designation, any adverse economic or visual impacts on adjacent landmarks, special historic resource zones, or historic districts, and, if the proposed landmark is within a special historic resource zone or designated historic district, the standards and guidelines of that zone or district.

9.501.02 Appeals

A decision rendered by the Landmarks Board regarding approval, approval with conditions, or denial of a permit for construction, alteration, removal, or demolition of a designated landmark, may be appealed to the Council as per Section 3.400.

9.501.03 Exceptions

- A. Nothing in this Section shall be construed to prevent the maintenance or repair of any exterior architectural feature which does not involve a change in design, material or appearance of such feature, or which the Building Official shall determine is required for the public safety due to an unsafe or dangerous condition. Except as otherwise provided in this Chapter and Section 9.501.03B, if no City building permit or land use approval is otherwise required, facade alterations which, in the City's determination, adversely impact or lessen a landmarks historic character, shall be subject to landmark alteration review. Such alterations subject to review could include, but are not limited to painting of facade elements or construction of materials normally left unpainted within the historic context of the landmark; replacement of windows, transoms, awnings, doors, exterior lighting, or other exterior features; the addition and replacement of exterior heating, ventilating and air conditioning equipment, except for temporary equipment such as portable in-window air conditioners; or any overlay of an existing facade with new siding materials.
- B. Normal maintenance and repair of historic resources are not subject to landmark alteration review, except as specified in Section 9.501.03A. Normal maintenance and repair activities generally exempted from Section 9.501.01 shall include, but are not limited to:

1. Repairing or providing a new foundation that does not result in raising or lowering the building elevation provided however that the City must find that foundation materials and craftsmanship do not contribute to the historical and architectural significance of the landmark;
2. Installation of storm windows and doors, insulation, caulking, weatherstripping and other energy efficient improvements which complement or match the existing color, detail and proportions of the landmark;
3. Painting, sandblasting, chemical treatments, and related exterior surface preparation, except for surface preparations that result in the landmark becoming further removed from its original historic appearance, where the landmark would not have been originally painted, or where the preparation could damage exterior surfaces.
4. Repair or replacement of electrical, plumbing, mechanical systems, sewer, water and other utility systems, and equipment which does not alter a designated landmark's exterior appearance.
5. Repair or replacement of building and site features when work is done in kind to closely match existing materials and form. Such features include fencing, roofing, vents, porches, cornices, siding, doors, balustrades, stairs, trim, windows, driveways, parking areas, retaining walls, signs, awnings, gutters and roof drain systems, hand rails and guardrails.
6. Necessary structural repairs, as determined by the City Building Official that do not significantly alter or destroy the landmark's historic appearance.
7. Masonry repair or cleaning, including repointing and rebuilding chimneys, if mortar is matched to original composition, and powerwashing if done at no more than 600 psi with mild detergent.

8. Any other exterior repair, replacement or maintenance that, in the City's determination, does not result in the landmark becoming further removed from its original historic appearance.
- C. Landmarks designated as Primary historic resources as per Section 9.401 that are not within special historic resource zones or historic districts shall be subject to landmarks alteration review, but such review shall be advisory and non-binding. Landmarks designated as Secondary historic resources as per Section 9.401 that are not within special historic resource zones or designated historic districts shall not be subject to Section 9.500 review or compliance.
 - D. Except as otherwise provided in this Chapter, interior alterations not visually or structurally modifying a designated landmarks external appearance or facade shall not be subject to landmarks alteration review, unless the interior is specifically cited as part of the reason for the landmarks designation, as per Section 9.401.04.
 - E. Signs shall be subject to Section 5.700 only, provided that the City Manager or his or her designee finds that the proposed sign or signs comply with the standards of Section 9.500 and the guidelines and standards of any applicable special historic resource zones or designated historic districts. These findings shall be prepared and reviewed as per Section 9.501.01B.

9.502 ALTERATION STANDARDS

The following general standards are applied to the review of alteration, construction, removal, or demolition of designated landmarks that are subject to Section 9.500. In addition, the standards and guidelines of any applicable special resource zone or historic district shall apply. In any landmark alteration action, the Landmarks Board shall make written findings indicating compliance with these standards.

9.502.01 Generally

- A. Every reasonable effort has been made by the property owner, in the City's determination, to provide a use of the landmark which requires minimal alteration of the structure, site, or area.
- B. In cases where the physical or structural integrity of a landmark is questionable, that the proposed alterations are the minimum necessary to preserve the landmarks physical or structural integrity or to preserve the

feasibility of the continued occupation or use of the landmark given its structural condition.

- C. In cases where the landmark has been significantly altered in the past, that it is technically feasible to undertake alterations tending to renovate, rehabilitate, repair or improve the landmark to historic standards given those prior alterations.
- D. The compatibility of surrounding land uses, and the underlying zoning designation of the property on which the historic resource is sited, with the historic resources continued use and occupation, and with the renovation, rehabilitation, repair, or improvement of the resource to historic standards.
- E. Alterations shall be made in accordance with the historic character of the landmark as suggested by the historic resources inventory and other historic resources and records. Alterations to landmarks within special historic districts shall, in addition, be made in accordance with the standards and guidelines of that zone or district.
- F. Alterations that have no historic basis and that seek to create a thematic or stylistic appearance unrelated to the landmark's or historic district's history and original or later significant additions architecture shall not be permitted.

9.502.02 Architectural Features

- A. The distinguished original qualities or character of a landmark shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features shall be avoided. Distinctive stylistic or architectural features or examples of skilled craftsmanship which characterize a landmark shall be preserved.
- B. Deteriorated architectural features shall be restored wherever possible. In the event replacement is necessary, the new materials should match the material being replaced in composition, design, color, texture, and other visual qualities.
- C. Repair or replacement of missing architectural features should be based, wherever possible, on accurate duplications of said features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different

architectural elements from other buildings or structures.

- D. The surface cleaning of landmarks shall be undertaken using methods generally prescribed by qualified architects and preservationists. Sandblasting and other cleaning methods that will damage historic building materials shall not be undertaken.
- E. Contemporary design for alterations and additions to landmarks may be allowed when such alterations and additions do not, in the City's determination, destroy significant historical, architectural, or cultural features, and such design is compatible with the size, scale, color, material, and character of the designated landmark or historical district.
- F. Whenever possible, new additions or alterations to landmarks shall be done in such a manner that, if such additions or alterations were removed in the future, the historic form and integrity of the landmark would be unimpaired.

9.503 VARIANCES TO ALTERATION STANDARDS**9.503.01 Generally**

- A. Any variances to landmark alteration standards shall be considered as per Section 4.400, provided however, that the Commission shall first receive and consider a report and recommendation of the Landmarks Board, in addition to considering the criteria specified in Section 9.503.01B. Variances to landmark alteration standards as per Section 4.400, shall be considered only if the landmark has been subject to the full landmark alteration review procedure as per Section 9.501.

- B. In any variance action, the Landmarks Board and the Commission shall give full consideration and weight to the importance of the landmark, its classification and designation as a landmark, the standards and guidelines of any applicable special historic resource zones or designated historic districts, the standards of Section 9.503, and to any adverse economic or visual impacts and any variance on adjacent landmarks, special historic resource zones, or designated historic districts.

9.504 LANDMARK DESIGNATION INCENTIVES**9.504.01 Generally**

To facilitate the purposes of this Chapter and in recognition of the extraordinary costs sometimes associated with the appropriate preservation of historic resources, incentives shall be made available at the time such resources undergo an alteration subject to Section 9.500. Such incentives shall be in addition to the activities of the Landmarks Board required by Section 9.301.03D-E.

9.504.02 Incentives

Any landmark designated as per this Chapter, whether Primary or Secondary, or within or outside of a special historic resource zone or historic district, may be granted one or more of the following incentives, provided that in exercising or accepting any incentive contained herein, a landmark not otherwise subject to Section 9.500 shall thereafter be subject to all the terms and conditions of that Section. Incentives shall be granted only if the proposed alteration has undergone landmarks alteration review and is fully consistent with Section 9.500 and the landmark's designation as per Section 9.400. Monetary incentives, such as property tax rebates and fee waivers, may be granted in any combination, as determined by the Landmarks Board, provided however, that the total amount of the monetary incentives shall not exceed the additional cost of the historically appropriate alteration over that of a more conventional improvement, also as determined by the Landmarks Board.

A. Property Tax Rebates:

1. A property owner who has expended funds for labor and materials necessary to comply with Section 9.500, may apply to the City for rebate of the City's portion of real property taxes levied and collected by the Washington County Department of Assessment and Taxation for the fiscal real property tax year following the tax year in which the investment for labor and materials was made by the owner, and for each subsequent tax year thereafter for not to exceed ten (10) tax years. In no event shall the total rebates paid by the City to the applicant exceed the total cost of the labor and materials expense necessary to comply with Section 9.500. The applicant shall submit with the application, on a form to be provided by the City, such verification of the expenditures for labor and materials, as shall be determined

sufficient by the City.

2. No rebates shall be allowed for any property for which real property tax payments are delinquent, nor shall rebates continue to be paid for a property which ceases to meet the standards of this ordinance as a qualifying historical resource. No rebates shall be allowed for tax payments made in the year the funds are expended for compliance with Section 9.,500 or any year prior thereto.
3. Nothing in this section shall be deemed to obligate the City to rebate any taxes levied and paid for the benefit of any other governmental entity, and shall apply only to real property taxes assessed, levied, and payable to the City of Sherwood by the Washington County Department of Assessment and Taxation.

B. City Fee Waiver:

1. The City Building Official shall waive all building permit fees established by the current Uniform Building Code Fee Schedule that would normally be applicable to a landmarks alteration.
2. The City Planning Director shall waive all required land use application fees established by the City that would normally be applicable to a landmarks alteration, including any fees for processing the landmarks alteration application itself.

C. Building Code Variances:

Consistent with Section 104 (f) of the Uniform Building Code, the City Building Official is authorized to permit alterations to designated landmarks without conformance to all requirements of the Uniform Building Code or other applicable codes adopted by the City provided:

1. The landmark has been designated as per Section 9.400, and the alteration is fully consistent with Section 9.500, and
2. The altered landmark will be no more hazardous based on life safety, fire safety and sanitation than the existing landmark.
3. The alteration is approved by the Landmarks Board.

Appendix I

OLD TOWN DESIGN GUIDELINES

Introduction

Purpose

The goal of these Design Guidelines is to maintain the small town character of Sherwood Old Town while recognizing the changes in use and growth that will need to occur to revitalize the district. This goal can be accomplished by:

- * Returning existing examples of historic architecture to their original character, and rehabilitating and improving other buildings, focusing on exterior painting and repair.
- * Using consistent themes of design, scale, ornamentation, color, materials and signing to unify Old Town and achieve a cohesive, yet individualized identity.

The Guidelines provide a framework and general direction to the City, building owners, developers, merchants, and residents, and are not a set of prescriptive and absolute requirements. Instead the Guidelines provide a comprehensive list of design elements which should be considered when a building renovation or new construction is proposed. These Guidelines are intended to supplement existing ordinances and are specifically applied to Old Town, not other areas of Sherwood.

Each business in Old Town is at once an individual enterprise providing a service for customers, and a part of a larger business community, surrounded by older residential uses. These Guidelines are directed at preserving the individuality found in Old Town and, at the same time, improving the district's appearance and marketability.

- * Design Guidelines are not law, but will be used in conjunction with City ordinances.
- * Design Guidelines do not absolutely inhibit the freedom of individual expression.
- * Design Guidelines do not prohibit growth or new construction.
- * Design Guidelines are ideas about what is appropriate to an area.
- * Design Guidelines are performance criteria which assure that construction will be in keeping with the character of the district.

- * Design Guidelines do establish criteria that build upon the existing character of the district, and guard against random decisions, favoritism, and a lack of predictability in reviewing proposals.
- * Design Guidelines do indicate what can be done as well as what is discouraged within the district.

The Outdoor Room

Walking through the Old Town area, imagine an outdoor "room". The size of the "room" is narrow and contained, in the area around the intersection of First and Washington Streets, and wider and more open moving out from the core area. The "floor" is made up of concrete and asphalt. The "walls" are of different heights, materials, and colors, but generally one and two stories with stucco or brick the predominant finish material in the core, and wood finishes elsewhere.

Homes and offices are made comfortable through simplicity in colors and patterns, sufficient decoration objects on the walls to make for interest without clutter, and by varied places where you can sit and talk, be entertained and generally feel at ease. On a different level, this describes the potential for Old Town. However, the Old Town "room" doesn't have much furniture, and not many places to sit and talk. The "room" seems cluttered because signs are so dominant, as well as utility lines and poles.

As with a room, how and where you enter can add to usefulness and character. Old Town has major entries at North Sherwood Boulevard and Oregon Street, and minor entries at S.W. and N.W. Washington Street and N.W. Main Street. By improving these entries, the identity of the district will be strengthened.

In a house there are rooms where everyone socializes. The Old Town, the main intersection at N.W. Washington and First Streets, and along Railroad Street, are those places. The addition of special public improvements around these areas, and extending toward Pine Street, coupled with development along Washington Street, will strengthen the Old Town core.

Key Buildings

There are key commercial buildings in Old Town which should receive special attention: the building housing the Old Town Pub at N.W. Washington and Railroad Streets, the building housing the Round Table Tavern at N.W. Washington and First Streets, the building housing Smockville Station Antiques at N.W. Washington and First Streets, the Old North Church on North Pine Street, the former post office on Railroad Street, and City Hall at N.W. Park and First Streets. There are also several other older buildings that are important to the Old Town area, including the Oriental Theater and several residential buildings. Appropriate remodeling and landscaping could have a tremendous impact in enhancing and enlivening the district "room".

District Character

The district can strengthen its identity and character by:

1. Removing unsightly signs and unused sign supports, and installing signs oriented to pedestrians.
2. Using common building materials and removing out-of-character materials.
3. Using colors which compliment each other and tie buildings together.
4. Emphasizing first floor storefronts with the use of color, signs, awnings, windows, and architectural detailing.
5. Installing shared or connecting canopies, lights, and/or cornices where appropriate.
6. Developing new buildings to the front property line.
7. Installing street trees along property lines where buildings are now set back.
8. Improving major vehicular and pedestrian entries.
9. Improving alleys as pedestrian circulation areas.
10. Developing a public improvement program.
11. Initiating and maintaining a public area maintenance program.
12. Developing common design elements which reinforce the small rural center idea, including low wooden fences around the residential buildings housing businesses, common design of street address numbers, and a select range of exterior colors.

Design Guidelines**Generally**

The following considerations should apply in reviewing all development, construction and use proposals:

1. Uses should be compatible with the building housing the use, and require minimum alteration to the building and surrounding property.
2. Rehabilitation work should not destroy the distinguishing qualities or character of the building and surrounding property.
3. Deteriorated historical architectural features should be repaired rather than replaced.

4. Distinctive stylistic features or examples of skilled craftsmanship which characterize older structures and often predate the mass production of building materials, should be retained and restored.
5. All existing buildings should be recognized as products of their own time, and alterations creating an appearance inconsistent with the original character of the building should not be undertaken.
6. Contemporary designs for new buildings, and additions to existing buildings, should be encouraged when such design is compatible with the historic size, scale, color, material and character of Old Town.
7. New additions or alterations to buildings should be done in such a manner that if removed in the future, the essential form and integrity of the original building would not be impaired.
8. A structural soundness survey should be obtained prior to any substantial rehabilitation, including analysis of primary and secondary structural elements (foundations, bearing walls, columns, beams, floors, roof, non-load bearing walls, windows and doors, stairs, utilities, finish materials, roof coverings, siding, ceilings, etc.) and the extent of deterioration for each element.

Building Height and Width

Both new and altered existing structures:

1. Should not exceed the height and width of traditional building styles.
2. Should maintain the scale and proportions of traditional building styles.
3. Should be visually compatible with adjacent buildings.

Visual Integrity

The vertical lines of columns and piers, and the horizontal definition of spandrels and cornices, and other primary structural elements are an important element of the character of Old Town. Structural lines should be restored if previous alterations have substantially changed these elements.

Scale and Proportion

The scale and proportion of building elements, particularly the relationship of "voids" to "solids" (such as doors and windows to walls and columns) shall be visually compatible with traditional building styles. An important element is the physical accommodation of pedestrian scale activities, characterized by wood porches, canvas awnings or permanent canopies. This relationship at pedestrian level should be reestablished, particularly through

well-designed storefronts, signs, entries, and canopies. Windows in their shape, size, placement and decorative trim are also a major element.

Architectural Detail

In most cases, architectural detailing should come as a result of an extension of the craftsmanship of the builder or designer, and express the styles of the building's or district's historical origins. A well chosen and executed paint scheme, along with complimentary storefront signs, are frequently adequate. Decorative architectural details should be cleaned and restored to their original character and/or accented by painting in contrasting colors. Guidelines to follow are:

1. Painted wood or dark finished metal window and door frames are preferred over bare aluminum.
2. Canvas awnings or permanent canopies should be installed to provide shelter for pedestrians from weather.
3. Simplify storefront materials by removing out of place and "added-on" materials above or below storefront windows, especially those inconsistent with primary building materials. In some cases, it would look better to use the same material below the window as in neighboring buildings.
4. In buildings with little architectural character, remodeling should incorporate more detailed window systems, awnings, consistent materials and trim, and natural material colors.
5. Avoid large panes of glass. Smaller panes are more in keeping with pedestrian scale, are consistent with the historical origins of the district, and create a more attractive appearance.
6. Avoid a fake, "revival" facade or other thematic designs out of keeping with the actual historical origins of the district.
7. Retain or restore similar exterior materials on the first and second floors of building and carry structural lines (columns, piers, window patterns) from roof to sidewalk. If lower storefront materials originally differed, use similar colors and forms to tie the first and second building floors together.

Materials and Texture

The Old Town core area traditionally utilized exterior materials which tend toward a medium-rough texture and hard appearance. Textured stucco, brick, stone, and milled wood siding were such materials. Ribbed plywood, aluminum and plastic sidings were not, and detract from traditional building styles. Guidelines to follow are:

1. Use materials which are compatible with historic choices: stucco, brick, stone and wood. Consider wood primarily as an accent material at store entries for commercial buildings, and as a major material in residential rehabilitation.
2. Leave materials such as brick or stone in their natural color and appearance, and repaint previously painted surfaces.
3. Use wood or anodized aluminum window and door frames and window systems. Don't use bare aluminum in door and window frames.
4. Use materials which have a texture and pattern (such as brick) to give the feeling of smaller scale to the district.
5. Use awnings or canopies for rain and sun protection at entries and along pedestrian sidewalks.
6. Remove out-of-context siding materials such as aluminum, sheet metal or plywood.
7. Remove coverings from boarded up windows.
8. Don't use materials which give a "tacked on", "revival" or artificial appearance.
9. Don't use more than two or three materials on the exterior. Keep exteriors simple, and in certain cases, use materials similar to neighboring buildings to unify building groups.

Color

Generally colors should be kept within a unified range of hues. Hard surfaced building materials should reflect the natural color of the product. For large painted surfaces, warm but neutral colors are most desirable. Trim colors on moulding, roof flashing caps and architectural detailing can be brighter and darker for accent. Accent colors should be compatible with the basic wall color and with neighboring buildings. Guidelines to follow are:

1. Use warm neutral colors for major building surfaces.
2. Coordinate colors with other buildings within a block.
3. Generally use lighter base colors with darker trim. A darker base color with lighter trim can be successful, if done with regard to adjoining buildings.
4. Paint objects such as mechanical grilles, pipes, and electrical connections to match base wall colors.
5. Don't use too many colors. Usually one wall color and one to two accent colors is enough. Matte finishes for wall colors, and matte or semi-gloss for trim is recommended.

Rear and Sides of Buildings

The rear and sides of buildings are visible and should be attractively maintained. This can be done in a much simpler way and with less expense than the storefront side. Guidelines to follow are:

1. Remove unused pipes, brackets, conduits and similar appurtenances.
2. Screen garbage dumpsters, air conditioners, and other necessary objects and appurtenances.
3. Add walks, landscaping, lights, and signs leading to rear customer and service entries.
4. Clean and refinish side and rear building walls to show original building materials.
5. Add paving, landscaping, curbs, striping, and other improvements to rear vehicular parking areas.

Signs and Graphics

Desirable attributes for signing in Old Town are excellence of lettering, color coordination with buildings, simple mounting devices, readability, use of materials compatible with buildings, and moderate, unobtrusive lighting. Guidelines to follow are:

1. Remove signs that are too large, that project too far from buildings, that cover architectural detailing, that flash, rotate, or blink, or are made from materials that are not within the traditions of the district' historic character.
2. Signs should be oriented to the pedestrian: smaller in size, flat against buildings, and indirectly lit.
3. Unused or out-of-date signs and sign supports should be removed.
4. Use the traditional painted commercial signs found on the sides of older buildings that indicate the name of the business, otherwise avoid "supergraphics".
5. Use the "symbol sign" such as the barber pole, a mortar and pestle for the drug store, a camera for a photography store, a large pair of scissors for a fabric store, a shoe for a shoe store, and so forth.
6. Install "Historical Plaques" containing information on the building, the family who has owned the original business, or other interesting historical facts.
7. Do not use the type of business name sign as is typically provided by soft drink and beer companies.

8. Integrate business signs into awnings or canopies.
9. Paint business names on windows using decorative types, along with borders and other graphics.
10. Use business names which have historical ties.

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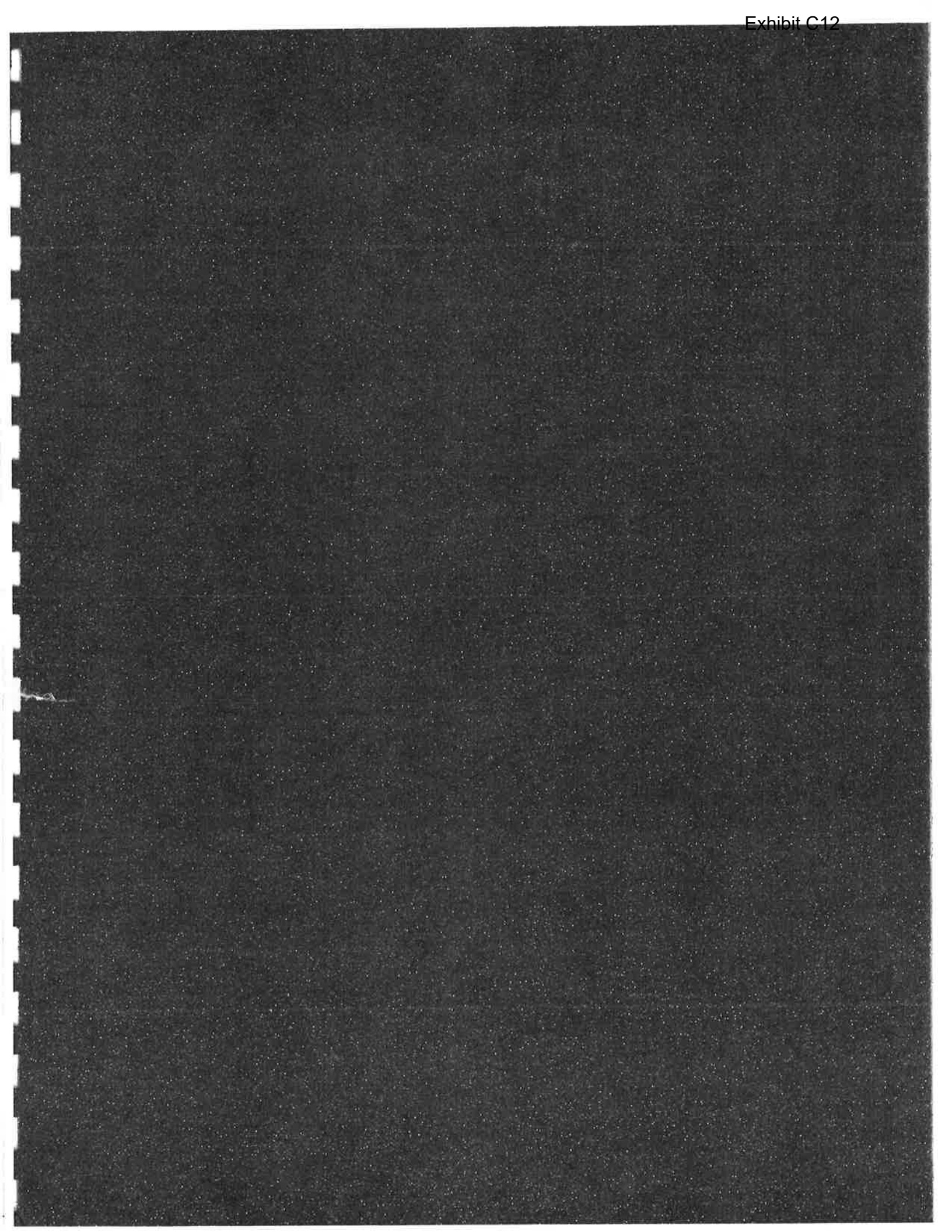
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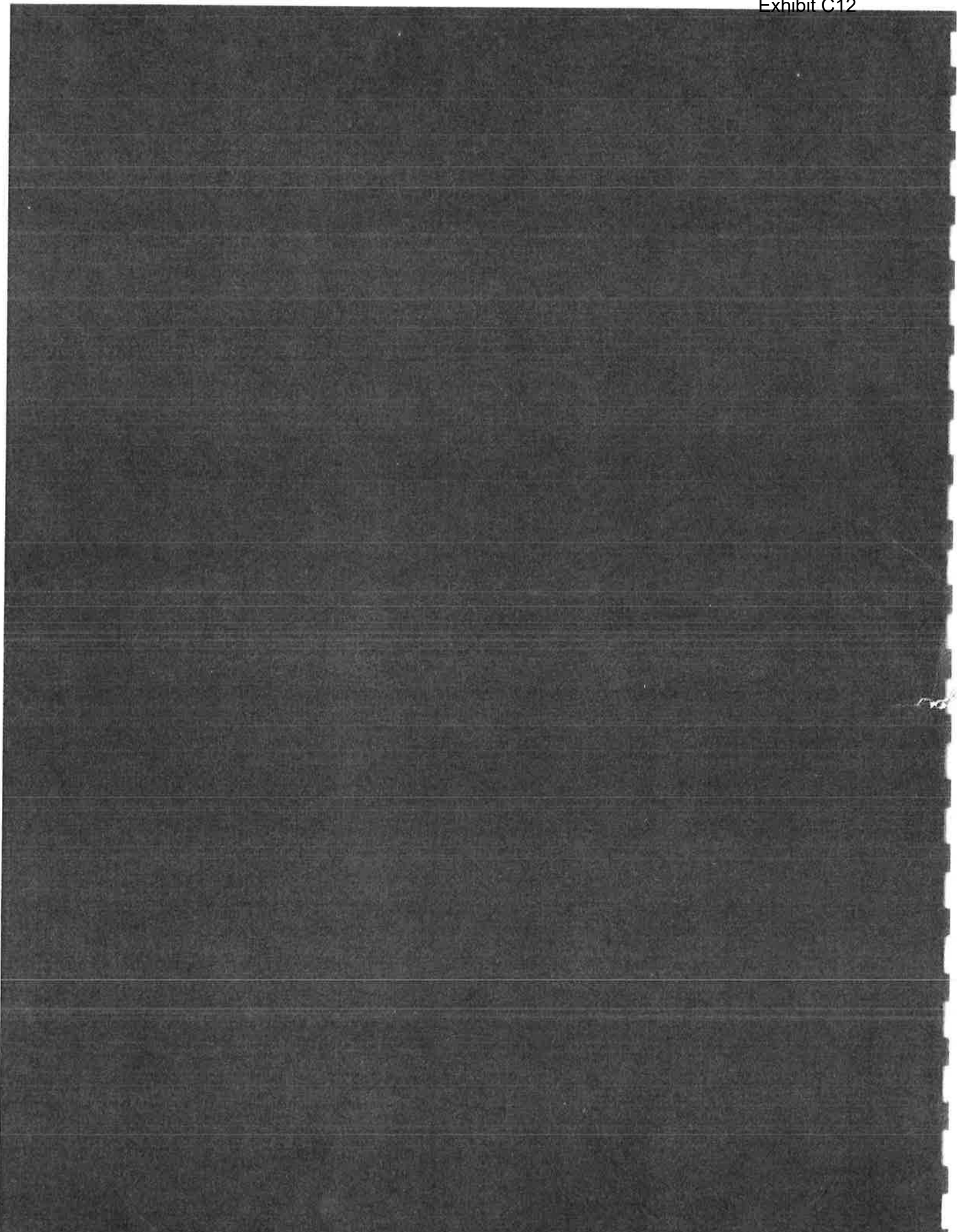
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Joy Chang

From: claussl@aol.com
Sent: Wednesday, June 29, 2022 11:02 AM
To: Joy Chang
Cc: Erika Palmer; Eric Rutledge
Subject: Re: LU 2022-012 Chestnut Inn and Mini Storage - Land Use Fees

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you are expecting this email and/or know the content is safe.

Thank you Joy--

Could you please include this document in the Chestnut Inn and Mini-Storage land use hearing file.

Thank you!

-----Original Message-----

From: Joy Chang <ChangJ@SherwoodOregon.gov>
 To: Susan Claus <claussl@aol.com>
 Cc: Erika Palmer <PalmerE@SherwoodOregon.gov>; Eric Rutledge <RutledgeE@SherwoodOregon.gov>
 Sent: Wed, Jun 29, 2022 9:12 am
 Subject: LU 2022-012 Chestnut Inn and Mini Storage - Land Use Fees

Susan and Jim,

Per your request, below are the specific land use fees tied to the Chestnut Inn and Mini-Storage application.

Land Use Fees

- Type IV Site Plan Review (storage) \$6,843.14

Additional \$102 for every 10,000 SF over the first 15,000 SF \$ 867.00

- Type IV Major Modification to Approved Site Plan (hotel) \$2,667.12
- Type IV Publication and Distribution Notice \$ 466.00
- Type III Conditional Use Permit (w/ concurrent app) \$2,278.52
- Type I Property Line Adjustment \$ 817.23

TOTAL \$13,939.01

Appeal fee for a Type IV action is 50% of original fee or \$6,969.50

Here is a link to the appeal form for your use.

https://www.sherwoodoregon.gov/sites/default/files/fileattachments/Planning/page/1313/appeal_type_iii_and_iv_form_april_2022.pdf

Joy L Chang
 Senior Planner
 City of Sherwood

22560 SW Pine St. Sherwood, OR 97140

O:503.625.4214 F:503-625-0629 C:971.979.5369

<https://protect-us.mimecast.com/s/aZCaCkRL2WULVV5hVYyjc?domain=sherwoodoregon.gov>

changj@sherwoodoregon.gov

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