

LU 2021-023 SUB Cedar Creek Gardens

Week 2 Rebuttal Period

Through August 17, 2022 at 5pm

Exhibit C – Public Testimony

Exhibit C18 – Dave Sweeney

Exhibit C19 – Neil Shannon

Addendum to Sweeney Argument #1

Minimum Driveway Width:

Sherwood Municipal Code Section 16.96.020 Minimum Residential standards:

A. Driveways

Section 16.96.020 the Sherwood Municipal Code states:

16.96.020 Minimum - Residential standards Minimum standards for private, on-site circulation improvements in residential developments:

A. Driveways

2. Two-Family: One (1) shared 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. Permeable surfaces and planting strips between driveway ramps are encouraged in order to reduce stormwater runoff.)

The shared driveway (aka private street) in the flagpole section that serves lots 40 & 41 has a width of twelve (12) feet (see Map #5). The code (above) specifies that the minimum width (my underlining) for a two-family driveway should be twenty (20) feet.

The addendum to this argument comes in the form of supportive information (aka Maps #s 5, 7, 14, & 28). All four are of a twenty (20) foot width of a private street. Map #7 the 20 foot width of the private street serving lots 19 & 20, Map #14 the 20 foot width for private street serving lot 39. Map #28 serving the private street for lots 2 & 3 is not *exactly* labeled as 20 feet in width but *is* labeled with something a little less than 25 feet (see green blob to the right of lot #1). And map #5 showing the shared driveway serving lots 40 & 41 only 12 feet wide.

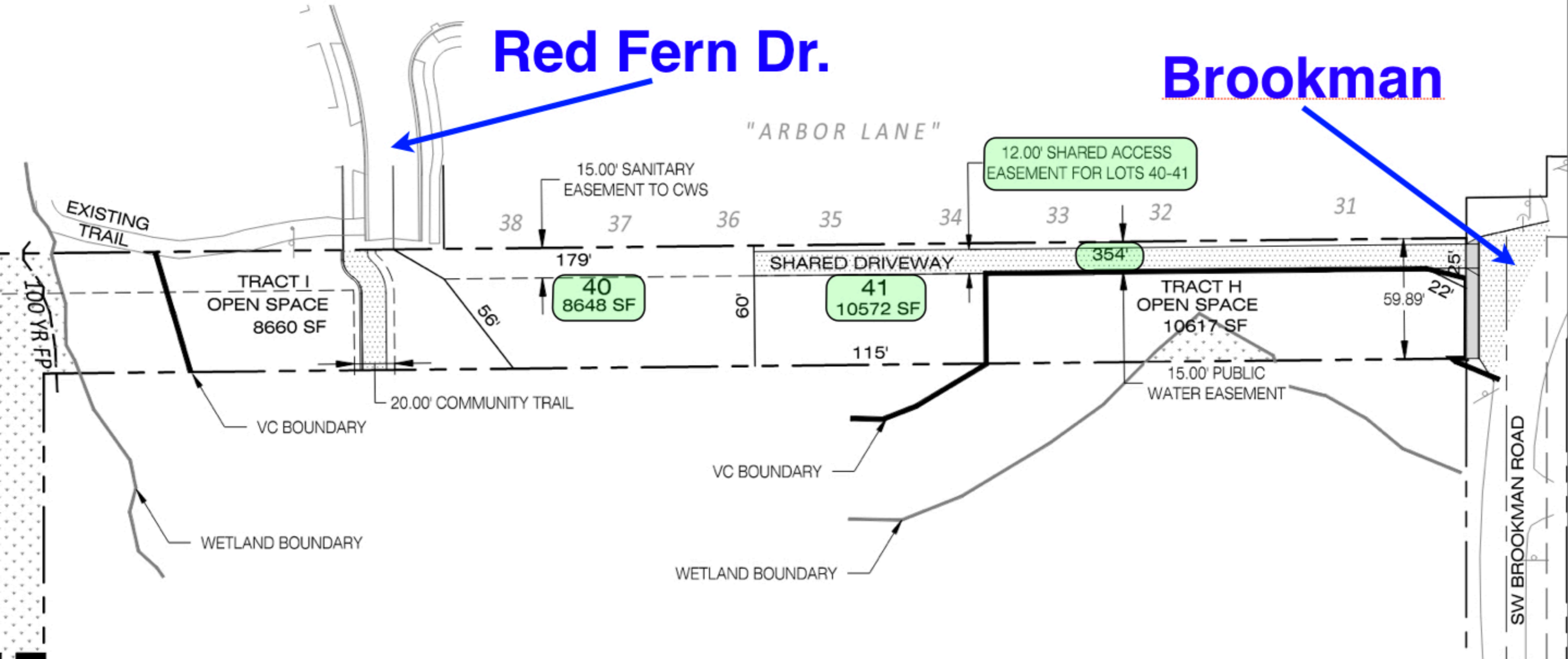
Since three of the private streets (serving lots 2 & 3, 19 & 20, and 39) are 20 feet in width it supports the 20 foot wide shared driveway for two families and lots 40 & 41 and Section 16.96.020.A.2. of the Code:

A. Driveways

2. Two-Family: One (1) shared 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.

Red Fern Dr.

Brookman



#5

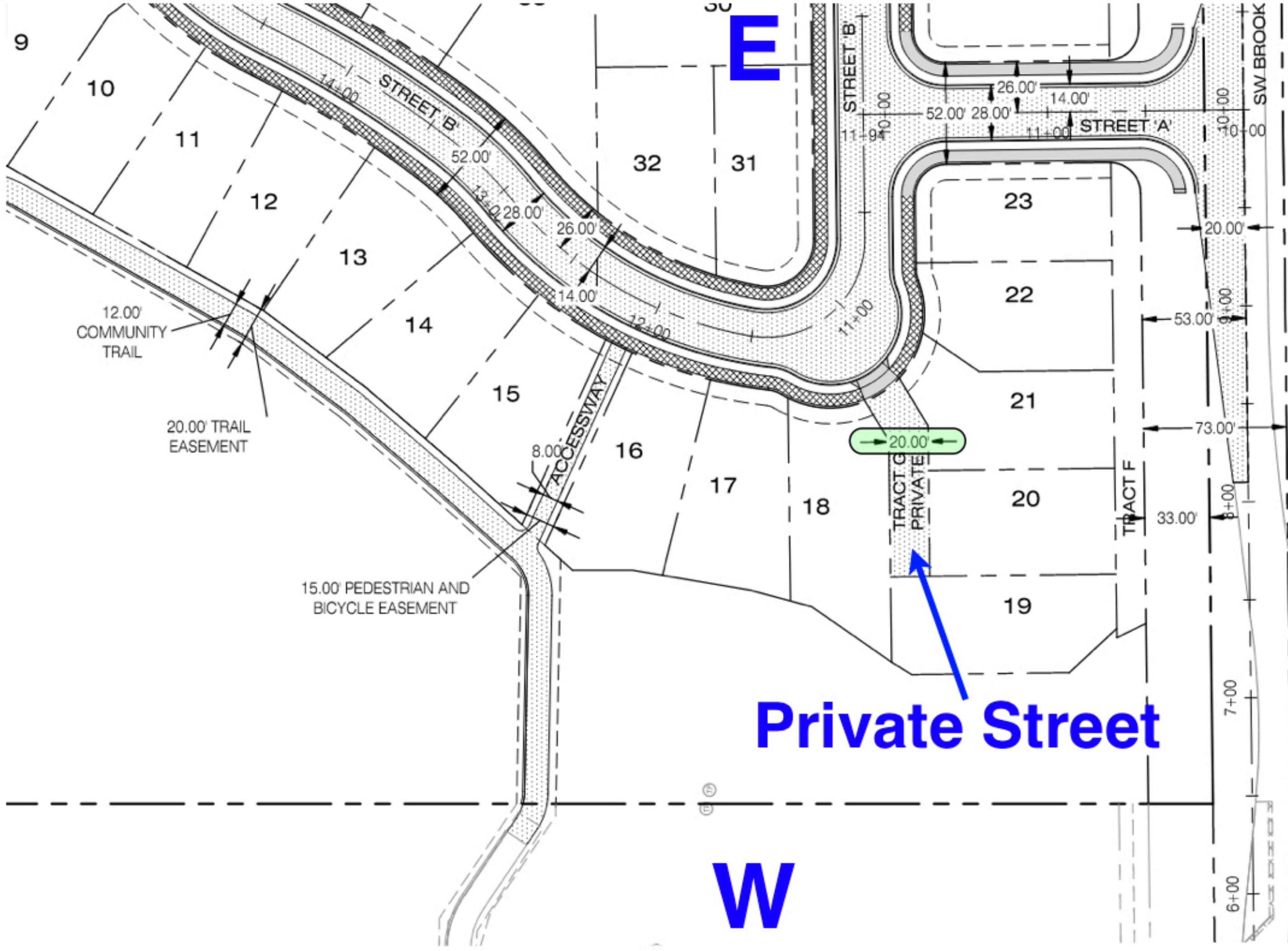
N

S

W

E

#7

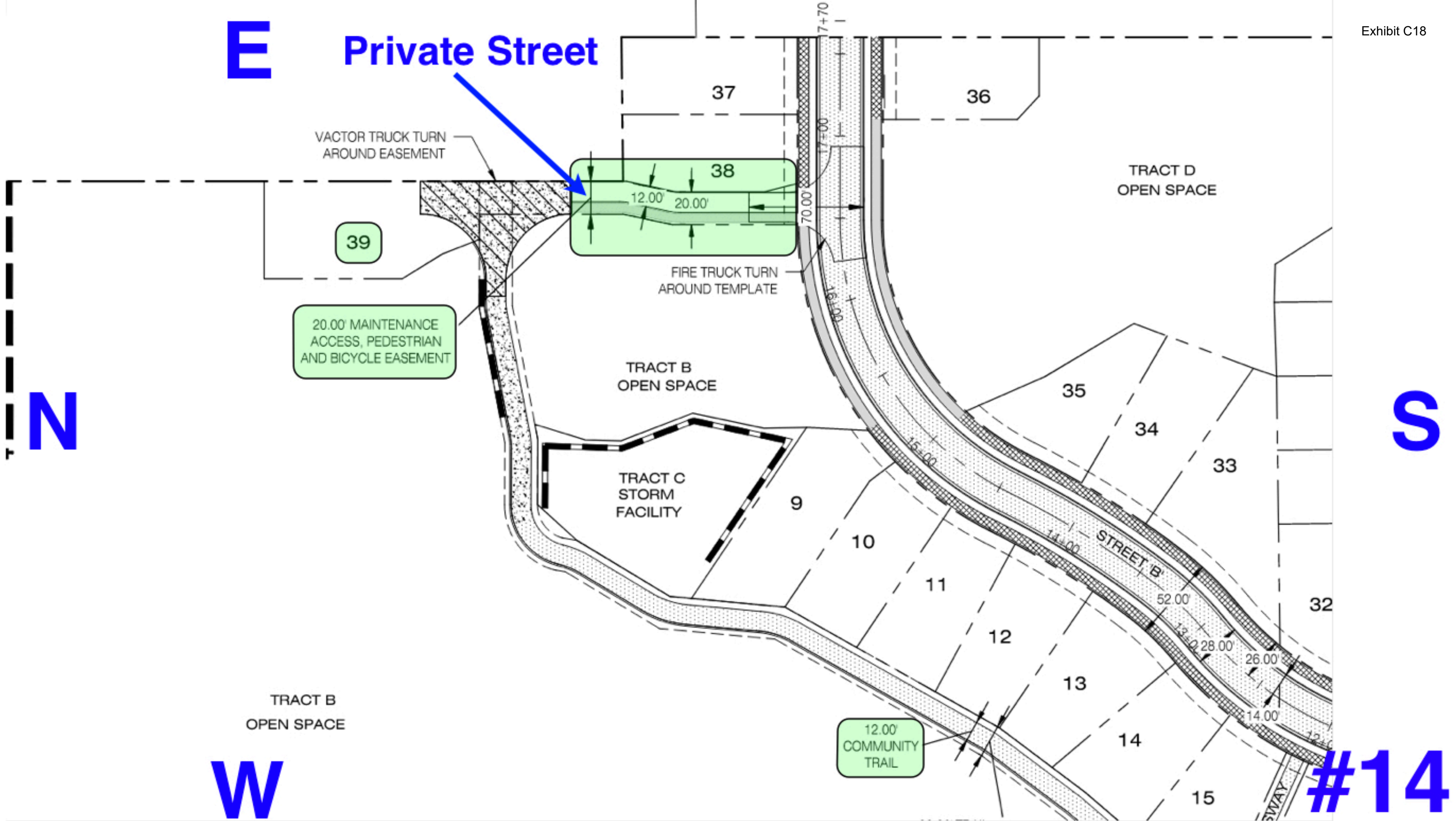


Private Street

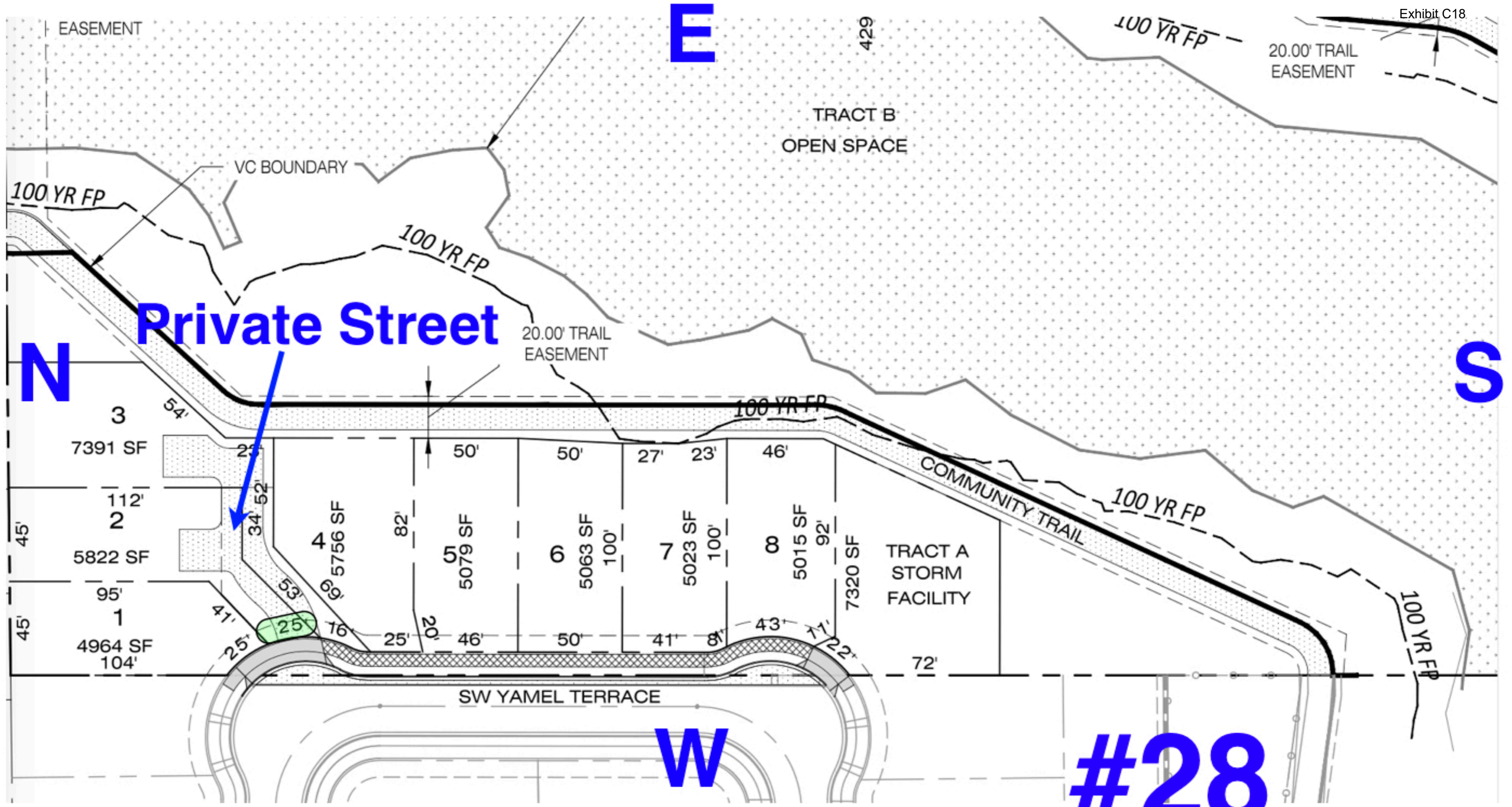


60'

E Private Street



#14



Private Street

N

E

S

W

#28

Exhibit C18

An Addendum to Sweeney Argument #2.

Private Streets and Sidewalks:

Sherwood Municipal Code Section 16.106.040 - Design Private Streets and 16.106.060 -Sidewalks

In their City of Sherwood Hearing Officer Staff report (7-22-2022) on page 94 the report states,

“ANALYSIS: The applicant is proposing to use private streets to serve Lots 2, 3, 19, 20, 39, 40, and 41. Each private street will serve a maximum of two single family lots.”

They identify the four private streets serving Lots 2 & 3, 19 & 20, 39, 40 & 41.

Then in section 16.106.040.N.2 the Sherwood Municipal Codes states:

2. *“Provisions shall be made to assure private responsibility for future access and maintenance through recorded easements. Unless otherwise specifically authorized, a private street shall comply with the same standards as a public street identified in the Community Development Code and the Transportation System Plan.”*

And further in the Code, in Section 16.106.060.A.1 the Sherwood Municipal Codes states:

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.

B.2 - Local Streets

“Local streets shall have minimum five (5) foot wide sidewalks, located as required by this Code.”

Since the City has identified the streets (serving Lots 2 & 3, 19 & 20, 39, 40 & 41) as private streets and since *“a private street shall comply with the same standards as a public street”*, these four private streets are all required by Code to have sidewalks. And in all four, cases the developer has not provided for the required sidewalks in any of the four, City recognized, private streets. This was my Argument #2 “Private Streets and Sidewalks”, with the added recognition by the City of the four private streets.

Mr. Turner, in your opening remarks in the hearing on August 3rd (2:30 to 2:50 in the meeting video) you stated, *“In making those decisions, I’m required to apply the City’s existing laws. I don’t have the authority to vary from of change the laws.....State law requires that this application be judged based on the laws in effect when the application was filed.”*

And anecdotally, I remember you saying that evening (although for the life of me I can't find it in the video) words to the effect that the state had made the law more exacting and required the City Codes statewide to be much more specific and less interpretive than in the past. You may have said it before the video actually started recording but I do remember you saying something close to this.

This is all to frame your question (at 43:56 of the video) of, *"If they're private streets, don't they have to have sidewalks."*

Mr. Rutledge responds to that question (at 48:19 of the video) with the following; *"The City is not requiring, as part of this development, and it's not our practice really with any subdivisions where the private street is serving two or less lots, which is almost all the cases unless it's a planned unit development. We have not been requiring sidewalks or full development of the road of the private street to public street standards. The reason for this is because, the reason that developers and applicants use private streets is because they're more flexible than the public street standard and it just sorta defeats the purpose of having a private street if all of them were required to comply with the public street standards. So we look at the specific proposal and , if the engineering and planning department at the City believes that more is needed, more than just a driveway or example, then we would call that out and condition it. But we haven't done that here, and so the City's position is that we are specifically otherwise authorizing this design."*

In the case of the four private streets in question, I do not believe the City has strictly applied the existing Code. Mr. Rutledge in as much says so;

“The City is not requiring, as part of this development, and it’s not our practice really with any subdivisions where the private street is serving two or less lots, which is almost all the cases unless it’s a planned unit development. We have not been requiring sidewalks or full development of the road of the private street to public street standards.”

I understand the reasons for that statement but, the fact remains that he (the City), (and I’ll quote your opening statement here) is not *“apply(ing) the City’s existing laws...and State law requires that this application be judged based on the laws in effect when the application was filed.”* Additionally, it seems that the City, is not just *not* applying the existing laws in *this* case (the flagpole section) but it’s also not applying the existing laws in *“almost all the cases”*, basically ignoring the City Code.

Finally, as a father and grandfather, I would add this safety concern as well. If sidewalks are *not* included for these four private streets, then the children from those houses will literally be “playing in the (private) streets.” Not that kids don’t occasionally play in the streets, they do. But if you remove the sidewalks, then playing in the streets is the only choice the kids will have.

Addendum to Sweeney Argument #8.

I am pleased that Mr. Rutledge acknowledged the Gregory's and how long they have been here in his concluding comments (2:24:45 on the video). However, at mark 2:25:15 in the video he says this:

"I don't know what happened um 45 years ago um, if there was something that happened, you know where if they um lost 10 feet ah you know it's just ah, what we have to do now is look at the evidence in the record. And we're looking at the surveys that have been recorded um and those very clearly show that the width, and I should say that those surveys are based on the legal description of the Chronister property, and um those surveys show 60 feet."

I would say to Mr. Rutledge that nothing happened 45 years ago other than the property owner of the acreage on which Cedar Creek Gardens is being built asked the Gregory's to "move the Northern boundary of their property 50 feet to the South." Which, being good neighbors, they did. But they didn't "lose 10 feet", they just moved their property line.

The Gregory's memory of the 50 foot description is important because it corroborates the exact measurement (50 feet) that two

different AKS surveys arrived at for the width of the flagpole section (See Maps #18 & 19).

My Argument #8 addresses all of this in detail.

What's different is Mr. Rutledge's comment that; "*what we have to do now is look at the evidence in the record. And we're looking at the surveys that have been recorded um and those very clearly show that the width, and I should say that those surveys are based on the legal description of the Chronister property, and um those surveys show 60 feet.*"

I agree, you have to "*look at the evidence in the record*" and you have to look at "*the surveys that have been recorded*". But, Mr. Rutledge is ignoring the two AKS surveys that were taken four years apart (2013 & 2017) for the express purpose of annexing the Brookman property which includes the Chronister property (please see my Argument #8). The Choristers' in fact had to grant consent for their property to be annexed (see Graphic #3) as part of those surveys.

As I pointed out in my Argument #8, there is a *major discrepancy* here and the AKS surveys, the official annexation surveys, need to be considered and not ignored.

TO THE COUNCIL OF THE CITY OF SHERWOOD, OREGON:

We, the undersigned owner(s) of the property described in **Attachment A** and/or elector(s) residing at the referenced location(s), hereby petition for, and give consent to, Annexation of said property to the City of Sherwood.

LEGEND:

PO - Property Owner

RV - Registered Voter

OV - Property Owner & Registered Voter

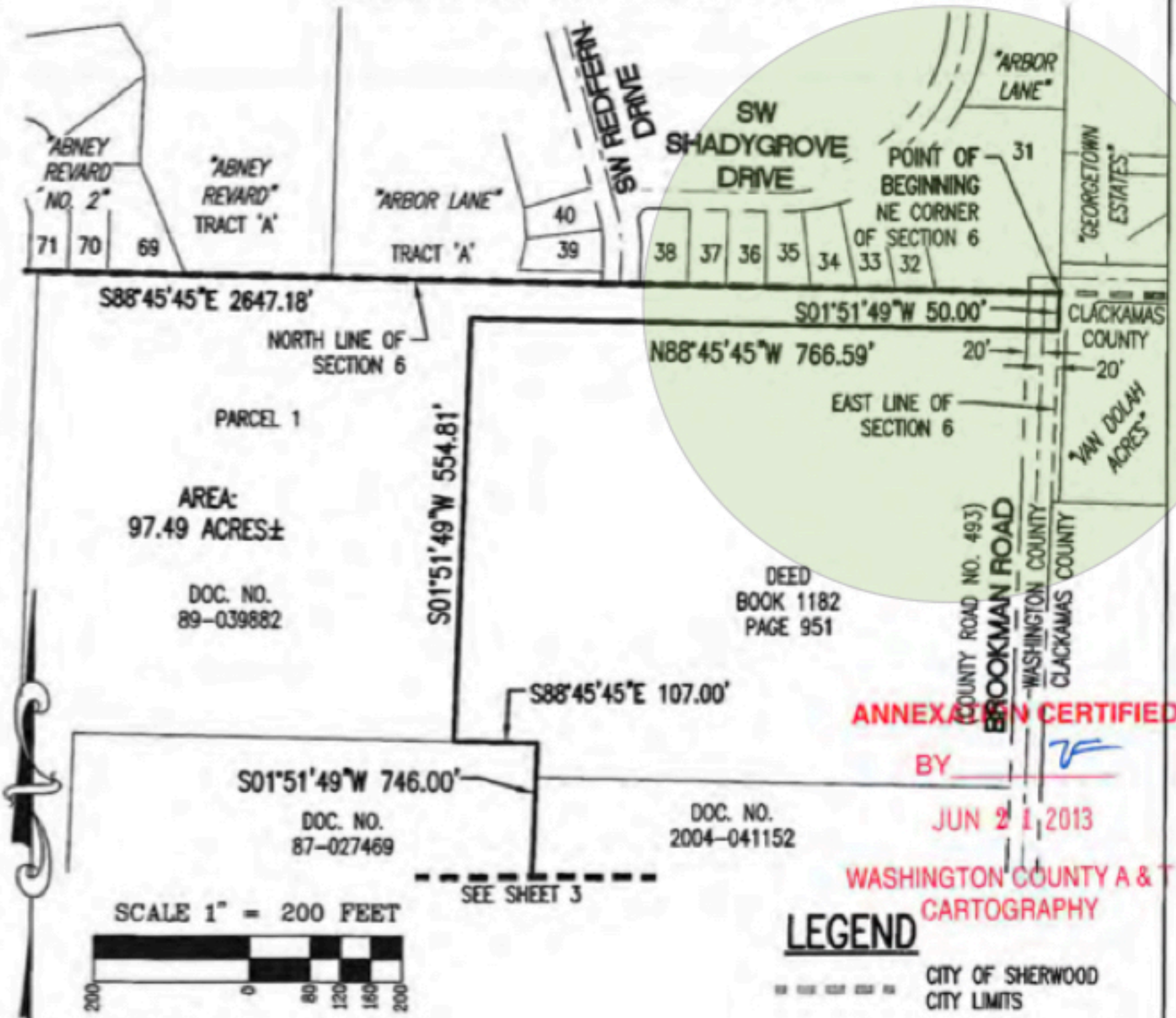
PAGE ____ OF ____

THREE SEPARATE 1/3 INTEREST ALL AS TENANTS IN COMMON	SIGNATURE	PRINTED NAME	I AM A			ADDRESS	PROPERTY DESCRIPTION		ASSESSED VALUE
			PO	RV	OV		PARCEL NUMBER	PARCEL SIZE	
	<i>Wayne K. Chronister</i>	Wayne K. Chronister			X	17033 SW Brookman Road Sherwood, OR 97140	3S1060000107	9.92 AC	\$72,000
	<i>Linda A. Chronister</i>	Linda A. Chronister			X				

NOTE: This petition may be signed by any qualified persons even though they may not know their property description or precinct number.

EXHIBIT B

A TRACT OF LAND LOCATED IN THE NW 1/4 AND NE 1/4 OF SECTION 6, T3S, R1W, AND IN THE SW 1/4 OF SECTION 31, T2S, R1W, W.M., WASHINGTON COUNTY, OREGON



ANNEXATION CERTIFIED

BY 

JUN 21 2013

WASHINGTON COUNTY A & T
CARTOGRAPHY

LEGEND

--- CITY OF SHERWOOD CITY LIMITS

06-18-13

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JANUARY 11, 2005
ROBERT D. RETTIG
60124LS

RENEWS: 12/31/14

JOB NAME: BROOKMAN AREA
JOB NUMBER: 3591
DRAWN BY: MSK
CHECKED BY: RDR
DWG NO.: 3591EXH

ENGINEERING • PLANNING • LANDSCAPE ARCHITECTURE
FORESTRY • SURVEYING



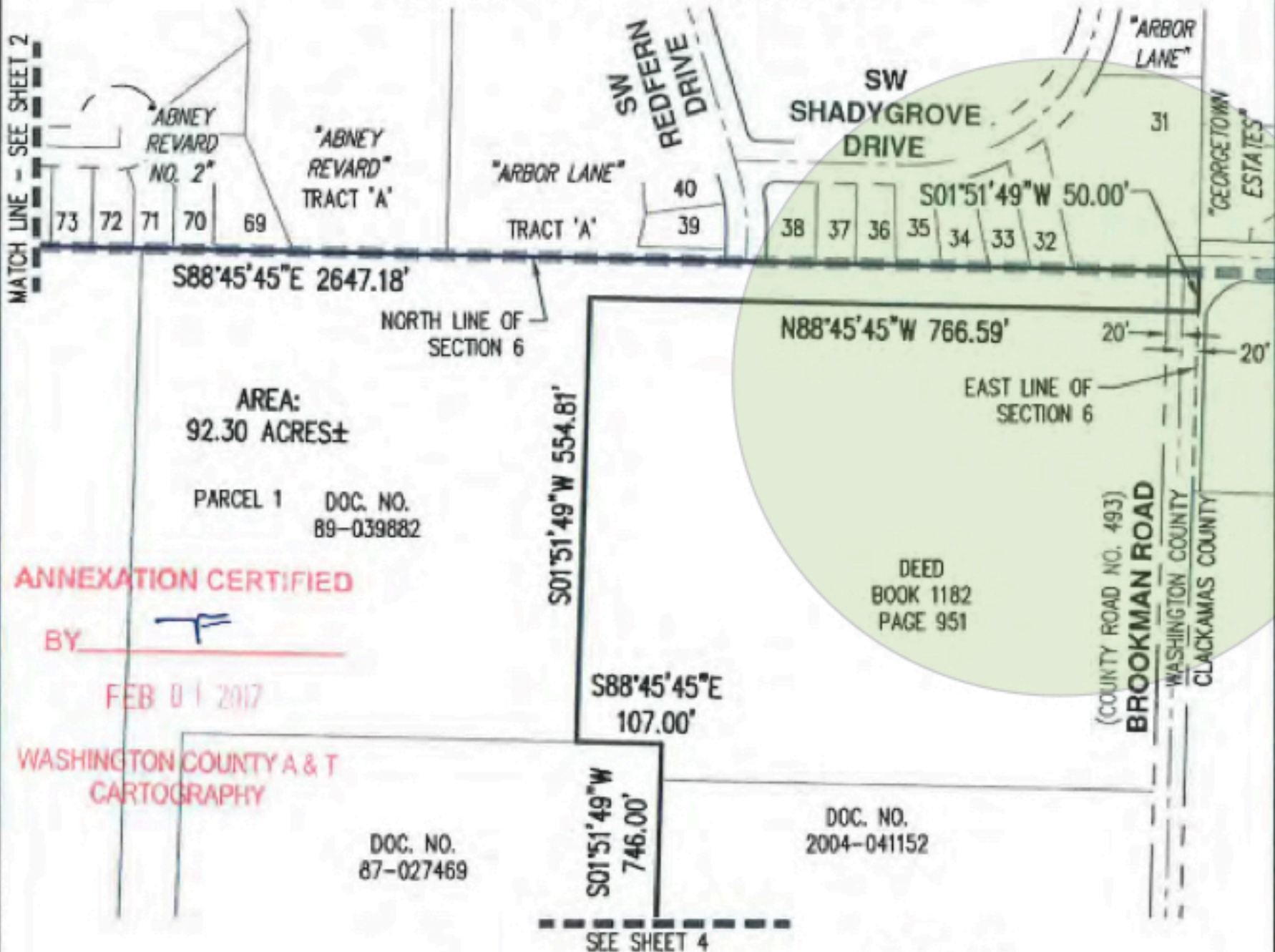
LICENSED IN OR & WA

13910 SW GALBREATH DRIVE, SUITE 100
SHERWOOD, OR 97140
PHONE: (503) 925-8799
FAX: (503) 925-8969


OFFICES LOCATED IN SALEM, OR & VANCOUVER, WA

EXHIBIT B

A TRACT OF LAND LOCATED IN THE NW 1/4 AND NE 1/4 OF SECTION 6, T3S, R1W, AND IN THE SW 1/4 OF SECTION 31, T2S, R1W, W.M., WASHINGTON COUNTY, OREGON




ANNEXATION CERTIFIED

BY 

FEB 01 2017

WASHINGTON COUNTY A & T
CARTOGRAPHY

LEGEND

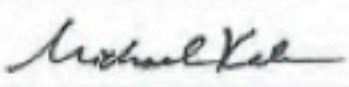
 CITY OF SHERWOOD CITY LIMITS



SCALE 1" = 200 FEET



01/06/2017
REGISTERED PROFESSIONAL LAND SURVEYOR



OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS
RENEWS: 6/30/17

BROOKMAN AREA ANNEXATION

DRAWN BY: MSK	CHECKED BY: RDR	DWG: 3591 ANNEX EXHIBIT	JOB: 3591
AKS ENGINEERING & FORESTRY, LLC			
12965 SW HERMAN RD		SUITE 100	
TUALATIN, OR 97062		www.aks-eng.com	
PHONE: 503.563.6151	FAX: 503.563.6152		

17 August 15, 2022

Neil Shannon
23997 SW Redfern Drive
Sherwood, Oregon 97140
neilshnn@msn.com
503-625-9114

To: Hearings Officer Joe Turner
Re: LU 2021-023 Cedar Creek Gardens Subdevelopment
Week 2 Comment Period

Also Included:

- Attachment A – P. 4 – Email from Naomi Vogel October 5, 2021
- Attachment B – P. 6 – Exhibit B3 from the staff report, County approval and conditions for Design Modification request to allow private street access to Arterial Brookman Road
- Attachment C – P.10 – Exhibit A31 from the staff report, Memo from Traffic Engineer re: supplemental conditions and Design Modification request to allow private street access to Arterial Brookman Road
- Attachment D – P.16 – Follow-up Memo from Washington County dated 8/10/2022 Re: Approval authority regarding access authority to County Arterial Road
- Attachment E – P.18 – Email from Naomi Vogel October 11, 2022

Dear Mr. Turner,

Thank you again for the opportunity to discuss with you the application for the Cedar Creek Gardens Subdevelopment during this 2nd week of argument rebuttal.

Issue #1 – Site access at the north-east corner, private street to Arterial Brookman Road

Following up on my oral arguments I have reviewed Exhibit B3 (Attachment B) of the Staff Report and the earlier email (Attachment A) from Naomi Vogel, Associate Planner with Washington County. Based on Ms. Vogel's email response (Item 5 "*The comment period would be during the city's land use review process. The design exception is considered part of the review process.*") it was my understanding that any concerns regarding access to the site from a County Arterial Road would be addressed at the Land Use Hearing held by the City of Sherwood. In addition, Exhibit B3 (Attachment B) indicated that the review was "in compliance with Section 220 of the Road Standards and Section 501-8.5 of the County Development Code".

With that understanding I presented issues with the Design Modification request based on the County Development Code. As the Hearings Officer you correctly questioned the authority that you may have to rule on County Code issues. Ms. Vogel has provided a follow-up memo as part of the 1st weeks comment clarifying Washington County's position (Attachment D) and follow up email dated October 11, 2022 (Attachment E). The memo indicates that, while the County is asserting authority regarding approval of a private driveway access to the County Arterial Brookman Road under section 220 of the County Road Design & Construction Authority, they are not exercising any authority over the land use process and, in point of fact, no portion of the County Development Code is being applied. The City of Sherwood is the Land Use Authority and the City of Sherwood Municipal Code is the controlling authority.

My oral arguments presented during the hearing were referencing the Washington County Development Code, which we have determined does not apply, however the City of Sherwood Municipal Code has very similar provisions.

Starting with Chapter 16.96.010 On-Site Pedestrian and Bicycle Circulation, section F.1 notes that *“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.”*

Requested condition: If private street access is allowed at Lots 40-41, designate such access as temporary.

Chapter 16.96.020 provides for minimum standards of driveways. Section A.2 includes the requirement for two 10-foot driveways or one 20-foot driveway serving “Two-Family”. Staff has indicated a position that “Two-Family” is a requirement for a duplex, not two single family dwellings. I disagree, referring to the table provided that adjusts width based on number of (dwelling) units starting at three and moving upward.

Requested condition: If private street access is allowed at Lots 40-41, require a width of 20-feet.

Chapter 16.106.040.M.2.d – Arterials: Subsection (1) duplicates the restriction noted in 16.96.010.F.1 that access to an Arterial shall not be granted permanent driveway access and that, if necessary, temporary driveway access can be provided. Subsection (2) indicates that private ingress or egress to Arterial roads “shall be minimized” and “when alternatives do not exist, access shall comply with the following standards:”

“(a) Direct access to an arterial or principal arterial will be permitted provided that Point 'A' of such access is more than six hundred (600) feet from any intersection Point 'A' or other access to that arterial (Point 'C').” (Referencing the sketch provided in 16.106.040.M.1.e)

Although not clearly indicated on the developer’s provided plans there are several existing driveways (point C) on this stretch of Brookman Road proposed for private street access to lots 40 & 41. Directly adjacent to the proposed private street to the north, not more than 10-feet away is the driveway access to 16295 SW Brookman Road. Across the street, less than 100-feet away, is the driveway access to 16450 SW Brookman Road and less than 300-feet to the south is the driveway access to 16457 SW Brookman Road.

I contend that access to the Arterial Brookman Road at the location proposed for the private street access to Lots 40-41 cannot be safely provided in accordance with the City of Sherwood Municipal Code. Access to Brookman Road already exceeds the safe standards as provided in the access requirements. While access can not be granted to Lots 40-41 at this time, the contractor has noted (correctly) that future plans for relocating the arterial to the south-east will allow reclassification of this road to a collector and access can be granted at that time.

Requested condition: Safe access to SW Brookman Road from Lots 40-41 can not be granted at this time, a private street connecting to SW Brookman Road is not approved.

Issue #2 – Brookman Road modifications to establish sight distance for the left-turn movement

Exhibit A31 (Attachment C) from the staff report is a memo from Lancaster Mobley, Traffic Engineer representing the site. In the memo they establish additional requirements and supplemental conditions required for Washington County approval of the Design Modification request for TIA Intersection 5 (private street connection to Brookman Road). Due to issues with sight distance for northbound traffic turning left, modifications are proposed to widen Brookman Road to the west and north, restripe the

travel lanes, and trim trees on the inside curve to establish a minimum 155-foot clear sight distance. Side note: this sight distance does not meet Washington County standards however the County Engineer has accepted the distance as an alternative based on the use of AASHTO standards.

It is important to note that provided sketch illustrating the proposed turn and sight distance was prepared prior to the shift of proposed private street location 5-feet south for tree retention. That shift will increase the difficulty to provide the required sight distance. In addition, I have reviewed the proposed trimming of trees with the property owner, Buzz & Bonnie Wright, located at 16450 SW Brookman Road, and they have expressed concern that the proposed trimming will damage trees on their property. Complicating the issue is the fact that the property south and east of Brookman Road is located in Clackamas County, not Washington County.

The staff report has provided Condition of Approval D4 that states, in full:

CONDITION OF APPROVAL D4: Prior to issuance of a grading permit, the applicant shall obtain final design exceptions from Washington County for the new local street intersection with SW Brookman Rd., the private driveway intersection with SW Brookman Rd., and the sight distance for the left-turn movement into the private driveway from SW Brookman Rd.

Requested additional condition: Prior to issuance of a grading permit or deforestation of Lots 40/41 contractor will complete the required widening, restriping, and vegetation clearance to establish the 155-foot required sight distance, verified to the satisfaction of Washington County or City of Sherwood Engineering.

Issue #3 – Exception to Standards – Lot Size 16.144.030.B(1) and Open Space 16.142.30

The staff report correctly identifies the requirements of 16.142.30 for 5% of the net buildable area be set aside as open space. In addition to minimum 5% net buildable area of open space the developer is applying an exception to standard 16.144.030.B(1) to reduce lot sizes. The staff report indicates that a total of 11 lots are being reduced by a total of 2,485 SF (p. 69 of 127). To apply this exception “an equal amount of inventoried resource above and beyond that already required to be protected is held in a public or private open space tract or otherwise protected from further development.” There are a lot of moving parts regarding the total amount of open space being retained and not all may be able to be accounted for prior to the Final Plat. Condition B5 requires that “*Prior to Final Plat approval, revise the open space plan and provide a final usable open space percentage after removing Tracts H, E, and F from the calculations. The final percentage shall exceed 5% of the net buildable site.*”

Requested condition: Modify condition B5 to include the open space necessary to meet the requirements of 16.144.030.B(1) lot size reductions.

Neil Shannon
23997 SW Redfern Drive
Sherwood, Oregon 97140
503-625-9114
neilshnn@msn.com

(Attachment A - Email from Naomi Vogel October 5, 2021)

Naomi Vogel <Naomi_Vogel@co.washington.or.us>

To: You

Cc: Eric Rutledge

Wed 10/6/2021 2:37 PM

Hi Neil,

I've answered your questions below. Let me know if you want to discuss over the phone.

Thank you,

Naomi Vogel | Associate Planner

503-846-7639 Naomi_Vogel@co.washington.or.us

From: NEIL SHANNON <neilshnn@msn.com>

Sent: Tuesday, October 5, 2021 3:47 PM

To: Naomi Vogel <Naomi_Vogel@co.washington.or.us>

Cc: Eric Rutledge <RutledgeE@SherwoodOregon.gov>

Subject: [EXTERNAL] Re: Engineering Report PAC 2021-005 Cedar Creek Garden

Hi Naomi,

I see that Eric with the City of Sherwood cc you on the email below and I thought it might be a good idea to follow up with you to get your unique insight from the Washington County prospective. I understand that you cannot comment on a specific set of circumstances until the developer has made a formal application for access, at this point I am gathering information on the process so that I can make sure that I can provide public feedback at an appropriate time.

This is regarding Brookman Road, a County Arterial Road located to the south and southeast of Sherwood. The developer has an isolated, narrow strip of land that he is proposing to subdivide into three lots joined by a 20-foot-wide private road / driveway accessed from Brookman Road. We were advised by the developer that their transportation engineers would be able to verify that the required sight lines would be maintained. I have included a section of their proposal to give you a better idea of the concept.

So, my questions to you.:

1. Is the 20-foot drive considered, by the County, as a private road or private driveway? Would that make a difference as part of the application for access to an Arterial Road? **The designation is based on how the city will approve it and the designation makes no difference to the requirements. The access will be reviewed for compliance to the Arterial access standards. County Development Code Section 501-8.5.**
2. Does the number of lots served make a difference? **Not to the request. We require access onto an arterial be via a shared access when access to a lesser classified street is not available. The preferred access location would be to the north through the existing subdivision since that street is a lesser classified street (local/neighborhood route). The applicant will need to provide evidence that they cannot obtain access through the subdivision.**
3. Does it make a difference that the access would be at a sharp bend in the road (Brookman Road moves east to west then makes a 90-degree turn to the south at the point of access). **The design will be reviewed as part of the Design Exception process (reviewed by County Engineer / Arterial access standards). We cannot**

deny access to a legal lot. However, the applicant is required to show that the access to an arterial can be constructed per safety criteria (sight distance is one safety criteria).

4. What is the process for the application for access to Brookman Road? I believe that it is a Type II application, is that application and decision made prior to the application process for a Type II subdivision to the City of Sherwood? **Since the county does not have Land Use authority in this instance, the DE is approved via the application of the road standards (refers to the County Development Code access standards). The access will need to be reviewed/approved prior to the City's land use approval.**
5. Is there public comment allowed as part of the Type II application to the County for road access? **The comment period would be during the city's land use review process. The design exception is considered part of the review process.**

If you think of something that I missed feel free to add the information. Thanks for your assistance!

Neil Shannon

From: Eric Rutledge <RutledgeE@SherwoodOregon.gov>

Sent: Tuesday, October 5, 2021 12:49 PM

To: Neil Shannon <neilshnn@msn.com>

Cc: Craig Christensen <ChristensenC@SherwoodOregon.gov>; Naomi Vogel <Naomi_Vogel@co.washington.or.us>

Subject: RE: Engineering Report PAC 2021-005 Cedar Creek Garden

Hi Neil,

Craig forwarded your message. In order for a lot to obtain direct access to an Arterial street, a design exception to the access standards for an Arterial is required. This request is reviewed / approved by the County engineer. There is no public comment period specific to this design exception, however, you can provide comment on the proposed site layout and access during subdivision process. Property owners within 1,000 ft. of the site will be notified in writing of the subdivision application once it comes in.

Keep in mind the City standards regarding public / private street design, lot access and frontage, lot size dimensions, etc. will also need to be met for these lots at the northeast corner of the site to be approved.

I've CC'd Naomi Vogel with Washington County if you have any questions for the County specifically.

Thanks,

Eric Rutledge

City of Sherwood, Associate Planner

rutledgee@sherwoodoregon.gov

Desk 503.625.4242

Work Cell 971.979.23



WASHINGTON COUNTY OREGON

June 30, 2022

To: Eric Rutledge – Associate Planner

From: Naomi Vogel – Associate Planner

**RE: Cedar Creek Gardens Subdivision
City File Number: LU 2021-023 SUB
County File Number: CP 22-910
Tax Map and Lot Number(s): 3S1060000102 and 3S1060000107
Location: SW Brookman Road**

Washington County Department of Land Use and Transportation has reviewed this development application to subdivide a 19.99-acre site for a 41-lot residential subdivision development site comprised of two lots. The northwest part of the site will support 8 lots and will be accessed from the west via public streets within the Reserve at Cedar Creek Subdivision (currently under construction). Two lots at the northeast corner of the site are proposed to take access via a new shared private driveway with the remaining lots accessing a new public street on SW Brookman Road, a County-maintained Arterial.

The proposed shared private driveway and the new public street (Street 'A') to SW Brookman Road do not meet the County's access standards required for access to an Arterial because access to an Arterial shall be from another Arterial or Collector Street. Pursuant to the County Road Design & Construction standards, an access that does not meet the access standards shall submit a Design Exception in compliance with Section 220 of the Road Standards and Section 501-8.5 of the County Development Code. The applicant has submitted a Design Exception(s) to the County Engineer dated January 22, 2022. The Design Exception requests for access to SW Brookman Road have been approved by the County Engineer (subject to final signature). A Traffic Impact Analysis (TIA) dated November 10, 2021, and supplemental sight distance analysis for the shared driveway dated June 23, 2022 (Lancaster/Mobley) were submitted in accordance with Washington County R&O 86-95, "Determining Traffic Safety Improvements" for developments that impact County-maintained roads. County Traffic Engineering concurs with the findings in the TIA and supplemental sight distance analysis.

**Department of Land Use & Transportation
Operations and Maintenance**

1400 SW Walnut Street, MS 51, Hillsboro, OR 97123-5625
phone: 503-846-7623 • fax: 503-846-7620
www.co.washington.or.us/lut • lutops@co.washington.or.us

I. PRIOR TO ISSUANCE OF A SITE DEVELOPMENT PERMIT FOR PHASE II BY THE CITY OF SHERWOOD, THE APPLICANT SHALL OBTAIN A WASHINGTON COUNTY FACILITY PERMIT FOR CONSTRUCTION OF THE FOLLOWING PUBLIC IMPROVEMENTS ON SW BROOKMAN ROAD:

- A. Submit the following to **Washington County** Public Assurance Staff (503-846-3843):
1. Submit to Washington County Public Assurance Staff: A completed "Design Option" form (original copy), City's Notice of Decision (NOD) and County's Letter dated June 13, 2022.
 2. **\$20,000.00** Administration Deposit.

NOTE: The Administration Deposit is a cost-recovery account used to pay for County services provided to the developer, including plan review and approval, field inspections, as-built approval, and project administration. The Administration Deposit amount noted above is an estimate of what it will cost to provide these services. If, during the project, the Administration Deposit account is falls below County approved level, additional funds will be requested to cover the estimated time left on the project (at then-current rates per the adopted Washington County Fee Schedule). If there are any unspent funds at project close out, they will be refunded to the applicant. Any point of contact with County staff can be a chargeable cost. If project plans are not complete or do not comply with County standards and codes, costs will be higher. There is a charge to cover the cost of every field inspection. Costs for enforcement actions will also be charged to the applicant.

3. Electronic submittal of engineering plans, geotech/pavement report, engineer's estimate, preliminary sight distance certification and the "Engineer's Checklist" (Appendix 'E' of County Road Standards) for construction of the following public improvements:

Note: Improvements within the ROW may be required to be relocated or modified to permit the construction of public improvements. All public improvements and modifications shall meet current County and ADA standards. Public improvements that do not meet County standards shall submit a design exception to the County Engineer for approval.

- a. Public street connection to SW Brookman Road. The access shall include curb returns with ADA ramps, including adequate street lighting at the street connection to SW Brookman Road. The access shall be constructed per the County Engineer's Design Exception approval.

Cedar Creek Gardens Subdivision – LU 2021-023 SUB

County File: CP 22-909

Page 3 of 4

- b. Private access, including adequate street lighting, on SW Brookman Road per the County Engineer's design exception approval and preliminary sight distance certification.
- c. Construction of a minimum of 22 feet of pavement with 4-foot shoulders and roadside ditching along the frontage of SW Brookman Road. Pavement width less than 22 feet subject to approval by the County Engineer.
- d. Preliminary certification of adequate sight distance for the public street connection and shared private access to SW Brookman Road, including for construction access (if proposed).
- e. Closure of all existing access from the subject tax lots to SW Brookman Road.
- f. Construction access and traffic circulation/control plan for access to SW Brookman Road.

II. PRIOR TO APPROVAL OF THE PLAT RECORDATION BY THE CITY OF SHERWOOD AND WASHINGTON COUNTY:

- A. The following shall be shown on the plat and recorded with Washington County Survey Division (503.846.8723):
 1. Dedication of additional right-of-way to provide 53 feet from the centerline of SW Brookman Road.
 2. Adequate corner radius at the intersection of SW Brookman Road and the new public street.
 3. Dedication of an 8-foot PUE along the frontage of SW Brookman Road.
 4. Provision of a non-access restriction along the subject frontage of SW Brookman Road.

III. PRIOR TO OCCUPANCY OF A DWELLING:

- A. The road improvements required in condition **I.A.3.** above shall be completed and approved by Washington County.
- B. Pay a fee in-lieu of constructing 5 lanes (half-width) on SW Brookman Road to the City. The engineer's estimate shall include the following items:
 1. Asphalt (known standards for materials, width and thickness),
 2. Standard base rock (known standards for materials and thickness),
 3. Sidewalks (known standards for material, thickness and width),
 4. Curb and gutter,

Cedar Creek Gardens Subdivision – LU 2021-023 SUB

County File: CP 22-909

Page 4 of 4

5. Striping,
6. Street trees,
7. Street light (including lights and conduits),
8. Planter strip plantings,
9. Irrigation system,
10. Stormwater drainage collection, conveyance, and treatment.

If you have any questions, please contact me at 503-846-7639.

Cc: Road Engineering Services
Traffic Engineering Services
Assurances Section
Transportation File



321 SW 4th Ave., Suite 400
Portland, OR 97204
503.248.0313
lancastermobley.com

Memorandum

To: Stacy Shettler, PE
County Engineer
Washington County
Department of Land Use & Transportation
1400 SW Walnut St, Ste 212, MS 17A
Hillsboro, OR 97123

From: Jennifer Danziger, PE

Date: June 23, 2022

Subject: Cedar Creek Gardens – 41-Lot Subdivision – TIA Study Intersection 5
Design Exception Request for Sight Distance



RENEWS: 12/31/2023

WASHINGTON COUNTY ROAD DESIGN AND CONSTRUCTION STANDARDS REQUEST FOR EXCEPTION

The following is a request for exception as per Section 501.8.5.F of the Washington County Community Development Code Standards.

Request

The Cedar Creek Gardens subdivision proposes to include two lots (40 and 41) with shared driveway access on SW Brookman Road. The proposed access is located near a curve in SW Brookman Road. While the driveway will meet the Washington County sight distance standards for traffic exiting the site, a design exception is needed for the left-turn movement into the shared driveway. The request is to allow the stopping sight distance standard from *A Policy of Geometric Design of Highways and Streets*¹, the current AASHTO manual, to be applied for this movement rather than the intersectional sight distance standard detailed in Section 501.8.5.F of the Washington County Community Development Code (CDC).

Reason

The subject development is a 41-Lot subdivision of Tax Lots 102 & 107, Tax Map 351 06, located within the Brookman Road Concept Plan area of the City of Sherwood (see Exhibit A: Location Map, attached). As a result of the location of Cedar Creek, along with several unnamed tributaries flowing through the site, the site is divided into 3 distinct and isolated developable areas (see Exhibit B: Figure 4, Site Plan, and Exhibit C: Sheet

¹ American Association of State Highway and Transportation Officials (AASHTO), *A Policy on Geometric Design of Highways and Streets*, 7th Edition, 2018.

P3.0, Preliminary Plat. Of the 3 developable areas, the northwest portion of the site will support 8 lots, all of which will be accessed from the west via local public streets within the proposed Reserve at Cedar Creek Subdivision (under construction); 31 of the lots will obtain access to SW Brookman Road to the south via a new interior local public street system; and 2 of the proposed lots will access SW Brookman Road to the northeast via a shared driveway. This northeastern access, identified Intersection 5 in the Transportation Impact Analysis (TIA) dated November 10, 2021, is the subject of this request. A separate design exception request was submitted for driveway access on an arterial roadway.

As a result of the location of the existing Cedar Creek alignment, wetlands, vegetated corridor, 100-year floodplain, and existing development patterns, this northeastern portion of the site (Proposed Lots 40 and 41) has no alternative access other than that which is proposed to SW Brookman Road. While the terminus of SW Redfern Place abuts this portion of the site, the adopted Brookman Addition Concept Plan identifies Redfern Drive as an area of special concern, appropriate for bicycle, pedestrian, and emergency access only due to the constraint of the existing street design. The 2020 Addendum to the Brookman Addition Concept Plan did not alter this access restriction.

As shown in Exhibit C: Sheet P3.0, Preliminary Plat, the subject driveway is located at a curve in SW Brookman Road where the roadway alignment changes from a north-south orientation to an east-west orientation. Sight distance for the movements exiting this shared driveway was addressed in the TIA and found to be adequate. For the proposed northbound left-turn movement into the driveway, the roadway curvature limits the view of oncoming traffic in the opposing direction (westbound), as shown in Figure 1. Thus, we are requesting that the stopping sight distance standard from the current AASHTO manual be applied for this movement rather than the intersectional sight distance standard detailed in Section 501.8.5.F of the Washington County Community Development Code (CDC).

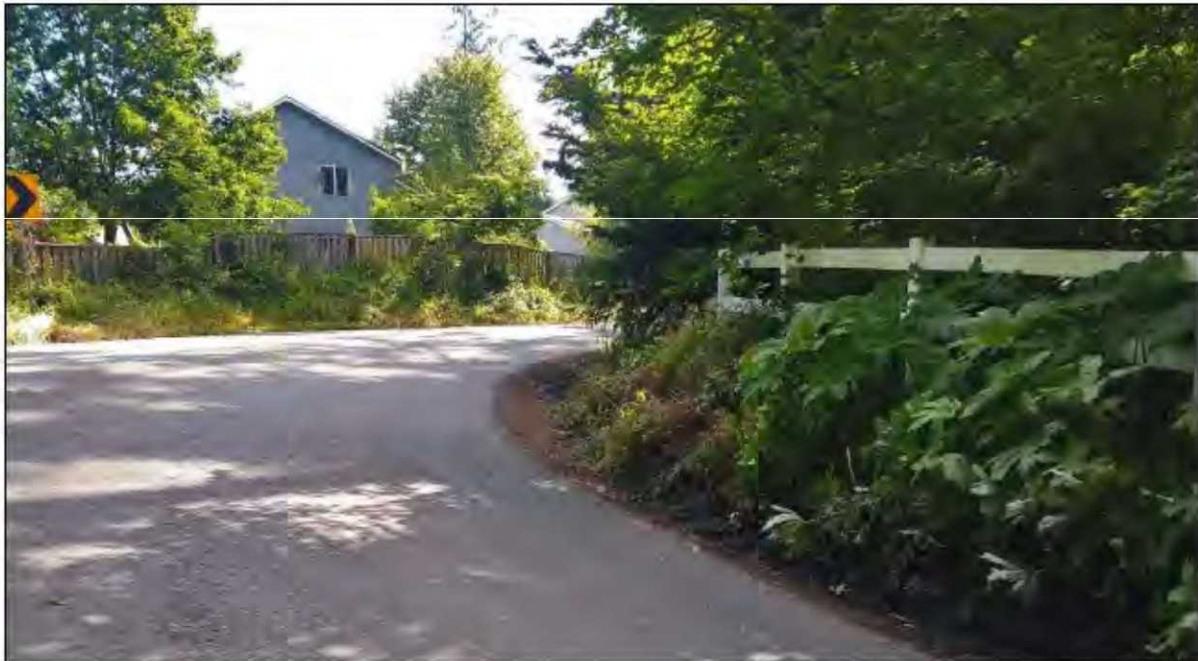


Figure 1: Sight Lines for Northbound Approach to Proposed Site Driveway



Comparison

Existing Standard

The existing standard for sight distance in CDC Section 501.8.5.F.4 states that "minimum intersectional sight distance shall be equal to ten times the vehicular speed of the road." It shall be measured based on an "eye height of 3.5 feet and an object height of 4.25 feet above the road." Since this movement is for a left-turn movement into a driveway, the measurement is taken from the driver's eye as positioned in a vehicle in the travel lane rather than measured at 15 feet from the edge of the roadway.

CDC Section 501.8.5.F.2 specifies that the vehicular speed used in the calculation shall be the greater of the design speed, posted speed, or 85th percentile speed. The design speed of the roadway is unknown. The posted speed is 25 mph with advisory signage for 15 mph through the curve for vehicles traveling in the westbound to southbound direction. A speed study was conducted on June 16 and 17, 2022, on SW Brookman Avenue approximately 170 east of the proposed driveway. The study found the 85th percentile speed for vehicles traveling westbound at that location was 27 mph (see Exhibit D: Speed Study, attached).

The recommended approaching vehicular speed to be used in the subject sight distance calculation is 25 mph for several reasons. First, the vehicles must decelerate to travel through the curve. Field observations indicate that drivers negotiate the curve carefully, staying in lane since they cannot see around the corner. However, they are traveling more quickly than 15 mph. The curve can be driven with reasonable comfort at 20 mph but at 25 mph, centripetal forces cause noticeable discomfort. Most vehicles are estimated to travel at speeds closer to 20 mph through the curve. Second, the speed data was collected at a location where vehicles are beginning to decelerate for the curve; their speed is already slowing, and drivers are ready to apply their brakes as they anticipate possible vehicles approaching from the opposite direction and around the curve. When these factors are considered, the 85th percentile speed of vehicles as they near the corner is estimated to be 25 mph or less.

Based on an approaching vehicular speed of 25 mph, the intersection sight distance per the CDC is calculated at 250 feet. This distance is not achievable for the northbound approach.

Proposed Standard

One of the criteria in CDC 501.8.5.F.7, which documents the requirements for a design exception is that the sight distance proposed in the exception reference nationally accepted standards. According to the AASHTO manual, *"if the available sight distance for an entering or crossing vehicle is at least equal to the appropriate stopping sight distance for the major road, then drivers have sufficient sight distance to anticipate and avoid collisions."* Stopping sight distance is considered the minimum requirement to ensure safe operation of the driveway. This distance allows the driver of a vehicle traveling on the major-street to react to a turning vehicle, or other object in the roadway, and come to a complete stop, if necessary, to avoid a collision. This is proposed standard to be applied for the northbound left-turn movement into the proposed shared driveway.

For an approaching vehicular speed of 25 mph, the stopping sight distance per AASHTO is calculated at 155 feet. This distance is achievable for the northbound approach as documented in the following section.



Documentation

Roadway Characteristics

Although SW Brookman Road is currently designated with an arterial functional classification in both the 2019 Washington County Transportation System Plan (TSP) and 2014 City of Sherwood TSP, it does not have many of the characteristics of an arterial roadway. The roadway is narrow, with one travel lane in each direction and no shoulders, bike lanes, curbs, or sidewalks. On the subject segment of roadway, the posted speed is 25 mph whereas the Washington County design speed is 45 mph for arterial roadways and most have a posted speed of at least 35 mph.

Arterial roadways are designed to carry at least 15,000 vehicles per day for a three-lane cross section and 30,000 vehicles per day for a five-lane cross-section. Applying the standard assumption that daily volumes are approximately 10 times the evening peak hour volume, an estimated 2,000 vehicles per day will be traveling the segment of SW Brookman Road in 2024 after the proposed project is completed (see Exhibit E: Figure 7, Year 2024 Buildout Conditions Traffic Volumes, Cedar Creek Gardens TIA, attached). This forecast is substantially below the demand expected on an arterial road.

Ultimately, this segment of SW Brookman Road is planned to become a local street with implementation of the 2009 Brookman Addition Concept Plan. In the plan, the east-west section of SW Brookman Road as it extends eastward from OR 99W would connect more directly with SW Ladd Hill Road (see Exhibit F, attached). The remaining sections of SW Brookman Road, including the subject section, would become local streets. With these changes, traffic volumes on the subject section are anticipated to be even lower than the 2024 forecast of 2,000 daily vehicles derived from the TIA.

Anticipated Demand

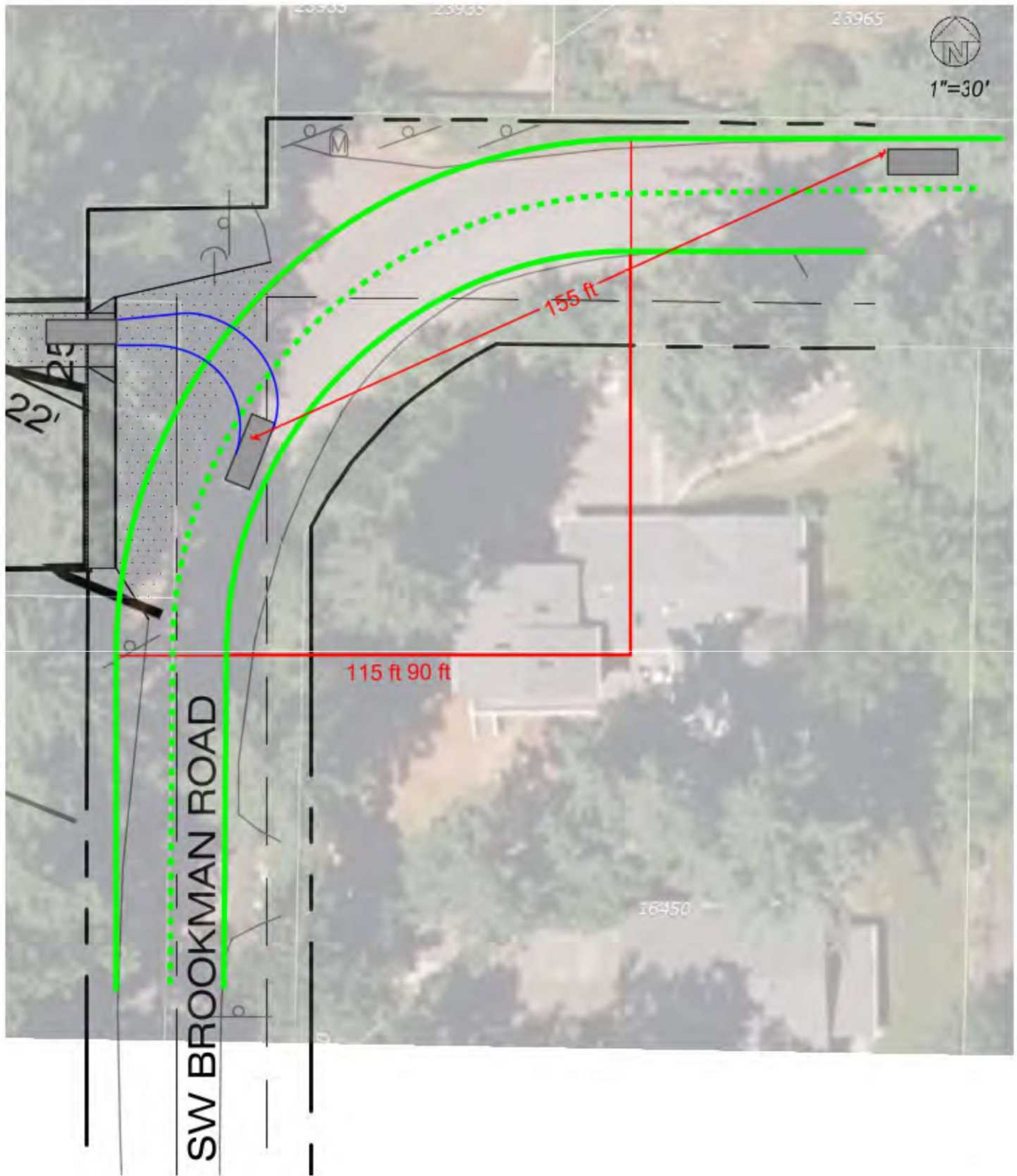
The shared driveway is planned to serve two single-family homes. At the time the Cedar Creek Gardens TIA was prepared, three lots were to be served by the shared driveway. The TIA estimated two (2) vehicles would be using the shared driveway during both the morning and evening peak hours. The trip distribution for this driveway assumed to be 90 percent of traffic traveling to/from the north-east and 10 percent of the traffic traveling to/from the southwest. During the peak hours, the trip assignment shows no trips making the northbound left-turn movement into the driveway (see Exhibit G: Figures 3 and 4, Trip Distribution and Assignment, Cedar Creek Gardens TIA, attached). Over the course of a day, an estimated 10 trips would enter the driveway with one (1) trip making a northbound left-turn movement.

Sight Distance Measurement

To obtain the needed stopping sight distance of 155 feet, several improvements will be required as shown in Figure 2. These improvements include:

- Increasing the corner radius by widening the roadway to the west and north and restriping the travel lanes. This improvement will shift the turning vehicle to the west and increase the available sight lines.
- Clearing the sight triangle by pruning overhanging tree branches along the fence of the southeast property and restricting the height of the ground cover growing along the shoulder.





Public Safety

With the recommended changes, the national standard for stopping sight distance at the driveway will be met. Demand for this movement is estimated at one (1) vehicle per day. Additionally, the traffic volumes on SW Brookman Road are forecast at approximately 2,000 vehicles per day with completion of this development and several other developments underway in the area. Thus, the potential for conflict at the shared driveway is very low.

Performance

The proposed design exception will not affect the performance of the roadway.

Financial Effect

While the design exception would have no impacts for the public agencies, it would have financial repercussions for the abutting properties. To achieve the standard in the Washington County CDC would require significant realignment of SW Brookman Road, which would greatly impact the property on the southeast corner of the curve. Without the design exception, the two lots along the shared driveway could not be developed.

Attachments:

Exhibit A: Location Map

Exhibit B: Figure 4, Site Plan

Exhibit C: Sheet P3.0, Preliminary Plat

Exhibit D: Speed Study

Exhibit E: Figure 7, Year 2024 Buildout Conditions Traffic Volumes, Cedar Creek Gardens TIA

Exhibit F: Brookman Addition Concept Plan—Final Report, Figure 5 Functional Street Classification

Exhibit G: Figures 3 and 4, Trip Distribution and Assignment, Cedar Creek Gardens TIA





WASHINGTON COUNTY OREGON

August 10, 2022

To: Eric Rutledge - Associate Planner

From: Naomi Vogel - Associate Planner

Re: Cedar Creek Gardens Subdivision
City File Number: LU 2021-023 SUB
County File Number: CP 22-910
Tax Map and Lot Number(s): 3S1060000102/3S1060000107
Location: SW Brookman Road

As requested, Washington County Department of Land Use and Transportation submits the additional information for the above noted development application.

Washington County is authorized to exercise authority over road within the County as a matter of county concern. Pursuant to ORS Chapter 368.036(1), standards for county roads and road work performed on county roads shall comply with specifications and standards, including standards for width, adopted by the county governing body. If the county governing body does not have specifications for work performed on county roads, the work shall comply with standards and specifications adopted by the Department of Transportation.

Pursuant to the County's road authority and the adopted County Road Design & Construction Standards, an access that does not meet the access standards shall submit a Design Exception in compliance with Section 220 of the County Road and Construction Standards. The applicant has submitted a Design Exception to the County Engineer (January 22, 2022) for the private access on SW Brookman Road. The County's Design Exception process is as follows.

220.010 General

Any application for an approved exception to the standards and specifications in these Standards must be submitted as a Design Exception under this section. See form in appendix F. The County Engineer may approve a design exception request so long as it does not conflict with the Community Development Code, the County or City Land Development Permit Decision, or any other relevant approvals, except as expressly provided herein. If the requested exception involves public safety, the County will rule in the direction of safety.

**Department of Land Use & Transportation
Operations and Maintenance**

1400 SW Walnut Street, MS 51, Hillsboro, OR 97123-5625
phone: 503-846-7623 • fax: 503-846-7620
www.co.washington.or.us/lut • lutops@co.washington.or.us

Cedar Creek Gardens Subdivision
City File Number: LU 2021-023 SUB
County File Number: CP 22-910
Page 2 of 2

220.020.2 Submittal

Requests for a design exception shall be submitted in writing to the County Engineer. See Design Exception form in appendix. Requests for an exception to access spacing requirements shall be submitted in writing to the Development Services Division, for decision by the County Engineer. Access standards are set by the Community Development Code, with the County Engineer delegated the authority to grant exceptions under the same criteria stated above in Section 220.020.1. All requests shall state the applicable standard, the desired exception, the reason for the request and a comparison between the applicable specification or standard and the exception as to function, performance and safety. If an exception is requested due to economic hardship, the request shall contain a statement on the impact to project cost with and without the exception. The request for exception shall be prepared by an Engineer and shall be stamped and signed by the Engineer. Any approved exception to these Standards shall be documented and should reference nationally accepted guidelines, specifications, or standards. The approval of an exception shall not compromise public safety or the intent of these standards. An exception shall be approved only if the County Engineer finds that the alternative proposed by the Engineer meets the criteria in 220.020.1 and will provide equivalent or better function, performance, and safety.

220.020.4 Appeal

The Applicant may appeal the County Engineer's decision to deny an exception to the Director. The appeal shall be submitted in writing within fourteen (14) days of the County Engineer's decision. The appeal shall be in writing, state the relevant facts, applicable provisions of these Standards, specific grounds for appeal, the relief sought, and shall include all information on which the applicant relies. The applicant shall have the burden of proving that an error was committed, or that the requested exception meets the criteria of 220.020.1 and equals or exceeds the applicable standard as to function, performance, and safety. The Director shall review all the information submitted with an appeal. The Director may request additional information from the Engineer, the County Engineer, or both, and may meet with the parties. The Director shall render a decision in writing in the same format as provided in 220.020.3. The Director's decision shall be final.

If you have any questions, please contact me at naomi_vogel@co.washington.or.us or 503-846-7639.

Cc: Road Engineering Services
Traffic Engineering Services
Assurances Section
Transportation File

(Attachment E - Email from Naomi Vogel October 11, 2022)

Exhibit C19

RE: [EXTERNAL] Re: LU 2021-023 Open Record Period Information

Naomi Vogel <Naomi_Vogel@co.washington.or.us>

To:

• You

Cc:

• Eric Rutledge

Thu 8/11/2022 12:10 PM

The County is not the land use authority in this case therefore the CDC process does not apply. The county is exercising their road authority in this case. The road standards refer to the CDC for access standards, however the road standards process for access is applied. The process is noted in the memo that I forwarded earlier.

Let me know if you have questions or want to discuss.

Thank you,

Naomi Vogel | Associate Planner

503-846-7639 Naomi_Vogel@co.washington.or.us