

AGENDA

**WILSONVILLE CITY COUNCIL MEETING
AUGUST 7, 2017
7:30 P.M.**

**CITY HALL
29799 SW TOWN CENTER LOOP
WILSONVILLE, OREGON**

Mayor Tim Knapp

Council President Scott Starr
Councilor Susie Stevens

Councilor Kristin Akervall
Councilor Charlotte Lehan

CITY COUNCIL MISSION STATEMENT

To protect and enhance Wilsonville's livability by providing quality service to ensure a safe, attractive, economically vital community while preserving our natural environment and heritage.

Executive Session is held in the Willamette River Room, City Hall, 2nd Floor

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|------------------|--|-----------|---------|
| 5:00 P.M. | EXECUTIVE SESSION | [15 min.] | |
| A. | Pursuant to ORS 192.660 (2)(e) Real Property Transactions
ORS 192.660(2)(h) Litigation
ORS 192.660(2)(i) Performance Evaluations of Public Officers and Employees | | |
| 5:15 P.M. | REVIEW OF AGENDA | [5 min.] | |
| 5:20 P.M. | COUNCILORS' CONCERNS | [5 min.] | |
| 5:25 P.M. | PRE-COUNCIL WORK SESSION | | |
| A. | Fiber Business Plan (staff – Stone)
Link to the Draft Fiber Business Plan -
http://www.ci.wilsonville.or.us/fiberplan | [40 min.] | Page 1 |
| B. | Coffee Creek Industrial Form-based Code and Pattern
Book (staff-Rybold) | [30 min.] | Page 4 |
| C. | Memorial Park Dog Park/Community Garden Parking
Lot (staff – Rappold / Blankenship) | [30 min.] | Page 11 |
| D. | Frog Pond Financing Plan (staff –
Kraushaar/Cole/Guile-Hinman) | [20 min.] | |
| 7:25 P.M. | ADJOURN | | |
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CITY COUNCIL MEETING

The following is a summary of the legislative and other matters to come before the Wilsonville City Council a regular session to be held, Monday, August 7, 2017 at City Hall. Legislative matters must have been filed in the office of the City Recorder by 10 a.m. on July 18, 2017. Remonstrances and other documents pertaining to any matters listed in said summary filed at or prior to the time of the meeting may be considered therewith except where a time limit for filing has been fixed.

7:30 P.M. CALL TO ORDER

- A. Roll Call
- B. Pledge of Allegiance
- C. Motion to approve the following order of the agenda and to remove items from the consent agenda.

7:35 P.M. COMMUNICATIONS

- A. Metro Update presented by Metro Councilor Craig Dirksen

7:45 P.M. CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

This is an opportunity for visitors to address the City Council on items *not* on the agenda. It is also the time to address items that are on the agenda but not scheduled for a public hearing. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter. Please limit your comments to three minutes.

7:50 P.M. MAYOR'S BUSINESS

- A. Relay for Life Proclamation (staff – Handran) Page 39
- B. Library Board Appointments
 - 1. Reappointment of Caroline Berry to for a second term beginning 7/1/17 to 6/30/21
- C. Tourism Promotion Committee Reappointments
 - 1. Reappointment of Jeff Brown to Position 3 for a second term beginning 7/1/17 to 6/30/20
 - 2. Reappointment of Albert Levit to Position 4 for a second term beginning 7/1/17 to 6/30/20
- D. Upcoming Meetings Page 40

7:55 P.M. COUNCILOR COMMENTS

- A. Council President Starr
- B. Councilor Stevens
- C. Councilor Lehan
- D. Councilor Akervall

8:00 P.M. PUBLIC HEARING

- A. **Ordinance No. 807** – 1st Reading Page 42
An Ordinance Of The City Of Wilsonville Annexing Approximately 2,206 Square Feet Of Territory On The South Side Of SW Advance Road West Of SW 63rd Avenue Into The City Limits Of The City Of Wilsonville, Oregon. The Territory Is More Particularly Described As An Eastern Portion Of Tax Lot 2100 Of Section 18, T3S, R1W, Clackamas County, Oregon, West Linn-Wilsonville School District, Owner. (staff – Rybold)

8:15 P.M. NEW BUSINESS

- A. **Resolution No. 2649** Page 61
A Resolution Of The City Of Wilsonville Establishing The Methodology For The Preliminary Frog Pond West Infrastructure Supplemental Fee And The Boeckman Bridge Transportation Mitigation Fee, And Establishing A Fund (staff – Kraushaar/Cole/Guile-Hinman)
- B. **Resolution No. 2650** Page 91
A Resolution Of The City Of Wilsonville Designating The City Of Wilsonville As A Bee City Usa® Affiliate (staff – Rappold)
- C. Appeal of Planning Director’s Interpretation – Jordan Ward (staff – Neamtzu) Page 98

8:40 P.M. CITY MANAGER’S BUSINESS

- A. Work Plan Updates Quarter 2 Page 128
B. Work Plan 2017-2018 Page 135

8:45 P.M. LEGAL BUSINESS

- A. Regulation of Panhandling and Related Constitutional Limitations Page 173

8:50 P.M. ADJOURN

Time frames for agenda items are not time certain (i.e. Agenda items may be considered earlier than indicated.) Assistive Listening Devices (ALD) are available for persons with impaired hearing and can be scheduled for this meeting if required at least 48 hours prior to the meeting. The city will also endeavor to provide the following services, without cost, if requested at least 48 hours prior to the meeting:- Qualified sign language interpreters for persons with speech or hearing impairments. Qualified bilingual interpreters. To obtain services, please contact the City Recorder, (503) 570-1506 or veliz@ci.wilsonville.or.us.



**CITY COUNCIL MEETING
STAFF REPORT**

Meeting Date: August 7, 2017		Subject: Fiber Business Plan Staff Member: Andy Stone, IT Manager Department: Information Systems	
Action Required		Advisory Board/Commission Recommendation	
<input type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable Comments: 	
Staff Recommendation: Receive update on City’s Fiber Business Plan			
Recommended Language for Motion: N/A			
Project / Issue Relates To: <i>[Identify which goal(s), master plans(s) your issue relates to.]</i>			
<input checked="" type="checkbox"/> Council Goals/Priorities Council Goal 13- Embrace Technology		<input type="checkbox"/> Adopted Master Plan(s)	<input type="checkbox"/> Not Applicable

ISSUE BEFORE COUNCIL:

Council will receive a draft of the City’s Fiber Business Plan prepared by CTC. Staff and CTC will review the findings and offer a recommendation on how to proceed with City owned fiber.

EXECUTIVE SUMMARY:

The City has contracted with CTC Technology and Energy (CTC), an independent technology-consulting firm with over 30 years of experience with public and non-profit entities. On this project CTC has researched the City’s current fiber environment and the options that are

available from other entities. CTC has created a draft of the City's Fiber Business Plan for the City Council's consideration. A representative of CTC will give a presentation of their findings and a recommendation of how the City should move forward with fiber investment.

The City's current network represents a model where most cities start - fiber owned by municipal government, exclusively for the use and benefit of municipal government. In this model, the City leverages the cost of otherwise leased telecommunications services to fund building, owning, and maintaining its own fiber infrastructure. This model generally offers good return on investment and very low risk. On the other hand, it also has nominal broader community benefit as there is no access to fiber or fiber infrastructure beyond the municipal government users. While Wilsonville's fiber program currently employs this model, it has expanded to facilitate connectivity with Wilsonville schools and Clackamas County.

A second model offers fee-based access to other government and community anchor institutions and utilizes fiber as an economic development tool. In this model the municipal fiber infrastructure is expanded to key commercial and industrial districts. Local connection points are also established to open up fiber access to a variety of telecommunications providers for whom the cost of construction might have otherwise been a barrier to entry in the local market. Enhanced competition generally improves local service quality and reduces costs for business community participants, while offering the municipality some return on investment both from tangible lease fees and less tangible, but still important, economic development benefits.

A third fiber network model goes beyond the business community to residential customers. Where incumbent broadband providers are not meeting the residential service demands and/or there is a lack of competition to mitigate cost and improve service offerings, some municipalities are opting to expand their fiber programs into the community neighborhoods. In some cases, the municipality then becomes an internet services provider (ISP) and in other cases, the municipality enters into a public-private partnership with an established ISP.

After evaluating the data, CTC and City Staff cannot recommend pursuing the third option of constructing fiber to support a residential service at this time. The costs that would be incurred by the City are high and potentially risky. Overall costs of over \$20 million, required "take rates" of 35% and average monthly costs to subscribers of over \$100 to break even are determining factors to rule this option out at this time.

The recommended path moving forward is a combination of the first and second models. The City should look to construct fiber to the high priority sites that were identified in City staff interviews. The most cost effective way of doing this would be to build portions of the pathway during existing construction projects occurring within the City. As the City takes advantage of these projects, it is recommended that the City over build the conduits and fiber so that it is available to lease or swap to private entities as this option arises. The goal would be to help spur connections to businesses within Wilsonville that might be underserved or only served by a single provider.

As the City continues to expand its fiber assets, new opportunities should be identified to utilize the fiber to help save money, incentivize private businesses to expand services and provide amenities to the citizens of Wilsonville.

EXPECTED RESULTS:

City Staff will work with CTC to finalize the draft of the fiber business plan using the comments from Council and others.

TIMELINE:

Depending on the comments received, finalization of the report should be completed within the next few months.

CURRENT YEAR BUDGET IMPACTS:

This study is estimated to cost approximately \$70,000. The majority of the project was completed in Fiscal Year 16-17. A small portion will be carried over to FY 17-18 because analysis of the data took longer than anticipated.

FINANCIAL REVIEW / COMMENTS:

Reviewed by: SCole Date: 7/21/2017

LEGAL REVIEW / COMMENT:

Reviewed by: BAJ Date: 7/25/2017

COMMUNITY INVOLVEMENT PROCESS:

POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY (businesses, neighborhoods, protected and other groups):

ALTERNATIVES: Continue to follow the current model, focusing primarily on the City needs with some service for schools and other government entities

CITY MANAGER COMMENT:

ATTACHMENTS:

- CTC Fiber Business Plan and Feasibility Study Draft
- Appendix B - City Network Expansion
- Appendix C - City Network Expansion Best Case Cost
- Appendix D - FTTP Municipal Retail Model
- Appendix E - FTTP Huntsville Model
- Appendix F - FTTP Westminster Model

Here is the link to the Draft Fiber Business Plan <http://www.ci.wilsonville.or.us/fiberplan>.



**CITY COUNCIL
STAFF REPORT**

<p>Meeting Date: August 7, 2017</p>	<p>Subject: Coffee Creek Industrial Form-based Code and Pattern Book Staff Members: Jordan Vance, Economic Development Manager; Kimberly Rybold, Associate Planner Department: Community Development</p>	
<p>Action Required</p>	<p>Advisory Board/Commission Recommendation</p>	
<p> <input type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1st Reading Date: <input type="checkbox"/> Ordinance 2nd Reading Date: <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda </p>	<p> <input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable Comments: N/A </p>	
<p>Staff Recommendation: Conduct the work session and provide staff with direction on approaches for adoption of the Code.</p>		
<p>Recommended Language for Motion: N/A</p>		
<p>Project / Issue Relates To:</p>		
<p> <input checked="" type="checkbox"/> Council Goals/Priorities Complete form-based code work currently underway </p>	<p> <input checked="" type="checkbox"/> Adopted Master Plan(s) Coffee Creek Industrial Area Master Plan </p>	<p> <input type="checkbox"/> Not Applicable </p>

ISSUE BEFORE COUNCIL:

Staff will provide an update on the Coffee Creek Industrial Area Form-based Code project and present process options for future adoption.

EXECUTIVE SUMMARY:

The final phase of the Coffee Creek Industrial Area Form-based Code project seeks to address process questions raised during the last round of Planning Commission and City Council work sessions in July 2015. The purpose of this work session is to gather feedback on process options for implementation of the Code.

The Coffee Creek Industrial Form-based Code and Pattern Book together establish regulations and guidelines for street design and connectivity, site design and circulation, building form and massing, and building design and architecture. The Form-based Code, as drafted, uses clear and objective standards that are specific, discrete requirements and numerical standards, which substantially minimize judgment about compliance. Additional flexibility is built into the Form-based Code with adjustment criteria for a limited set of standards that provide additional flexibility to applicants and could be administered by staff. For applications that require waivers to standards of the Form-based Code, a Pattern Book with design guidelines that correlate with the Code's clear and objective standards would be utilized to encourage high-quality site and building design.

The project represents an opportunity to create clear and objective development standards that will simplify and provide more certainty with respect to the approval process for new projects in the Coffee Creek industrial and employment area (Coffee Creek). The project outcome will support economic development and job creation through regulations that provide the appropriate balance of certainty with a range of flexibility resulting in high-quality design from the public realm to site design and landscaping to the buildings.

Procedural questions identified during the previous review in July 2015 include land-use applications requiring City Council review and approval (annexation, Comprehensive Plan Map amendments, and Zone Map amendments), traffic study analysis for individual development sites, and tree removal review. Feedback on these procedural questions will help staff and the project consultant to determine whether the administrative development review process currently envisioned in the draft Code and Pattern Book is achievable.

In July, the project team held work sessions with the Development Review Board (DRB) panels and the Planning Commission. The Planning Commission generally supported an administrative development review process for applications not requiring City Council approval, while the DRB panels expressed concern about not providing citizens with a public hearing setting to submit testimony on applications. As an alternative to the administrative approach that the draft Code presently utilizes, the clear and objective standards of the draft Code could be applied while continuing to utilize the DRB as the decision-making body on applications not requiring City Council approval. Those applications requiring City Council approval could proceed forward on a parallel track without going before the DRB. While utilizing the DRB, as opposed to a staff administered development review process, will add some time to the application process, it has the advantage of giving citizens a forum in which to be heard and that seems a reasonable trade-off without sacrificing much in the way of expediency. The process could initially be implemented keeping the DRB format and later amended to administrative review as experience under the Form-based Code develops and as the area becomes more fully industrial. Staff would appreciate the Council's opinion on this DRB suggested option.

Any changes to the Code to address the outstanding process questions will be incorporated into the final draft Code and Pattern Book. Staff appreciates feedback on these process options as the final draft of the Code and Pattern Book is prepared.

EXPECTED RESULTS:

The intent of the project is to create:

1. An attractive and functional industrial and employment district featuring cohesive and high-quality site, landscape and building design through an emphasis on the design of the public realm; and
2. A complete network of existing and new streets, paths, and trails that will support a sense of place and identity; and
3. A multi-modal transportation network that accommodates pedestrians, bicyclists, transit riders, motorists, and freight in the context of a modern light industrial and employment district.

TIMELINE:

The Planning Commission public hearing for the Code and Pattern Book is tentatively planned in November, with City Council hearings following the Planning Commission review and recommendation.

CURRENT YEAR BUDGET IMPACTS:

Development of the Form-based Code and Pattern Book was funded by a grant from ODOT's Transportation and Growth Management (TGM) Code Assistance Program. Funding to finalize the draft documents, incorporate feedback on Code implementation, and achieve adoption of the Code and Pattern Book was included in the FY 2016-17 budget. Unspent funds from the FY 2016-17, estimated to be about \$33,000, will be requested to be carried over to FY 2017-18 FY through the supplemental budget process, anticipated in September.

FINANCIAL REVIEW / COMMENTS:

Reviewed by: SCole Date: 7/20/2017

LEGAL REVIEW / COMMENT:

Reviewed by: BAJ Date: 7/27/2017

COMMUNITY INVOLVEMENT PROCESS:

This work is ongoing. The development of the draft documents was led by an internal Project Management Team (PMT), as well as a Technical Advisory Committee (TAC) made up of a Planning Commissioner, DRB member, Chamber of Commerce representative, industrial developer, broker, and architect. To date, one public open house was conducted, in addition to a number of work sessions with the Planning Commission and City Council. Ample opportunities for additional community involvement exist over the next several months as the Code is finalized for public hearing.

POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY (businesses, neighborhoods, protected and other groups): The project has the benefit of creating clear and objective standards for the industrial development community. Balancing the needs of the community with that of developers will continue to be a focus of the project.

ALTERNATIVES:

There have been numerous alternatives considered throughout the creation of the new Code. The Commission and Council are being asked to provide feedback on process alternatives that will shape the implementation of the Form-based Code. Another alternative is to continue have the current City Code apply to Coffee Creek, as it does to all other industrial developments in the City.

CITY MANAGER COMMENT:

N/A

ATTACHMENTS:

A - Process Options Memo – June 30, 2017

B - Development Review Process Diagram

DRAFT July 2015 Coffee Creek Form-based Code available

online: <http://www.ci.wilsonville.or.us/DocumentCenter/View/12011>

DRAFT June 2015 Pattern Book available

online: <http://www.ci.wilsonville.or.us/DocumentCenter/View/12010>

ATTACHMENT A



Date 17_0630 | Subject Wilsonville Coffee Creek | To Kim Rybold, Jordan Vance, City of Wilsonville | From Marcy McInelly, Urbsworks, Inc. | Copy Keith Liden, Bainbridge

WILSONVILLE COFFEE CREEK FBC ADOPTION PROJECT – PROCESS OPTIONS

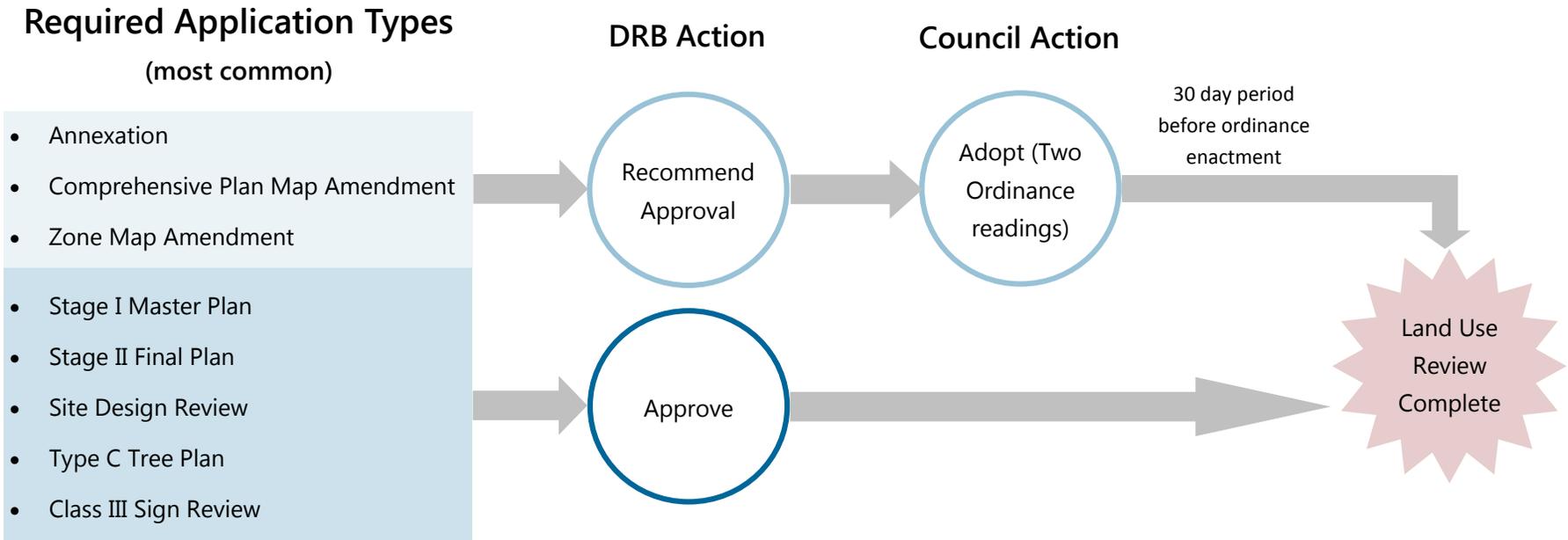
The current development review process involves approval of each application by the Development Review Board (DRB), with some applications requiring adoption by City Council. In order to achieve a streamlined administrative review process using the Form-based Code, specific process modifications have been identified by staff and the consultant, as follows:

Process Component	The process today	Streamlined process: Proposed modification options
Review Process Structure - Annexation, Comprehensive Plan and Zone Change	<ul style="list-style-type: none"> While review of these applications is conducted concurrently with others at the DRB, these applications must subsequently go to the City Council for an additional public hearing and two ordinance readings, followed by a 30-day waiting period prior to ordinance enactment. 	<ul style="list-style-type: none"> Permit FBC projects to take advantage of a streamlined, parallel process that initiates the annexation, Comprehensive Plan Map amendment and Zone Map amendment at the onset of development review. Conduct review of other applications administratively as the applications requiring City Council adoption are processed.
Review Process Structure – Other Applications	<ul style="list-style-type: none"> This step currently is conducted by the DRB, and the development standards of the Form-based Code do not apply. 	<ul style="list-style-type: none"> Permit a Class II administrative review for applications that do not require City Council review and adoption. Require development to meet the clear and objective standards in the Form Based Code (for street and path network connectivity, site design, building orientation, prominent address façade design). Applicants unable to meet selected standards within the Form-based Code may apply for waivers, which would be reviewed under the current DRB process. Development applying for waivers would still be expected to meet the intent of the Form-based Code.
Traffic Study	<ul style="list-style-type: none"> A detailed traffic study is required as a part of the site development permit, for every site 	<ul style="list-style-type: none"> City sponsors a district-wide study. Individual development applications would not conduct a separate traffic study provided that

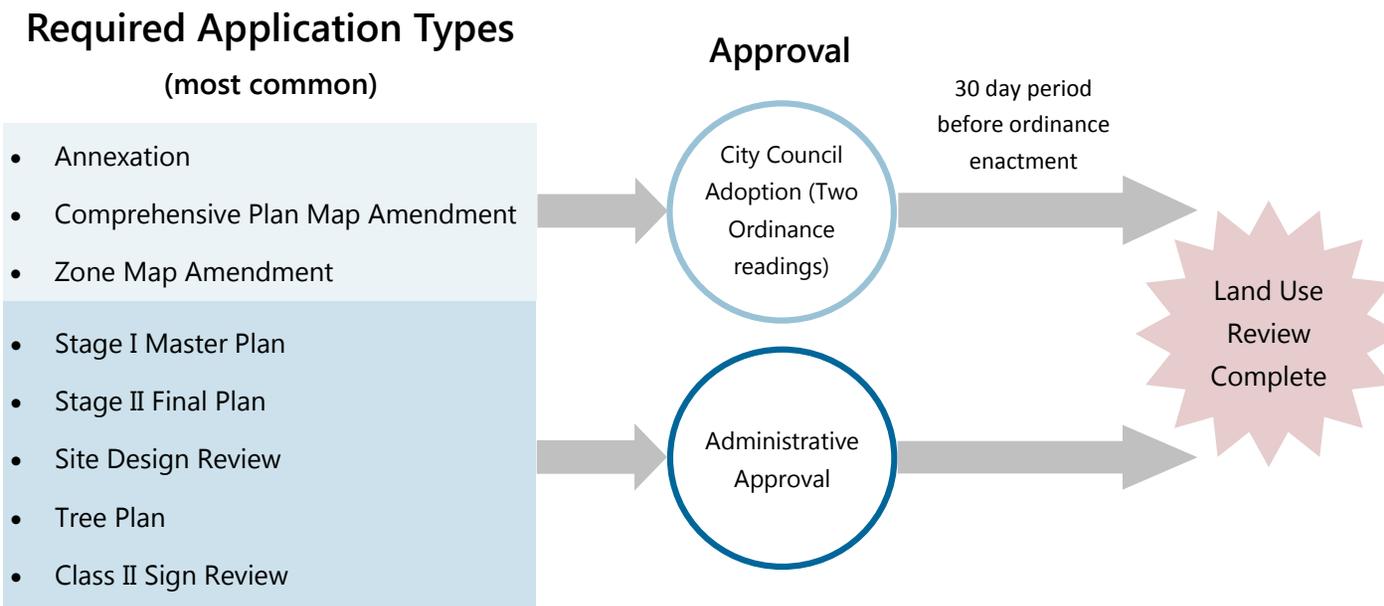
ATTACHMENT A

		<p>the number of trips generated remains under an established trip threshold. This would involve a less burdensome comparison to a baseline / sensitivity analysis.</p> <ul style="list-style-type: none"> • Villebois has employed a similar streamlined approval process
Type C Tree Plan	<ul style="list-style-type: none"> • The Type C tree permit process presently requires DRB approval. 	<p>There are several possible approaches to streamlining the review of tree plans. Options include the following:</p> <ul style="list-style-type: none"> • Staff develops a district-wide Tree Master Plan. <ul style="list-style-type: none"> ○ Staff surveys existing conditions and identifies specifically which trees are important to protect. ○ If an application being reviewed administratively did not protect noted trees, it would be subject to the DRB waiver process. ○ Parcels not containing trees that should be protected may be able to be “greenlighted” while other sites would need a more detailed review • The Form-based Code amendments for Coffee Creek could include location-based standards for preservation. <ul style="list-style-type: none"> ○ Trees along the sides and front of a site and in parking areas have the potential for preservation while others in the middle of the building envelope may not be able to be preserved.
Sign Review	<ul style="list-style-type: none"> • DRB reviews all signs for new buildings 	<ul style="list-style-type: none"> • Review signs through Class II administrative review based on City’s existing sign regulations • Add clear and objective signage requirements (size, location, other design attributes) to the Form-based Code.

CURRENT DEVELOPMENT REVIEW PROCESS: DEVELOPMENT REVIEW BOARD AND CITY COUNCIL



PROPOSED DEVELOPMENT REVIEW PROCESS: ADMINISTRATIVE REVIEW AND CITY COUNCIL





**CITY COUNCIL MEETING
STAFF REPORT**

Meeting Date: August 7, 2017		Subject: Memorial Park Dog Park/Community Garden Parking Lot	
		Staff Member: Kerry Rappold, Tod Blankenship Department: Community Development, Parks and Recreation	
Action Required		Advisory Board/Commission Recommendation	
<input type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input type="checkbox"/> Not Applicable Comments: Staff will be presenting the parking lot project to the Development Review Board in the fall of 2017.	
Staff Recommendation: A parking lot concept plan for the Memorial Park Dog Park/Community Garden Parking Lot project (9132) has been prepared by the consultant team. Staff is seeking comment and guidance from the City Council on the alternatives for providing access to the proposed Memorial Park Dog Park/Community Garden parking lot.			
Recommended Language for Motion: NA			
Project / Issue Relates To: <i>[Identify which goal(s), master plans(s) your issue relates to.]</i>			
<input type="checkbox"/> Council Goals/Priorities	<input checked="" type="checkbox"/> Adopted Master Plan(s) Memorial Park Master Plan	<input type="checkbox"/> Not Applicable	

ISSUE BEFORE COUNCIL: Due to the financial implications and potential impacts to infrastructure, Staff is requesting the City Council provide comment and guidance about the

alternatives for providing access to the proposed Memorial Park Dog Park/Community Garden parking lot.

EXECUTIVE SUMMARY: The City of Wilsonville's Memorial Park Master Plan (2015) identified the need for additional and improved parking areas throughout the park. Included in the plan was the addition of a Northeast parking lot for the relocated Dog Park and the existing Community Garden. The City contracted with AKS Engineering and Forestry (AKS) to prepare the design for the parking lot.

On February 2 the Parks and Recreation Board (PRAB) approved a parking lot design to be forwarded to the Development Review Board and asked staff to explore intersection improvements at Schroeder Way, Rose Lane, and Wilsonville Road along with the option of providing an additional access point from Kolbe Lane using the existing one lane bridge currently used for pedestrian access. The PRAB requested a study due to the concerns of residents about traffic issues and the proximity to the surrounding neighborhoods.

The primary areas of concern from the public were the following:

1. Vehicle safety at the intersection of Rose Lane, Schroeder Way, and Wilsonville Road;
2. Pedestrian safety on Schroeder Way; and
3. A belief there will be more vehicles than what has been reported from the traffic study.

To address the PRAB request, the City had the project consultant (AKS) complete an alternatives analysis (Exhibit A). In addition, the Community Garden and Dog Park will have traffic monitored in July and August to better understand the traffic demands for these areas during the peak use periods. In the right-of-way on the south side of Wilsonville Road, west of the intersection of Wilsonville Road and Rose Lane, vegetation was pruned to create more visibility and a better line of sight.

The alternatives analysis assessed two design alternatives for improving access to the proposed parking lot. The alternatives included the following:

1. **Alternative 1** – Schroeder Way/Rose Lane Intersection Improvement
This alternative entailed two tiers, which required different levels of analysis. In the first tier, a horizontal concept for the re-alignment of the Schroeder Way/Rose Lane intersection was developed to evaluate the feasibility of the improvement and the anticipated impact to private property and neighborhood character. If authorized by City staff, the second tier would involve surveying and preparing a vertical profile concept for the re-alignment of the intersection.
2. **Alternative 2** – Boeckman Creek Bridge/Kolbe Lane Widening
This alternative evaluated the widening of the existing Boeckman Creek Bridge and Kolbe Lane. The bridge is currently used only for pedestrian and emergency vehicle traffic. Widening the bridge will allow space for passenger vehicles. This alternative also includes converting the existing Schroder Way from a two-way street to one-way west bound to address safety concerns at its intersection with Rose Lane.

In regards to Alternative 1, the horizontal alignment for the Schroeder Way/Rose Lane intersection was increased to 100 feet from the back of the crosswalk at Wilsonville Road to the face of curb at the proposed intersection location. In addition, a tangent section was carried a minimum of 25 feet to the west of the intersecting right-of-way lines at the proposed intersection. The 25-foot tangent section was the limiting factor in determining the placement of the proposed intersection face of curb.

The intersection improvement will create a significant impact to the property located at the southwest corner of the proposed intersection (Exhibit B) and neighborhood character. The City will need to acquire 2,400 square feet of right-of-way and remove approximately 30 mature trees to complete the proposed intersection improvement. After reviewing the intersection analysis, City staff determined the impacts were too significant to pursue further analysis. Although detailed construction costs for the alternative were not developed, it was estimated to be in the \$650,000 to \$1,000,000 range to construct the improvement which includes necessary Rose Lane/Wilsonville Road intersection re-grading work.

Alternative 2 entailed two options for widening the bridge, which included 20-foot and 30-foot wide concepts. In both concepts, the southern boundary of the existing bridge was maintained with widening extended to the north. The 20-foot bridge concept could incorporate one 14-foot travel lane to be shared for both directions with a 6-ft striped pedestrian lane; whereas, the 30-foot bridge concept would create two 12-foot drive aisles and a 6-foot pedestrian lane.

Preliminary construction cost estimates were developed for both options. The 20-foot concept was estimated to cost \$300,000, compared to the 30-foot concept estimate of \$470,000. Exhibit A contains a detailed breakdown of the cost estimates. City staff reviewed the concepts and suggested an alternative 24 feet wide bridge concept that would provide two 12-foot travel lanes to be shared with pedestrians. The consultant prepared a rough order of magnitude cost estimate for the 24-foot concept, which is approximately \$390,000.

If the bridge is widened, there will be impact to the Boeckman Creek natural resource for which mitigation likely will be required. It will probably take a year to complete the design and permitting for the bridge widening. If it is decided to expand the scope of the parking lot project, the bridge widening will need to be added to the Memorial Park Capital Improvement Projects list.

Alternative 3

Although not an alternative initially considered by the consultants, in brainstorming with other staff and taking into account citizen concerns and suggestions, City staff has come up with a third alternative that the project team believes is a great solution that provides a safe route, manages traffic flow, has minimal impact on the neighborhood and can be accomplished for a lesser cost. Therefore, staff recommends as follows:

The third alternative, not included in the formal alternatives analysis, would retain the bridge in its current width and configuration, which would provide one lane for two-way traffic (including vehicles, walkers, and cyclists) over the bridge (stop controlled on each end of the bridge). Due

to the short bridge length, low traffic volumes, and sufficient sight distance, this alternative would be a safe and feasible approach. Staff recommends this option because it provides a suitable access and has the least impact in terms of cost, neighborhood character, natural resources, and delays to the project timeline.

EXPECTED RESULTS: The consultant will prepare preliminary and final construction plans for the parking lot project based on tonight's guidance from City Council.

TIMELINE: Staff expects the project will be presented to the DRB in early fall, 2017 and completed by the fall of 2018.

CURRENT YEAR BUDGET IMPACTS: The consultant contract fee for the project services is \$98,469. In FY 2017-18, Project #9132 is budgeted at \$759,500, of which \$580,000 has been set aside for design and construction of the parking lot project. Alternative 3 most likely could be accommodated within this allocation. The other two alternatives would be beyond this current allocation.

FINANCIAL REVIEW / COMMENTS:

Reviewed by: SCole Date: 7/20/2017

LEGAL REVIEW / COMMENT:

Reviewed by: BAJ Date: 7/21/2017

COMMUNITY INVOLVEMENT PROCESS: In developing the Memorial Park Master Plan, the community involvement process included an electronic City-wide survey, stakeholder meetings, three open houses, and Website communications. The public input informed the location of facilities in the park, which included relocating the Dog Park near the Community Garden.

The consultant team and staff developed a fact sheet about the project. Targeted mailings have been sent to the surrounding neighborhood on Kolbe Lane, Schroeder Way, Rose Lane and Montgomery Way. These neighbors were invited to attend the Parks and Recreation Advisory Board and City Council meetings, or provide any comments to City staff in lieu of attending the meetings. In addition, a webpage has been developed for the project (<http://www.ci.wilsonville.or.us/873/Memorial-Park-Dog-Park---Community-Garden>), which will be periodically updated.

Several citizens have provided testimony to the City Council which is included in the public record and is available upon request.

POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY (businesses, neighborhoods, protected and other groups): As described in the Memorial Park Master Plan, the project will provide parking for the relocated Dog Park and the existing Community Garden. Without the parking lot improvements, it would not be possible to relocate the Dog Park.

Every effort will be made to minimize the disruption to the surrounding neighborhood and park

users caused by the parking lot construction. Construction phasing and sequencing will be used to maintain access to the Community Garden and minimize impacts to the residents in the area. Signage and other information will keep the public informed about the project.

ALTERNATIVES: Three concept plans were developed for the parking lot project. The preferred concept was selected by the Parks and Recreation Advisory Board.

CITY MANAGER COMMENT:

ATTACHMENTS:

Exhibit A – AKS Alternatives Memo

Exhibit B - Photos

TUALATIN · VANCOUVER · SALEM-KEIZER



WWW.AKS-ENG.COM

12965 SW HERMAN RD., SUITE 100 · TUALATIN, OR 97062

P: (503) 563-6151 F: (503) 563-6152

Street Improvement Alternatives Memo – Rev 1

Date: April 28, 2017

To: Tod Blankenship

From: John Christiansen, P.E.

Project: Memorial Park Community Garden and Dog Park Parking Lot

Site Location: 7524 SW Schroeder Way, Wilsonville OR, 97070



RENEWAL DATE: 12/31/17

Introduction:

In accordance with the existing contract between AKS and the City of Wilsonville, AKS has begun developing engineering and design work for a parking lot that will serve the City of Wilsonville Memorial Park Dog Park and Community Garden as part of the implementation of the May 2015, Memorial Park Master Plan. Three distinct concepts have been prepared by AKS. Each of the three parking lot layouts were designed with access from SW Schroeder Way.

The three concepts were presented to the Parks and Rec Advisory Board (PRAB) on January 4, 2017. Concerns were raised regarding the potential impact of additional traffic on SW Schroeder Way, specifically to the safety of the intersection between SW Schroeder Way and SW Rose Lane (further description of the intersection is provided in the Existing Conditions section of this memo). Ultimately, the PRAB requested that an additional design concept be developed for review, wherein access to the parking lot would be taken from SW Rose Lane rather than SW Schroeder Way.

Design concept 3A, showing parking lot access from SW Rose Lane was developed and presented to the PRAB on February 2, 2017. The alternate design raised similar concerns as the previous concept—that the safety of the existing intersection at SW Schroeder Way/SW Rose Lane would continue to be an issue given the additional traffic that the parking facility would create. The PRAB made a motion to proceed with design concept 3 (see attached), provided that transportation safety improvements be analyzed for the SW Schroeder Way/SW Rose Lane intersection and explore using the existing bridge and Kolbe Lane for access.

AKS and the City of Wilsonville project team collaborated to develop two design alternatives to address the concerns raised regarding the safety of the local streets utilized to access the proposed parking area.

Alternative 1—Schroeder Way/Rose Lane Intersection Improvement

The primary objective of this alternative was to increase the intersection spacing between SW Wilsonville Road and SW Schroeder Way along SW Rose Lane.

Alternative 2—Boeckman Creek Bridge Widening

The objective of this alternative was to widen the existing Boeckman Creek Bridge that connects SW Kolbe Lane and SW Schroeder Way. The bridge is currently used for pedestrian and emergency vehicle traffic only. Widening the bridge will allow support for passenger vehicle traffic as well. In addition to widening the bridge, this design would include signing SW Schroeder Way as a one-way west bound street.

Existing Conditions

SW Wilsonville Road/SW Rose Lane and SW Schroeder Way/SW Rose Lane Intersections

Per the “Memorial Park Transportation Study Memorandum” prepared by DKS Associates dated December 14, 2016,

“the existing configuration and proximity of the SW Wilsonville Road/SW Rose Lane and SW Rose Lane/SW Schroeder Way study intersections is not ideal for motor vehicle sight distance lines and safety. Since SW Rose Lane is a local street, the City of Wilsonville’s Transportation System Plan does not provide access spacing standards, however the City’s Public Works Standards do require a minimum 100 feet of space (curb face to driveway) from the nearest intersection for commercial developments (which this use is somewhat similar to). Presently Schroeder Way is approximately 45 feet from SW Wilsonville Road”.

The primary concern with respect to this intersection is the inadequate sight distance for vehicles traveling eastbound on SW Schroeder Way attempting to turn left onto SW Rose Lane, due to the close proximity of SW Schroeder Way to SW Wilsonville Road. In addition, there is currently no pedestrian access from SW Wilsonville Road to SW Schroeder Way along SW Rose Lane.

Boeckman Creek Bridge

The existing Boeckman Creek Bridge connecting SW Kolbe Lane to the west and SW Schroeder Lane to the east has a 12-ft wide driving surface. The wood bridge structure currently serves pedestrian and bicycle and emergency vehicle use only.

Transportation Improvement Alternatives Analysis

Alternative 1 – Schroeder Way/Rose Lane Intersection

It was agreed by AKS and the City of Wilsonville that the design approach for this alternative would consist of two tiers. The first tier consisted of AKS developing a horizontal concept for the re-alignment of the SW Schroeder Way/SW Rose Lane intersection to evaluate the feasibility of the improvement and the anticipated impacts to private properties. The second tier of the design process consists of surveying and preparing a vertical concept for the re-alignment of the intersection, if authorized by City staff. The SW Schroeder Way/SW Rose Lane alignment improvements were developed utilizing the City of Wilsonville Public Works Standards—2015, the Clackamas County Roadway Standards—2013, and recommendations prepared by transportation engineering firm, DKS Associates.

Intersection Separation:

Per DKS Associates’ recommendation, a minimum of 100 feet was maintained along SW Rose Lane from the back of the crosswalk at SW Wilsonville Road to the face of curb at the SW Rose Lane/SW Schroeder Lane intersection. A tangent section was carried a minimum of 25-ft to the west of intersecting right-of-way lines (City of Wilsonville Public Works Standards—2015, Section 2, Page 82) at the proposed SW Schroeder Way/SW Rose Lane intersection. The 25-ft tangent section was the limiting factor in

determining the distance from the SW Wilsonville Road crosswalk to the proposed intersection face of curb as reference above.

Street Design:

The proposed street section was designed with a 49-ft right-of-way and 28-ft pavement width (City of Wilsonville Residential Street detail, RD-1015). The proposed street maintained the minimum 185-ft centerline radius (City of Wilsonville Public Works Standards—2015, Section 2, Page 79, Table 2.6). Curb radii were designed with the minimum 28-ft turning radii (City of Wilsonville Public Works Standards—2015, Section 2, Page 83, Table 2.10). In determining the degree of taper of the road striping, the equation:

$$L=WS^2/60$$

was used, where

L=length of minimum taper length (ft)

S=design speed (MPH)

W=offset (shift) width (ft)

(Clackamas County Roadway Standards—2013, Section 250.6.4, page 56)

A combination of field measurements and aerial photographs were used in determining the existing pavement width along SW Schroeder Lane as it approaches SW Rose Way, as well as the location of existing utilities. An intersection improvement concept plan is provided as an attachment to this memorandum.

The intersection improvement will result in a significant impact to tax lot 31W 24A 3900 at 30075 SW Rose Lane. The City of Wilsonville will need to acquire 2,400 square feet of right-of-way from the property owner in order to achieve the proposed street improvement. The area of land in question is primarily covered in large pine trees that will need to be removed.

The concept was submitted to the City of Wilsonville staff and the feedback provided to AKS concluded that the concept is problematic because of significant property and tree removal impacts. While detailed construction costs for this alternative were not developed, the cost is expected to have significant budget impacts as well. The City estimates the cost to be in the \$650,000 to \$1 million range when the necessary vertical alignment reconfiguration at the intersection of Wilsonville Road is factored in.

Alternative 2 – Boeckman Creek Bridge Widening

The Boeckman Creek Bridge widening alternative was evaluated with two options. A 20-ft wide concept and a 30-ft wide concept were developed. In both designs, the southern boundary of the existing bridge was maintained, and the widening occurred to the north. This decision was made in order to avoid existing utilities located to the south. The 20-ft widening concept makes use of the entire 20-ft width as drive aisle (or part of the 20 feet could be marked for pedestrian leaving a narrower vehicle lane. The 30-ft widening concept creates two 12-ft drive aisles and a 6-ft pedestrian path along the northern limit of the bridge. Three primary parties were involved in the design concept:

AKS – AKS Civil Design/Engineering and Natural Resources

KPFF – Structural substructure

Western Wood Structures – Structural Bridge

In determining the degree of taper of the road striping, the equation:

$$L=WS^2/60$$

was used, where

L=length of minimum taper length (ft)

S=design speed (MPH)

W=offset (shift) width (ft)

(Clackamas County Roadway Standards—2013, Section 250.6.4, page 56)

Pavement tapers are used in the 30-ft bridge concept to match the proposed pavement back to the existing 24-ft roadway on SW Kolbe Lane to the west of the bridge, and to the existing 20-ft roadway on SW Schroeder Way to the east of the bridge. A combination of field measurements and aerial photographs were used in determining the existing pavement width along SW Kolbe Lane and SW Schroeder Lane on either side of the bridge, the location of the existing 12-ft bridge, as well as the location of existing utilities.

A preliminary analysis of the potential wetland impacts caused by each of the Boeckman Creek bridge widening concepts was completed by AKS staff and summarized in the 'Memorial Park Bridge Expansion Project – Natural Resource Permitting' letter which is attached to this memorandum. The 30-ft bridge expansion concept will require relocating existing utilities within the wetland, triggering additional permitting. Further research will be required to determine whether the wetland impacts associated with the project will be temporary or permanent.

AKS performed preliminary construction cost estimates for both the 20-ft and 30-ft bridge widening alternatives. The preliminary construction costs for the 20-ft bridge concept totals approximately \$300,000, compared to the 30-ft bridge concept which totals approximately \$470,000. A detailed breakdown of these costs is attached.

Following an initial review, the City requested AKS to prepare a rough order of magnitude cost estimate for a 24-ft bridge widening alternative. A detailed cost estimate was not prepared but based on the anticipated costs of the 20-ft and 30-ft wide concepts, we estimate the 24-ft wide bridge cost to be approximately \$390,000.

Closing Statement

After preliminary analysis was completed on the two alternatives presented, the City of Wilsonville has determined that Alternative 1 - Schroeder Way/Rose Lane Intersection Improvement, is not desirable because of significant impacts. The City will now consider AKS' preliminary analysis of Alternative 2 – Boeckman Creek Bridge Widening, to determine the feasibility of the 20-ft widening concept plan and the 30-ft widening concept plan. The associated cost estimates for both are attached.

List of Attachments:

- Preliminary Construction cost estimate
- Community Garden Parking Area, concept 3
- Schroeder Intersection Improvement concept plan
- 20-ft widening Boeckman Creek Bridge concept plan
- 30-ft widening Boeckman Creek Bridge concept plan
- Natural Resources permitting memo
- KPFF structural documents – sketches and cost estimate
- Budgetary Quote from Western Wood Structures

AKS ENGINEERING & FORESTRY, LLC.

12965 SW HERMAN ROAD, SUITE 100
TUALATIN, OREGON 97062
503-563-6151

**ENGINEER'S PRELIMINARY CONSTRUCTION COST ESTIMATE - Rev 1****MEMORIAL PARK BRIDGE IMPROVEMENTS**

Date: April 28, 2017

Job No.: 5603
Estimate By: NAD
Checked By: JPC

20' BRIDGE WIDENING CONCEPT

HARD COSTS	
BRIDGE SUPERSTRUCTURE	\$83,200.00
BRIDGE SUBSTRUCTURE	\$94,000.00
CIVIL INFRASTRUCTURE	\$49,157.68
TOTAL HARD COST	\$226,357.68

SOFT COSTS	
CIVIL/SURVEY/NATURAL RESOURCES	\$32,955.00
STRUCTURAL - BRIDGE SUBSTRUCTURE	\$29,000.00
PERMIT FEES (5% OF HARD COST)	\$11,317.88
TOTAL SOFT COST	\$73,272.88

TOTAL	\$299,630.56
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30' BRIDGE WIDENING CONCEPT

HARD COSTS	
BRIDGE SUPERSTRUCTURE	\$109,000.00
BRIDGE SUBSTRUCTURE	\$122,700.00
CIVIL INFRASTRUCTURE	\$136,398.01
TOTAL HARD COST	\$368,098.01

SOFT COSTS	
CIVIL/SURVEY/NATURAL RESOURCES	\$46,241.00
STRUCTURAL - BRIDGE SUBSTRUCTURE	\$36,000.00
PERMIT FEES (5% OF HARD COST)	\$18,404.90
TOTAL SOFT COST	\$100,645.90

TOTAL	\$468,743.91
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1. The unit prices shown here are based on engineering experience and do not represent actual contractor bids. Actual contractor bids may vary significantly.
2. This estimate does not include:
 - Measures to Control High Groundwater
 - Hard Rock or Boulder Excavation
 - Remediation for Unstable Soil Conditions
3. Quantities listed here are approximate.
4. This estimate does not include items not specifically listed.
5. This estimate is based on conceptual site plans which have not been approved and is intended for budgetary purposes.
6. All costs include a 30% contingency.

ENGINEER'S ESTIMATE - PRELIMINARY

Memorial Park Street Improvements - 20' BRIDGE WIDENING

Civil Improvements Hard Costs

ITEM #	SITE WORK AND EROSION CONTROL	QUANTITY	UNIT	UNIT PRICE	COST
	SITE WORK				
1	Mobilization (10%)	1	L.S.	\$3,437.60	\$3,437.60
2	Traffic Control	1	L.S.	\$500.00	\$500.00
3	Clearing and Grubbing	1	L.S.	\$2,800.00	\$2,800.00
4	Grading - General Excavation and Haul	100	C.Y.	\$25.00	\$2,500.00
5	Embankment - Import Granular	25	C.Y.	\$45.00	\$1,125.00
6	Removal of Structures and Obstructions	1	L.S.	\$2,000.00	\$2,000.00
7	Slope Matting with Seed	1000	S.F.	\$3.50	\$3,500.00
	EROSION CONTROL				
8	Erosion Control	1	L.S.	\$4,000.00	\$4,000.00
	STREETS				
9	HMAC Level 2, 1/2" Dense Graded (4")	77	T.N.	\$85.00	\$6,579.00
10	Aggregate Leveling Course, 3/4"-0 (2")	344	S.Y.	\$3.00	\$1,032.00
11	Aggregate Base Course, 1-1/2"-0" (8")	344	S.Y.	\$10.00	\$3,440.00
	MISC				
12	Signage	5	EA.	\$500.00	\$2,500.00
13	Street Lights	2	EA.	\$2,200.00	\$4,400.00
	Subtotal				\$37,813.60
	Contingency (30%)				\$11,344.08
	Hard Cost Total w/ Contingency				\$49,157.68

CIVIL IMPROVEMENTS SOFT COSTS

Civil Design/Survey	\$20,000.00
Wetland Delineation	\$5,350.00
Contingency (30%)	\$7,605.00
Soft Cost Total with Contingency	\$32,955.00

CIVIL GRAND TOTAL WITH CONTINGENCY**\$82,113**

ENGINEER'S ESTIMATE - PRELIMINARY

Memorial Park Street Improvements - 30' BRIDGE WIDENING

Civil Improvements Hard Costs

ITEM #	SITE WORK AND EROSION CONTROL	QUANTITY	UNIT	UNIT PRICE	COST
SITE WORK					
1	Mobilization (10%)	1	L.S.	\$22,634.10	\$22,634.10
2	Traffic Control	1	L.S.	\$500.00	\$500.00
3	Clearing and Grubbing	1	L.S.	\$4,000.00	\$4,000.00
4	Grading - General Excavation and Haul	390	C.Y.	\$25.00	\$9,750.00
5	Embankment with Granular Import	60	C.Y.	\$45.00	\$2,700.00
6	Removal of Structures and Obstructions	1	L.S.	\$2,000.00	\$2,000.00
7	Slope Matting with Seed	1000	S.F.	\$3.50	\$3,500.00
EROSION CONTROL					
8	Erosion Control	1	L.S.	\$4,000.00	\$4,000.00
STREETS					
9	HMAC Level 2, 1/2" Dense Graded (4")	200	T.N.	\$85.00	\$17,000.00
10	Aggregate Leveling Course, 3/4"-0 (2")	842	S.Y.	\$3.00	\$2,526.33
11	Aggregate Base Course, 1-1/2"-0" (8")	842	S.Y.	\$10.00	\$8,421.11
MISC					
12	12" Culvert Relocation	17	L.F.	\$50.00	\$850.00
13	Water Main Replacement	60	L.F.	\$250.00	\$15,000.00
14	Buffer Landscaping	620	S.F.	\$6.00	\$3,720.00
15	Signage	5	EA.	\$500.00	\$2,500.00
16	Striping (Paint)	260	L.F.	\$2.50	\$650.00
17	Street Lights	2	EA.	\$2,200.00	\$4,400.00
18	Tree Removal	2	EA.	\$385.00	\$770.00
Subtotal					\$104,921.54
Contingency (30%)					\$31,476.46
Hard Cost Total with Contingency					\$136,398.01

CIVIL IMPROVEMENTS SOFT COSTS

Civil Design/Survey	\$25,000.00
Wetland Delineation	\$5,350.00
Natural Resource Permitting	\$5,220.00
Contingency (30%)	\$10,671.00
Soft Cost Total with Contingency	\$46,241.00

CIVIL GRAND TOTAL WITH CONTINGENCY**\$182,639**



AKS DRAWING FILE: 5603DMP_LAYOUT.DWG | LAYOUT: PLAN



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 WILSONVILLE, OR 97152
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 F: 503.563.6152
 aks-eng.com

**COMMUNITY GARDEN
 PARKING AREA**
 WILSONVILLE OREGON

CONCEPT 3

DESIGNED BY: JPC
 DRAWN BY: JPC
 CHECKED BY: JPC
 SCALE: AS NOTED
 DATE: 11/30/2016

REVISIONS

JOB NUMBER
5603
 SHEET
1 OF 1



AKS DRAWING FILE: SCHROEDER ROSE IMPROVEMENTS.DWG | LAYOUT: SCHROEDER & ROSE

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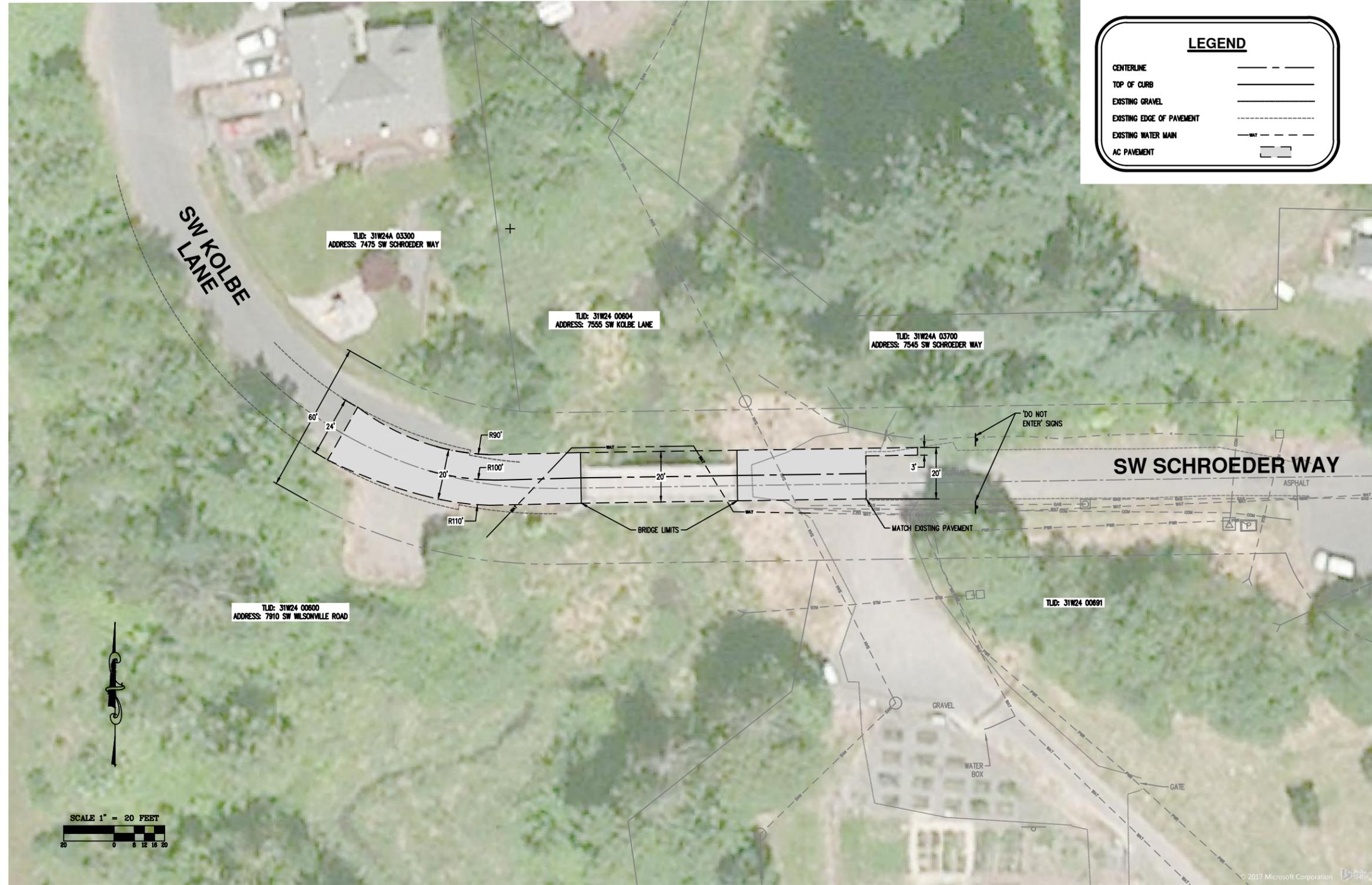
**COMMUNITY GARDEN
 PARKING AREA**
 WILSONVILLE OREGON

**SW SCHROEDER WAY & SW
 ROSE LANE INTERSECTION
 IMPROVEMENT**

DESIGNED BY: JPC
 DRAWN BY: JPC
 CHECKED BY: JPC
 SCALE: AS NOTED
 DATE: 03/17/2017

REVISIONS

JOB NUMBER
5603
 SHEET
1 OF 1



LEGEND	
CENTERLINE	---
TOP OF CURB	=====
EXISTING GRAVEL	-----
EXISTING EDGE OF PAVEMENT	-----
EXISTING WATER MAIN	---W---
AC PAVEMENT	=====

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**COMMUNITY GARDEN
 PARKING AREA**
 WILSONVILLE OREGON

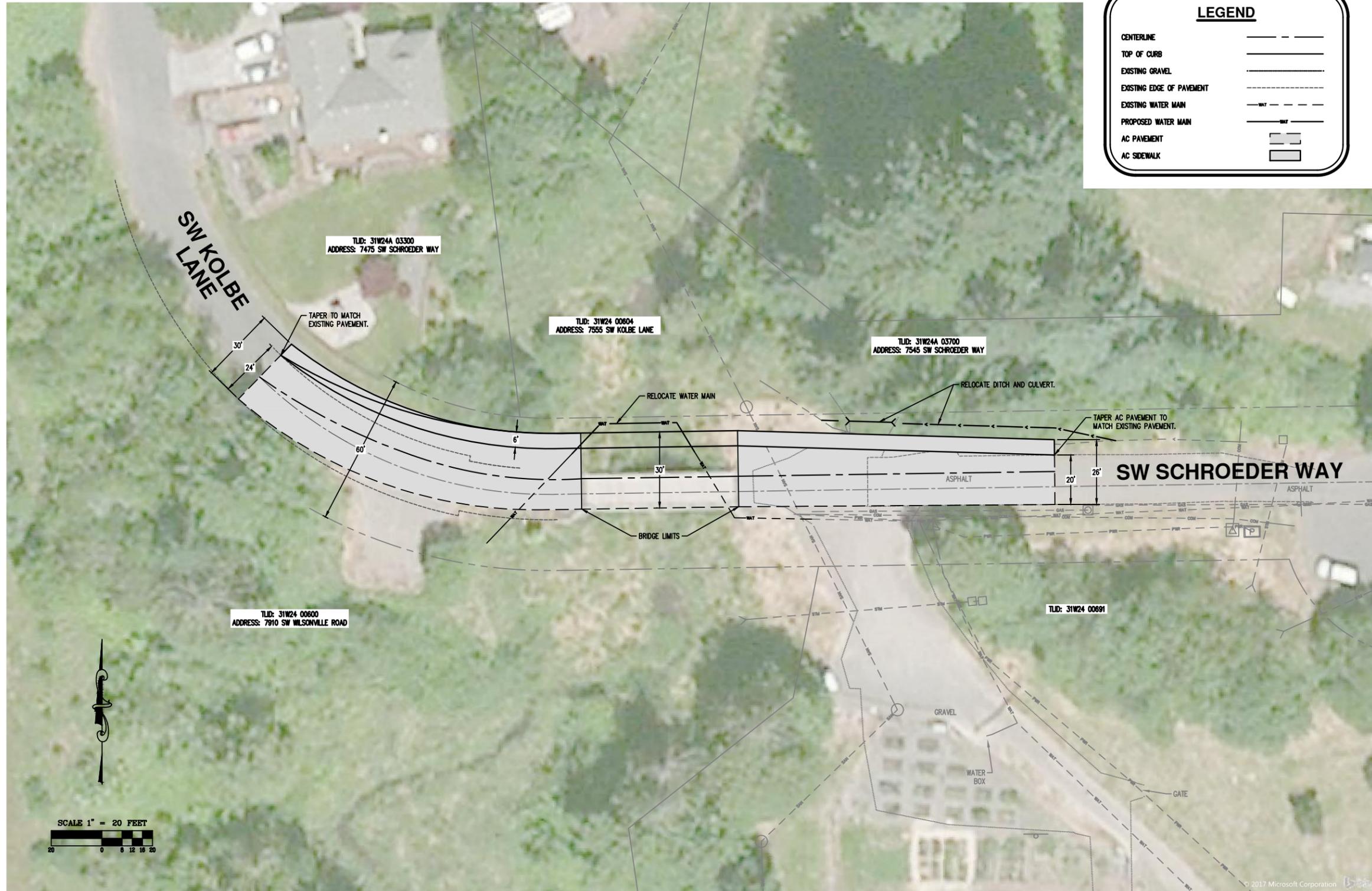
**PEDESTRIAN BRIDGE
 WIDENING - 20'
 CONCEPT PLAN**

DESIGNED BY: JPC
 DRAWN BY: NAD
 CHECKED BY: JPC
 SCALE: AS NOTED
 DATE:

REVISIONS

JOB NUMBER
5603

SHEET
1 OF 1



LEGEND	
CENTERLINE	---
TOP OF CURB	====
EXISTING GRAVEL	----
EXISTING EDGE OF PAVEMENT	- - - -
EXISTING WATER MAIN	---WAT---
PROPOSED WATER MAIN	---WAT---
AC PAVEMENT	▬▬▬▬
AC SIDEWALK	▬▬▬▬

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**COMMUNITY GARDEN
 PARKING AREA**
 WILSONVILLE OREGON

**PEDESTRIAN BRIDGE
 WIDENING - 30'
 CONCEPT PLAN**

DESIGNED BY: JPC
 DRAWN BY: NAD
 CHECKED BY: JPC
 SCALE: AS NOTED
 DATE:

REVISIONS

JOB NUMBER
5603

SHEET
1 OF 1

April 28, 2017

Kerry Rappold
Natural Resources Program Manager
City of Wilsonville
29799 SW Town Center Loop E
Wilsonville, OR, 9070
rappold@ci.wilsonville.or.us

RE: Memorial Park Bridge Expansion Project – Natural Resource Permitting

Dear Kerry,

The City of Wilsonville (City) is considering expanding an existing bridge over Boeckman Creek at SW Kolbe Lane in Memorial Park, Clackamas County, Oregon (Portions of Tax Lots 600 and 691 of T3S, R1W, Sec 24). This memorandum describes natural resource permitting constraints associated with the project.

Project Understanding

The project entails roadway improvements, including widening the existing 12-foot-wide bridge to approximately 20 or 30-feet to include the addition of a vehicular lane and sidewalk, which will improve access to the community garden, new parking area, and trails in the City Park. The bridge expansion can completely span the creek and wetlands utilizing the existing bridge footings. Widening of the existing bridge footings to accommodate the road improvements can occur parallel to the existing footings in upland. Trenching may be necessary across Boeckman Creek and/or adjacent wetland to facilitate re-alignment of an existing City water line.

Existing Natural Resources Mapping

The existing bridge is used primarily for pedestrian access with bollards that can be removed to allow for an additional vehicle lane. Multiple utility lines exist adjacent to the northern side of the existing bridge. A 24-inch public storm pipe, which conveys runoff from properties along Schroeder Way, outfalls into Boeckman Creek upslope of the bridge, and above the ordinary high water mark (OHWM) and the wetlands.

A palustrine forest/scrub-shrub (PFO/PSS) wetland is mapped along Boeckman Creek on the U.S. Fish and Wildlife's National Wetland Inventory (NWI) mapping. The City's Local Wetland Inventory (LWI) mapping depicts Boeckman Creek and wetlands adjacent to the bridge. Pacific Habitat Services (PHS) delineated wetlands and Boeckman Creek in the project area in 2006. The delineation received concurrence from Oregon Department of State Lands (DSL) in 2006 under DSL File WD#2006-0185. The DSL delineation concurrence expired in 2011. Since then, culverts have been replaced with a bridge at this site and immediately downstream, restoring fish passage to habitat 1.6 miles upstream of this site (DSL Permit #38487-GP and #36155-GA).

Boeckman Creek is directly connected to the Willamette River at the southern extent of the park, approximately 2,600 feet downstream of the Kolbe Lane bridge. According to a StreamNet and a survey of fish species in Boeckman Creek (ODFW 2006), the lower reach of Boeckman Creek, which includes the reach between the Willamette River and the bridge at Kolbe Lane, contains native migratory fish. Cutthroat trout and western brook lamprey are present year-round, with Chinook salmon present in winter only. However,

the reach of Boeckman Creek at SW Kolbe Lane is not mapped as Essential Salmonid Habitat (ESH) by Oregon Department of Fish and Wildlife (ODFW).

The project area is mapped within the City's Significant Resource Overlay Zone (SROZ).

Natural Resource Permitting Requirements

Since the previous DSL concurrence for the project site has expired, permitting may require an updated delineation concurrence.

A DSL or Corps permit will likely not be required for the bridge expansion, as the widening the existing bridge footings will not require removal or fill below the OHWM of Boeckman Creek or within wetland. However, trenching to replace existing utilities is likely necessary within the creek and/or wetland, should the bridge be expanded to 30 feet, which will trigger both DSL and Corps permitting. The bridge expansion is not expected to trigger an updated Fish Passage Plan for review by ODFW.

An individual removal-fill permit from DSL will be required if cumulative removal and fill volumes within the wetland or below the OHWM of Boeckman Creek exceeds 50 cubic yards for the utility realignment. All in-water work must occur in the ODFW in-water work period for Willamette River tributaries, between July 15 to October 15.

If the utility installation results in less than 0.50 acre of wetland and/or water impacts, the utility impacts may be authorized under the Corps Nationwide Permit (NWP) #12 for Utility Line Activities. A Pre-Construction Notification (PCN; i.e., preparation of a permit application) is required if impacts exceed 500 linear feet parallel to the creek, or impacts exceed 1/10th of an acre.

The project would likely require an Oregon Department of Environmental Quality (DEQ) 401 water quality certification for treatment of additional impervious areas.

The Corps permit will require review by National Oceanic and Atmospheric Administration (NOAA) for compliance with *Standard Local Operating Procedures for Endangered Species for Stormwater, Transportation and Utilities* (SLOPES V). Trenching within perennial streams for utility lines is not allowed under SLOPES V. Therefore, boring or drilling the utilities under Boeckman Creek may be required. Construction of new pavement that increases capacity of the road prism requires stormwater management for compliance with SLOPES V standards. Stormwater management is not required for portions of the project that only require resurfacing or overlay. SLOPES V stormwater management criteria for the new impervious areas includes: low-impact development methods, water quality treatment for post-construction runoff associated with new impervious areas for 50% of the cumulative rainfall from the 2-year 24-hour storm event, and detention to match pre-developed discharge rates between 50% of the 2-year event and the 10-year event.

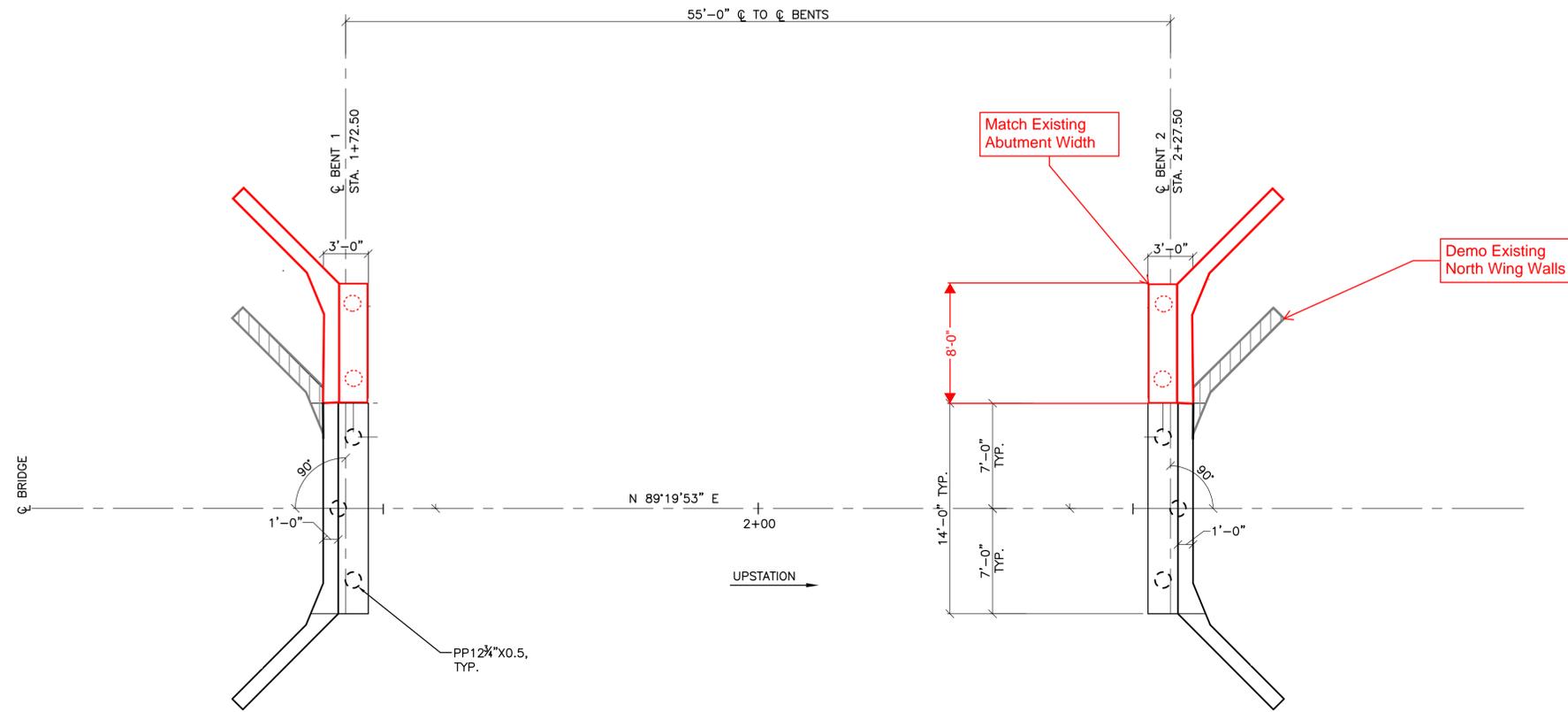
The utility line installation would likely only require temporary wetland or water impacts. However, if permanent wetland impacts occur, the site is located within the Foster Creek Wetland Mitigation Bank service area. The purchase of wetland mitigation bank credits can satisfy the compensatory wetland mitigation requirements. On-site riparian enhancement is an option for permanent water impacts. On-site permittee responsible mitigation will likely require a bond, deed restriction, and monitoring with DSL. Temporary wetland or water impacts will require a restoration plan.

The bridge widening, road improvements, and utility installation impacts within SROZ may be considered exempted uses per Section 4.139.04 of the City's Planning and Land Use Development Code. Exempted activities do not require a Significant Resource Impact Report (SRIR) review.

Sincerely,

A handwritten signature in black ink that reads "Stacy Reed". The signature is written in a cursive style with a large, looping 'S' and 'R'.

Stacey Reed, PWS
Senior Wetland Biologist
AKS ENGINEERING & FORESTRY, LLC



20' WIDE OPTION - FOUNDATION PLAN

FOUNDATION NOTES

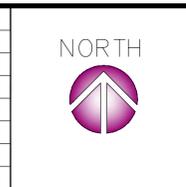
1. ALL BENTS PROVIDE 12x10x0.500", ASTM A252 GRADE 2 PILING DRIVEN CLOSED-ENDED TO AN ULTIMATE CAPACITY OF 165 KIPS PER PILE.
2. ESTIMATED PILE TIP ELEVATION FOR REQUIRED CAPACITY AT ALL BENTS IS ELEVATION 26 FT.
3. DRIVE ALL PILING TO THE SPECIFIED ULTIMATE CAPACITY USING DRIVING CRITERIA DEVELOPED FROM THE ODOT GATES EQUATION.
4. LOCATE EXISTING UTILITIES PRIOR TO COMMENCEMENT OF WORK. AVOID DAMAGING AND PROTECT AS REQUIRED.

Sketches by KPFF 3/28/2017

Notes:

- 1.) Conceptual design based on superstructure loading information provided by Western Wood Structures and geotechnical information provided by Foundation Engineering, Inc. memorandum dated May 3, 2007.
- 2.) Design based on assumption that new girders will land on new abutment. Existing abutment and girders to remain unchanged.

REVISION	DATE	DESCRIPTION	BY



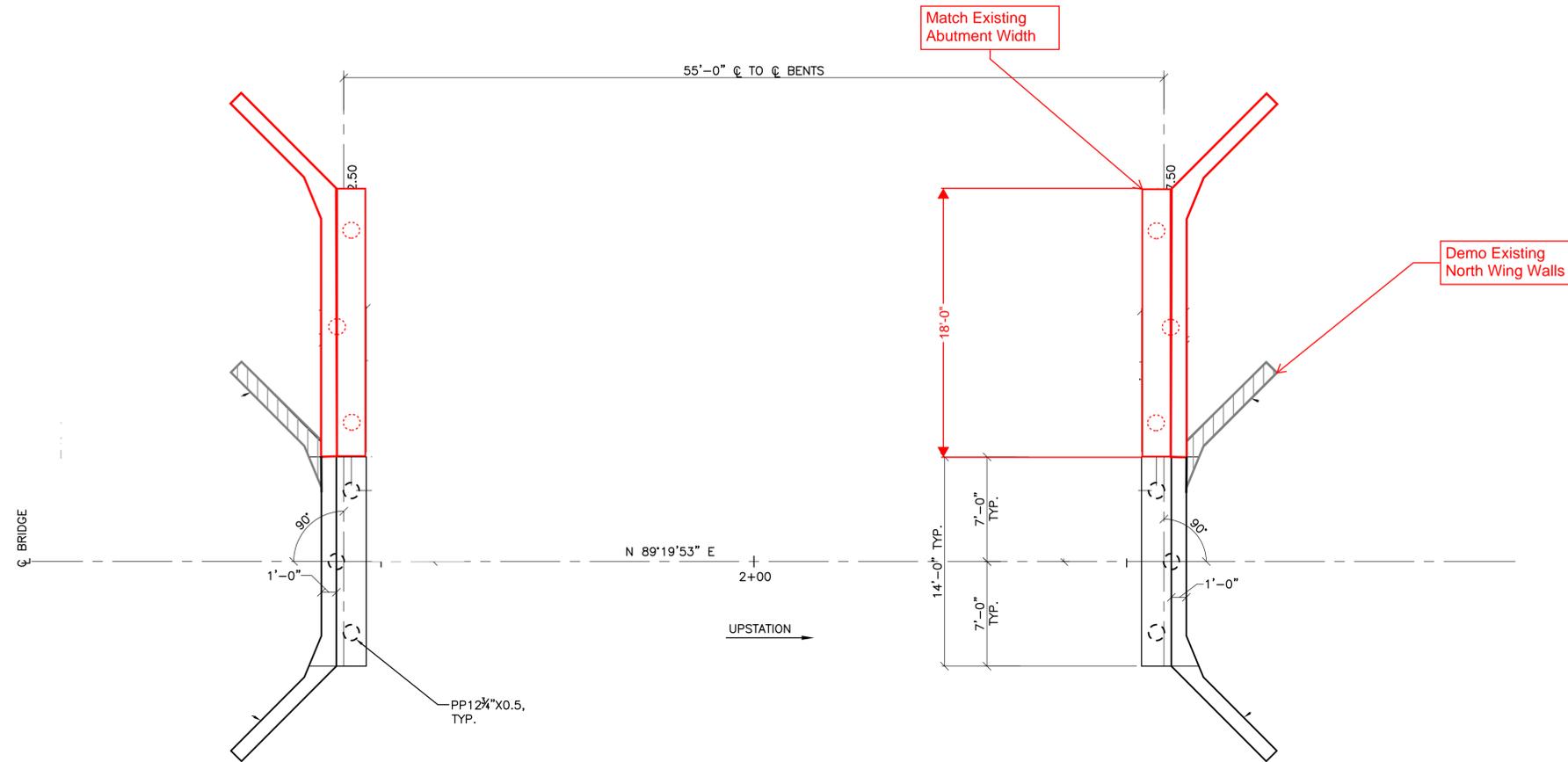
JOB No.:	207144
DESIGNED BY:	JSW / KJ
DRAWN BY:	JW
CHECKED BY:	CJT
PLOT DATE:	3/22/17 3:38pm
PLOTTED BY:	davids
DWG NAME:	14-207144.dwg
TAB NAME:	Layout1

City of Wilsonville, 28799 SW Town Center Loop E, Wilsonville, Oregon 97070

BOECKMAN CREEK FISH PASSAGE & STREAM RESTORATION PROJECT UPPER SITE (KOLBE LANE)

FOUNDATION PLAN

SHEET	14	OF	23
RECORD NO.			



30' WIDE OPTION - FOUNDATION PLAN

FOUNDATION NOTES

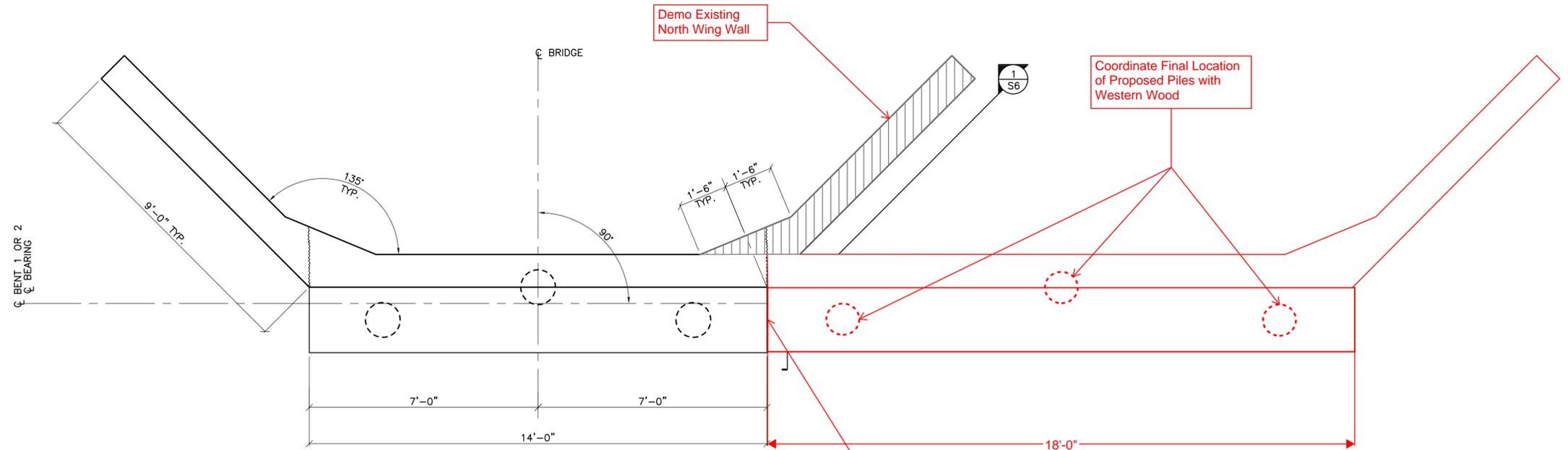
1. ALL BENTS PROVIDE 12x10.500", ASTM A252 GRADE 2 PILING DRIVEN CLOSED-ENDED TO AN ULTIMATE CAPACITY OF 165 KIPS PER PILE.
2. ESTIMATED PILE TIP ELEVATION FOR REQUIRED CAPACITY AT ALL BENTS IS ELEVATION 26 FT.
3. DRIVE ALL PILING TO THE SPECIFIED ULTIMATE CAPACITY USING DRIVING CRITERIA DEVELOPED FROM THE ODOT GATES EQUATION.
4. LOCATE EXISTING UTILITIES PRIOR TO COMMENCEMENT OF WORK. AVOID DAMAGING AND PROTECT AS REQUIRED.

Sketches by KPFF 3/28/2017

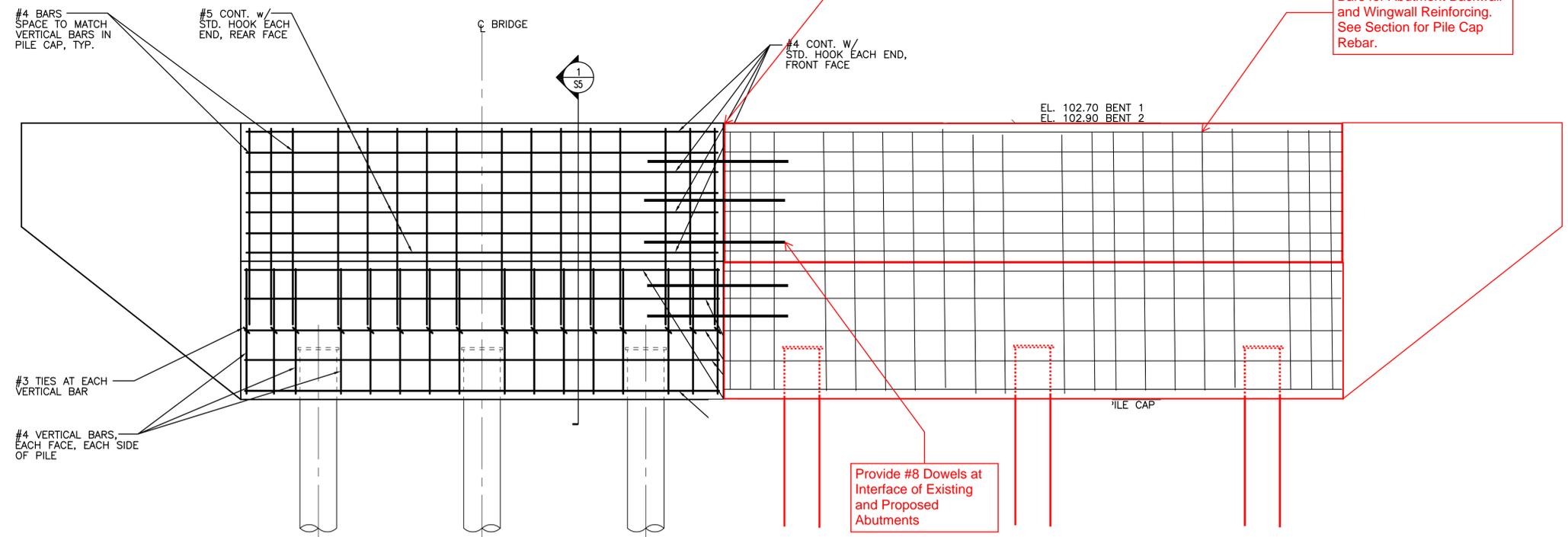
Notes:

- 1.) Conceptual design based on superstructure loading information provided by Western Wood Structures and geotechnical information provided by Foundation Engineering, Inc. memorandum dated May 3, 2007.
- 2.) Design based on assumption that new girders will land on new abutment. Existing abutment and girders to remain unchanged.

				 NORTH	 City of WILSONVILLE In OREGON	 Consulting Engineers	111 SW 5th Avenue Suite 2500 Portland, Oregon 97204 503-227-3251 Proj. No. 207144	JOB No.: 207144 DESIGNED BY: JSW / KJ DRAWN BY: JW CHECKED BY: CJT PLOT DATE: 3/22/17 3:38pm PLOTTED BY: davids DWG NAME: 14-207144.dwg TAB NAME: Layout1	City of Wilsonville, 28799 SW Town Center Loop E, Wilsonville, Oregon 97070 BOECKMAN CREEK FISH PASSAGE & STREAM RESTORATION PROJECT UPPER SITE (KOLBE LANE) FOUNDATION PLAN	SHEET NO. S3 SHEET 14 OF 23 RECORD NO.
REVISION	DATE	DESCRIPTION	BY							



PLAN - 30' WIDE OPTION - BENT 1 & 2
(20' WIDE OPTION SIMILAR)

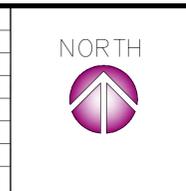


ELEVATION - 30' WIDE OPTION - BENT 1 & 2
(20' WIDE OPTION SIMILAR)

Sketches by KPFF 3/28/2017

- Notes:
- 1.) Conceptual design based on superstructure loading information provided by Western Wood Structures and geotechnical information provided by Foundation Engineering, Inc. memorandum dated May 3, 2007.
 - 2.) Design based on assumption that new girders will land on new abutment. Existing abutment and girders to remain unchanged.

REVISION	DATE	DESCRIPTION	BY



111 SW 5th Avenue
Suite 2500
Portland, Oregon 97204
503-227-3251
Proj. No. 207144

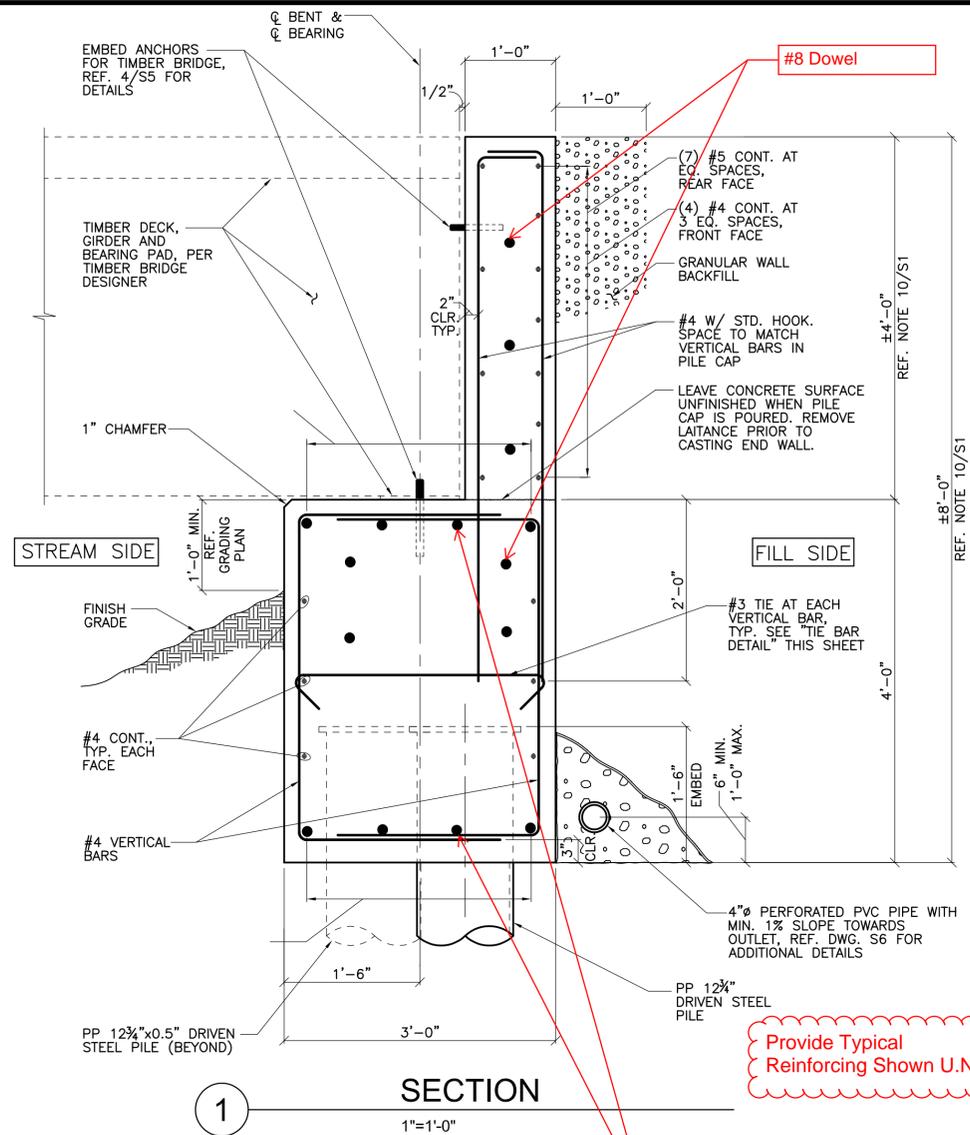
JOB No.:	207144
DESIGNED BY:	JSW / KJ
DRAWN BY:	JW
CHECKED BY:	CJT
PLOT DATE:	3/22/17 3:39pm
PLOTTED BY:	davids
DWG NAME:	15-207144.dwg
TAB NAME:	Layout1

City of Wilsonville, 28799 SW Town Center Loop E, Wilsonville, Oregon 97070

BOECKMAN CREEK FISH PASSAGE
& STREAM RESTORATION PROJECT
UPPER SITE (KOLBE LANE)

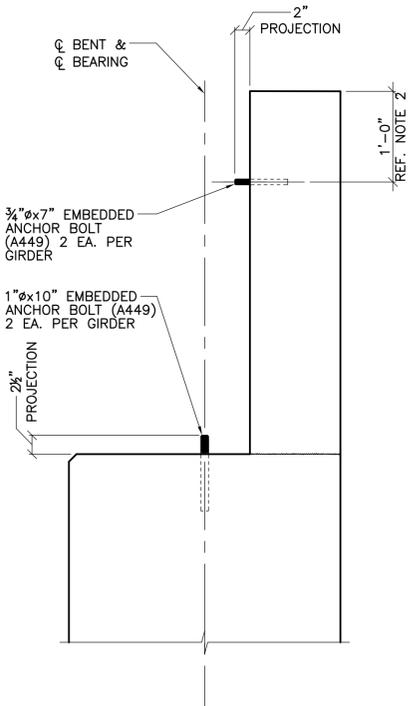
BENT 1 & 2 PLAN AND ELEVATION

SHEET	15	OF	23
RECORD NO.			



Provide Typical Reinforcing Shown U.N.O.

4 #8 Bars Top and Bottom



NOTES:
 1. PILE CAP AND BACK WALL REINFORCING NOT SHOWN.
 2. VERIFY ANCHOR BOLT DETAILS WITH APPROVED TIMBER BRIDGE SHOP DRAWINGS.

Sketches by KPFF 3/28/2017

Notes:
 1.) Conceptual design based on superstructure loading information provided by Western Wood Structures and geotechnical information provided by Foundation Engineering, Inc. memorandum dated May 3, 2007.
 2.) Design based on assumption that new girders will land on new abutment. Existing abutment and girders to remain unchanged.

REVISION	DATE	DESCRIPTION	BY



111 SW 5th Avenue
 Suite 2500
 Portland, Oregon 97204
 503-227-3251
 503-682-1011
 503-682-7025 fax
 Proj. No. 207144

JOB No.:	207144
DESIGNED BY:	JSW / KJ
DRAWN BY:	JW
CHECKED BY:	CJT
PLOT DATE:	3/22/17 3:39pm
PLOTTED BY:	davids
DWG NAME:	16-207144.dwg
TAB NAME:	Layout1

City of Wilsonville, 26799 SW Town Center Loop E, Wilsonville, Oregon 97070

BOECKMAN CREEK FISH PASSAGE & STREAM RESTORATION PROJECT
 UPPER SITE (KOLBE LANE)

BENT 1 AND 2 DETAILS

SHEET NO. S5
 SHEET 16 OF 23
 RECORD NO.



Prepared by: G. May, KPFF
3/30/2017

**BOECKMAN CREEK BRIDGE WIDENING - 30 FT OPTION
OPINION OF PROBABLE CONSTRUCTION COSTS**

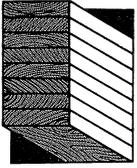
LINE #	ITEMS	UNIT	all unit costs incl. tax			NOTES
			Quantity	Unit Cost (\$/UNIT)	Amount (\$)	
	CONSTRUCTION COSTS					
	GENERAL					
1	MOBILIZATION	%		10%	\$9,000	% cost estimated by KPFF
	GENERAL SUBTOTAL				\$9,000	
	PP 12.75 X 0.5 PILE					
2	FURNISH PILE DRIVING EQUIPMENT	LUMP	1	\$15,000.00	\$15,000	Unit cost based on ODOT 2015 Bridge Cost Data
3	FURNISH PP 12 X 0.5 PILE	FT	510	\$40.00	\$20,400	Unit cost based on ODOT 2015 Bridge Cost Data
4	DRIVE PILES	EACH	6	\$1,250.00	\$7,500	Unit cost based on ODOT 2015 Bridge Cost Data
5	PILE SPLICES	EACH	6	\$350.00	\$2,100	Unit cost based on ODOT 2015 Bridge Cost Data
	PP 12.75 X 0.5 PILE SUBTOTAL				\$45,000	
	FOUNDATION CONCRETE					
6	FOUNDATION CONCRETE, CLASS 4000	CY	30	\$600.00	\$18,000	Unit cost based on ODOT 2015 Bridge Cost Data
7	UNCOATED STEEL REINFORCING	LB	6,000	\$1.50	\$9,000	Unit cost based on ODOT 2015 Bridge Cost Data
	FOUNDATION CONCRETE SUBTOTAL				\$27,000	
	STRUCTURE EXCAVATION & BACKFILL					
8	STRUCTURE EXCAVATION	CY	70	\$30.00	\$2,100	Unit cost based on ODOT 2015 Bridge Cost Data
9	STRUCTURAL BACKFILL	CY	20	\$80.00	\$1,600	Unit cost based on ODOT 2015 Bridge Cost Data
	STRUCTURE EXCAVATION & BACKFILL SUBTOTAL				\$3,700	
	CONCRETE DEMOLITION					
10	CONCRETE DEMOLITION	LUMP	1	\$10,000.00	\$10,000	Unit cost estimated by KPFF
	CONCRETE DEMOLITION SUBTOTAL				\$10,000	
	SUBSTRUCTURE CONSTRUCTION SUBTOTAL				\$94,700	
	CONTINGENCY			30%	\$28,000	
	SUBSTRUCTURE CONSTRUCTION TOTAL				\$122,700	
	INDIRECT SOFT CONSTRUCTION COSTS					
11	ENGINEERING FEE	%		15%	\$14,000	% cost estimated by KPFF
12	CONSTRUCTION ADMINISTRATION FEE	%		15%	\$14,000	% cost estimated by KPFF
	INDIRECT SOFT CONSTRUCTION COSTS SUBTOTAL				\$28,000	
	CONTINGENCY			30%	\$8,000	
	INDIRECT COST TOTAL				\$36,000	
	ESTIMATED SUBSTRUCTURE TOTAL				\$158,700	



Prepared by: G. May, KPFF
3/30/2017

**BOECKMAN CREEK BRIDGE WIDENING - 20 FT OPTION
OPINION OF PROBABLE CONSTRUCTION COSTS**

LINE #	ITEMS	UNIT	all unit costs incl. tax			NOTES
			Quantity	Unit Cost (\$/UNIT)	Amount (\$)	
	CONSTRUCTION COSTS					
	GENERAL					
1	MOBILIZATION	%		10%	\$7,000	% cost estimated by KPFF
	GENERAL SUBTOTAL				\$7,000	
	PP 12.75 X 0.5 PILE					
2	FURNISH PILE DRIVING EQUIPMENT	LUMP	1	\$15,000.00	\$15,000	Unit cost based on ODOT 2015 Bridge Cost Data
3	FURNISH PP 12 X 0.5 PILE	FT	340	\$40.00	\$13,600	Unit cost based on ODOT 2015 Bridge Cost Data
4	DRIVE PILES	EACH	4	\$1,250.00	\$5,000	Unit cost based on ODOT 2015 Bridge Cost Data
5	PILE SPLICES	EACH	4	\$350.00	\$1,400	Unit cost based on ODOT 2015 Bridge Cost Data
	PP 12.75 X 0.5 PILE SUBTOTAL				\$35,000	
	FOUNDATION CONCRETE					
6	FOUNDATION CONCRETE, CLASS 4000	CY	20	\$600.00	\$12,000	Unit cost based on ODOT 2015 Bridge Cost Data
7	UNCOATED STEEL REINFORCING	LB	4,000	\$1.50	\$6,000	Unit cost based on ODOT 2015 Bridge Cost Data
	FOUNDATION CONCRETE SUBTOTAL				\$18,000	
	STRUCTURE EXCAVATION & BACKFILL					
8	STRUCTURE EXCAVATION	CY	40	\$30.00	\$1,200	Unit cost based on ODOT 2015 Bridge Cost Data
9	STRUCTURAL BACKFILL	CY	10	\$80.00	\$800	Unit cost based on ODOT 2015 Bridge Cost Data
	STRUCTURE EXCAVATION & BACKFILL SUBTOTAL				\$2,000	
	CONCRETE DEMOLITION					
10	CONCRETE DEMOLITION	LUMP	1	\$10,000.00	\$10,000	Unit cost estimated by KPFF
	CONCRETE DEMOLITION SUBTOTAL				\$10,000	
	SUBSTRUCTURE CONSTRUCTION SUBTOTAL				\$72,000	
	CONTINGENCY			30%	\$22,000	
	SUBSTRUCTURE CONSTRUCTION TOTAL				\$94,000	
	INDIRECT SOFT CONSTRUCTION COSTS					
11	ENGINEERING FEE	%		15%	\$11,000	% cost estimated by KPFF
12	CONSTRUCTION ADMINISTRATION FEE	%		15%	\$11,000	% cost estimated by KPFF
	INDIRECT SOFT CONSTRUCTION COSTS SUBTOTAL				\$22,000	
	CONTINGENCY			30%	\$7,000	
	INDIRECT COST TOTAL				\$29,000	
	ESTIMATED SUBSTRUCTURE TOTAL				\$123,000	



WESTERN WOOD STRUCTURES, INC.

20675 S.W. 105th Ave.
Post Office Box 130
Tualatin, OR 97062-0130

Telephone: (503) 692-6900
Fax: (503) 692-6434

February 16, 2017

wysi@westernwoodstructures.com
www.westernwoodstructures.com

Kolbe Lane/Scheorder Way
Wilsonville, OR
WWS# 17-B-028

John P. Christiansen, PE – Associate
AKS Engineering & Forestry, LLC
Email: johnc@aks-eng.com

John:

As requested, WWS preliminary budget price to widen the above bridge is as follows:

20' Clear Between Curbs	Lump sum: \$42,500
2x12 Pressure Treated Wear Decking	Add: \$ 4,800
30' Clear Between Curbs	Lump sum: \$56,500
2x12 Pressure Treated Wear Decking	Add: \$ 6,100

Budget labor for WWS crews to perform the upgrade is as follows:

20' Wide (Clear Between Curbs)	Lump sum: \$35,900
30' Wide (Clear Between Curbs)	Lump sum: \$46,400

Conditions: We assume the concrete abutment and anchor bolts will be in place prior to our arrival. Extension of the existing abutment will be required.

Price does not include disposal or the offsite removal of the bridge parts not used. We assume the city of Wilsonville will want to keep the treated materials for future use.

Proposal assumes we can re-use the existing pedestrian rail system.

SPECIFICATIONS

DESIGN CRITERIA: Span: 56' out to out, Width: as shown clear between curbs, Live Load: HS20, Curb: 12" traffic curb and scupper.

GLULAM BEAMS: West Coast Douglas Fir, combination as required, Industrial appearance. 100% waterproof glue. Completely fabricated prior to treatment per Western Wood Structures shop drawings. GLULAMS to include additional girders, new deck panels and new curb system.

HARDWARE & STEEL: All galvanized hardware and steel required to connect the bridge superstructure together including base shoes, deck clips/screws, steel diaphragms and rod cross bracing and all miscellaneous nuts and bolts. Embedded steel not included.

SAWN LUMBER: Douglas Fir no.1, surface as required. Completely fabricated prior to treatment per Western Wood Structures shop drawings. Lumber to include 2x wear decking.

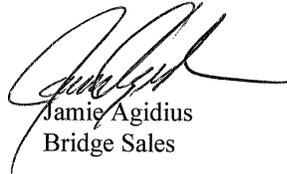
PRESSURE TREATMENT: Glulam stringers pressure treated with .4 Type A Penta per AWPA specifications.

SHOP DRAWINGS & CALCULATIONS: To be furnished by Western Wood Structures and stamped by a registered professional engineer state of Oregon.

Terms of Sale are Net Cash 30 days ADI, no retainage, based on approval of credit. Shipment can be made in approximately 7-8 weeks after approval of our shop drawings. This quotation is offered for your acceptance until March 17, 2017 and maybe subject to re-pricing after this date. Please verify this quotation is what was intended. Should inaccuracies exist, please notify WWS.

Thank you for your inquiry. Should you have questions or need further information, please do not hesitate and call (800) 547-5411 or e-mail jagidius@westernwoodstructures.com

Sincerely,
Western Wood Structures, Inc



Jamie Agidius
Bridge Sales



View of impacted property located on southwest corner of Schroeder Way/Rose Lane intersection



Hedgerow that would need be removed on Schroeder Way



Mature, Douglas fir, trees that would need to be removed

City of Wilsonville Proclamation

***Declaring the 17th day of August as
“Wilsonville Relay for Life Day”***



WHEREAS, the Relay For Life of Wilsonville has been raising money for the American Cancer Society for the past 16 years; and

WHEREAS, the funds raised for the American Cancer Society these last 16 years in Wilsonville totals \$444,368; and

WHEREAS, 168 cancer survivors have registered and participated in the walk, many more have attended the Relay For Life event; and

WHEREAS, funds raised during Relay for Life of Wilsonville enable the American Cancer Society to help people facing the disease today, educate people about how to reduce their risk for cancer or detect it early, and advance research that helps to protect future generations; and

WHEREAS, the American Cancer Society Relay For Life movement is the world’s largest fundraising event to fight every cancer in every community and unites communities across the globe to celebrate people who have battled cancer, remember loved ones and take action to finish the fight once and for all; and

WHEREAS, Relay For Life events world-wide helped fund more than \$257 million in cancer research in 2016;

NOW THEREFORE, I, Tim Knapp, as Mayor of the City of Wilsonville hereby do proclaim August 17, 2017, is “Wilsonville Relay For Life Day” in the city and urge my fellow citizens to attend the Relay For Life of Wilsonville and participate as you are able so we together can end cancer once and for all.

Dated this 7th day of August 2017.

Tim Knapp, Mayor

CITY COUNCIL ROLLING SCHEDULE

Board and Commission Meetings 2017

Items known as of 07/31/17

AUGUST

DATE	DAY	TIME	EVENT	LOCATION
8/9	Wednesday	1 p.m.	Wilsonville Community Seniors Inc.	Community Center
8/9	Wednesday	6 p.m.	Planning Commission - Cancelled	Council Chambers
8/10	Thursday	4:30 p.m.	Parks and Recreation Advisory Board Meeting	Parks and Rec Admin Offices
8/10	Thursday	6:30 p.m.	Library Board	Library
8/14	Monday	6:30 p.m.	DRB Panel A - Cancelled	Council Chambers
8/21	Monday	7 p.m.	City Council Meeting	Council Chambers
8/23	Wednesday	6:30 p.m.	Library Board – Rescheduled 8/10	Library
8/28	Monday	6:30 p.m.	DRB Panel B	Council Chambers

Community Events

- 8/10 Rotary Concert – Town Center Park 6:30 p.m., Radical Revolution
- 8/11 Movies in the Park – *Moana* Memorial Park River Shelter at dusk
- 8/12 Wilsonville Brewfest – Piazza Villebois. 12-8 p.m.
- 8/16 Community Block Party – Town Center Park 5-8 p.m.
- 8/17 Relay for Life – Town Center Park 6-10 p.m.
- 8/25 Movies in the Park – *Lego Batman Movie*, Memorial Park River Shelter at dusk



**CITY COUNCIL MEETING
STAFF REPORT**

Meeting Date: August 7, 2017		Subject: Ordinance No. 807 Annexation of approximately 2,206 square feet of territory on the south side of SW Advance Road	
		Staff Member: Kimberly Rybold, AICP, Associate Planner Department: Community Development	
Action Required		Advisory Board/Commission Recommendation	
<input checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Public Hearing Date: <input checked="" type="checkbox"/> Ordinance 1 st Reading Date: August 7, 2017 <input checked="" type="checkbox"/> Ordinance 2 nd Reading Date: August 21, 2017 <input type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input type="checkbox"/> Not Applicable Comments: Following their review at the July 24, 2017 meeting, the Development Review Board, Panel B recommends approving the requested annexation.	
Staff Recommendation: Staff recommends that Council adopt Ordinance No. 807.			
Recommended Language for Motion: I move to adopt Ordinance No. 807 on the 1 st reading.			
Project / Issue Relates To: Annexation			
<input type="checkbox"/> Council Goals/Priorities	<input type="checkbox"/> Adopted Master Plan(s)	<input checked="" type="checkbox"/> Not Applicable	

ISSUE BEFORE COUNCIL: Approve or deny Ordinance No. 807 to annex approximately 2,206 square feet on the south side of SW Advance Road west of SE 63rd Avenue.

EXECUTIVE SUMMARY: The subject property was acquired by the West Linn-Wilsonville School District in order to complete the required improvements for SW 63rd Avenue. This road will provide access to Meridian Creek Middle School, which is currently under construction,

along with a public park that is planned on the east side of SW 63rd Avenue. Annexation of this property will allow for dedication of the right-of-way to the City of Wilsonville. A minor UGB amendment was recently approved by Metro to bring the 2,206 square-foot site into the UGB.

EXPECTED RESULTS: Adoption of Ordinance No. 807.

TIMELINE: The annexation shall become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

CURRENT YEAR BUDGET IMPACTS: None anticipated

FINANCIAL REVIEW / COMMENTS:

Reviewed by: Date:

LEGAL REVIEW / COMMENT:

Reviewed by: Date:

COMMUNITY INVOLVEMENT PROCESS: The required public hearing notices have been sent.

POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY (businesses, neighborhoods, protected and other groups): Ordinance No. 807 will support the provision of access to Meridian Creek Middle School and the future park planned to the east of SW 63rd Avenue.

ALTERNATIVES: There are no feasible alternatives.

CITY MANAGER COMMENT:

ATTACHMENTS:

Exhibit A – Ordinance No. 807 and Attachments:

Attachment 1 – Legal Description and Sketch Depicting Land/Territory to be Annexed

Attachment 2 – Petition and Land Owner Signature

Attachment 3 – Annexation Findings, July 24, 2017.

Attachment 4 – Development Review Board Panel ‘B’ Resolution No. 338
Recommending Approval of Annexation

ORDINANCE NO. 807

AN ORDINANCE OF THE CITY OF WILSONVILLE ANNEXING APPROXIMATELY 2,206 SQUARE FEET OF TERRITORY ON THE SOUTH SIDE OF SW ADVANCE ROAD INTO THE CITY LIMITS OF THE CITY OF WILSONVILLE, OREGON. THE TERRITORY IS MORE PARTICULARLY DESCRIBED AS A PORTION OF TAX LOT 2100 OF SECTION 18, T3S, R1W, CLACKAMAS COUNTY, OREGON, WEST LINN-WILSONVILLE SCHOOL DISTRICT, OWNER.

WHEREAS, The West Linn-Wilsonville School District is the sole owner of certain real property legally described and depicted in Attachment 1 on which no persons or electors reside; and

WHEREAS, consistent with ORS 222.111 (2) a proposal for annexation was initiated by petition by the School District, as owner of all real property in the territory to be annexed; and

WHEREAS, the land to be annexed is within the Urban Growth Boundary; and

WHEREAS, the land to be annexed is contiguous to the City and can be served by City services; and

WHEREAS, ORS 227.125 authorizes the annexation of territory based on consent of all owners of land and a majority of electors within the territory and enables the City Council to dispense with submitting the question of the proposed annexation to the electors of the City for their approval or rejection; and

WHEREAS, Panel B of the Development Review Board considered the annexation and after a duly advertised public hearing held on July 24, 2017 recommended City Council approve the annexation; and

WHEREAS, on August 7, 2017, the City Council held a public hearing as required by Metro Code 3.09.050; and

WHEREAS, reports were prepared and considered as required by law; and because the annexation is not contested by any party, the City Council chooses not to submit the matter to the voters and does hereby favor the annexation of the subject tract of land based on findings, conclusions, Development Review Board's recommendation to City Council; and

WHEREAS, the annexation is not contested by any necessary party;

NOW, THEREFORE, THE CITY OF WILSONVILLE DOES ORDAIN AS FOLLOWS:

Section 1. The tract of land, described and depicted in Attachment 1, is declared annexed to the City of Wilsonville.

Section 2. The findings and conclusions incorporated in Attachment 3 are adopted. The City Recorder shall immediately file a certified copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.050(g) and ORS 222.005. The annexation shall become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

SUBMITTED to the Wilsonville City Council and read the first time at a meeting thereof on the 7th day of August 2017, and scheduled the second reading on August 21, 2017 commencing at the hour of 7:00 p.m. at the Wilsonville City Hall, 29799 Town Center Loop East, Wilsonville, OR.

Kimberly Veliz, City Recorder

ENACTED by the City Council on the ____ day of ____, 2017 by the following votes:

Yes:____ No: ____

Kimberly Veliz, City Recorder

DATED and signed by the Mayor this _____ day of ____, 2017.

TIM KNAPP, Mayor

SUMMARY OF VOTES:

Mayor Knapp

Council President Starr

Councilor Stevens

Councilor Lehan

Councilor Akervall

Attachments:

Attachment 1 – Legal Description and Sketch Depicting Land/Territory to be Annexed

Attachment 2 – Petition for Annexation

Attachment 3 – Annexation Findings, July 24, 2017.

Attachment 4 – Development Review Board Panel B Resolution No. 338 recommending approval of the annexation



LEGAL DESCRIPTION
RIGHT OF WAY DEDICATION
FAY GYAPONG
WEST LINN-WILSONVILLE SCHOOL DISTRICT

#6729
Exh12.dwg
7/20/16 MAR

EXHIBIT "A"

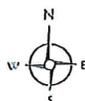
A TRACT OF LAND LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 18, TOWNSHIP 3 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, CITY OF WILSONVILLE, CLACKAMAS COUNTY, OREGON, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 13, "LANDOVER", PLAT NO. 3246, CLACKAMAS COUNTY PLAT RECORDS, ALSO BEING A POINT ON THE SOUTH RIGHT OF WAY LINE OF S.W. ADVANCE ROAD (30.00 FEET FROM CENTERLINE); THENCE S.89°39'47"E., 438.70 FEET ALONG THE SOUTH RIGHT OF WAY LINE TO THE POINT OF BEGINNING; THENCE CONTINUING S.89°39'47"E., 12.60 FEET ALONG THE SOUTH RIGHT OF WAY LINE TO THE NORTHEAST CORNER OF THAT TRACT OF LAND CONVEYED TO FAY A. GYAPONG AS DESCRIBED BY DEED RECORDED AS DOCUMENT NO. 2014-011271, CLACKAMAS COUNTY DEED RECORDS; THENCE S.00°09'47"E., 394.16 FEET ALONG THE EAST LINE OF SAID GYAPONG TRACT; THENCE N.05°38'42"W., 62.81 FEET; THENCE N.00°09'47"W., 317.36 FEET TO A POINT OF CURVATURE; THENCE 16.33 FEET ALONG THE ARC OF A 19.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 49°14'36" (THE CHORD OF WHICH BEARS N.24°47'05"W., 15.83 FEET) TO THE POINT OF BEGINNING, CONTAINING 2,206 SQUARE FEET, MORE OR LESS.

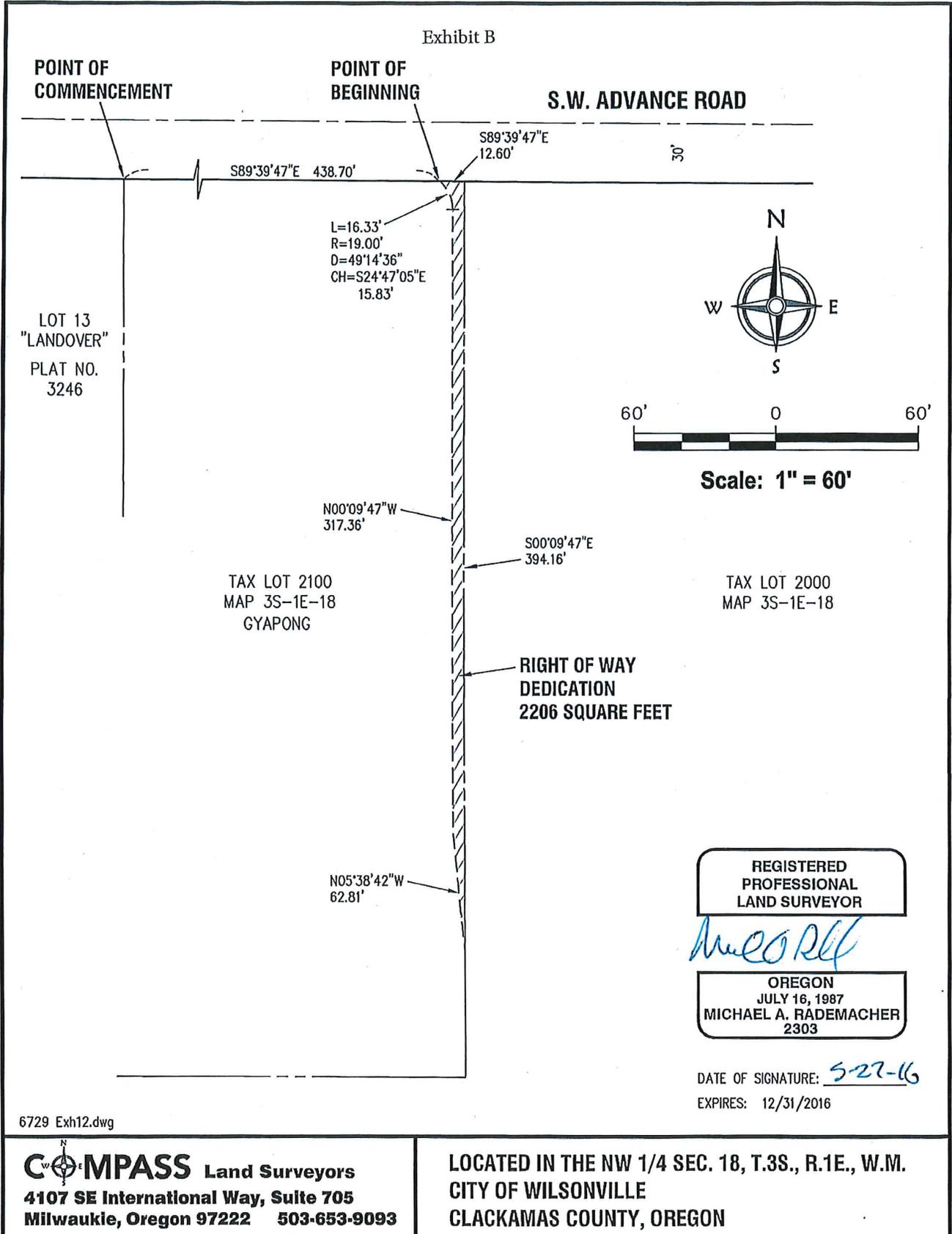
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 16, 1987
MICHAEL A. RADEMACHER
2303

DATE OF SIGNATURE: 5-27-16
EXPIRES: 12/31/2016



4107 SE International Way, Suite 705, Milwaukie, Oregon 97222
Phone: 503.653.9093 Fax: 503.653.9095 Email: compass@compass-landsurveyors.com





29799 SW Town Center Loop E, Wilsonville, OR 97070
Phone: 503.682.4960 Fax: 503.682.7025
Web: www.ci.wilsonville.or.us

**Planning Division
Development Permit Application**

Final action on development application or zone change is required within 120 days in accordance with provisions of ORS 227.175

A pre application conference is normally required prior to submittal of an application. Please visit the City's website for submittal requirements

Pre-Application Meeting Date: _____

Incomplete applications will not be scheduled for public hearing until all of the required materials are submitted.

Applicant:

Name: Tim Woodley
Company: West Linn-Wilsonville Sch. Dist.
Mailing Address: 2755 SW Borland Road
City, State, Zip: Tualatin, OR 97062
Phone: 503.673.7976 Fax: 503.638.9360
E-mail: woodleyt@wlwv.k12.or.us

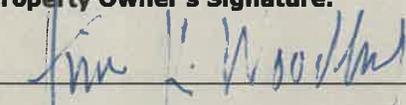
Authorized Representative:

Name: Keith Liden
Company: Bainbridge
Mailing Address: 1000 SW Broadway, Su. 1700
City, State, Zip: Portland, OR 97205
Phone: 503.757.5501 Fax: NA
E-mail: keith.liden@gmail.com

Property Owner:

Name: Same
Company: _____
Mailing Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____
E-mail: _____

Property Owner's Signature:


Printed Name: _____ Date: 6.15.17

Applicant's Signature: (if different from Property Owner)

Printed Name: _____ Date: _____

Site Location and Description:

Project Address if Available: _____ Suite/Unit _____
Project Location: 63rd Ave.
Tax Map #(s): 3S 1E 18 Tax Lot #(s): 2000 & 2100 County: Washington Clackamas

Request:

Annexation of 2,206 sq. ft. along the west side of SW 63rd Ave. and a Comprehensive Plan Map and Zone Map Amendment from Clackamas Co. Agriculture/EFU to City Public Lands/PF-Public Facilities.

Project Type: Class I Class II Class III

Residential Commercial Industrial Other: school

Application Type(s):

- | | | | |
|--|---|---|---|
| <input checked="" type="checkbox"/> Annexation | <input type="checkbox"/> Appeal | <input checked="" type="checkbox"/> Comp Plan Map Amend | <input type="checkbox"/> Parks Plan Review |
| <input type="checkbox"/> Final Plat | <input type="checkbox"/> Major Partition | <input type="checkbox"/> Minor Partition | <input type="checkbox"/> Request to Modify Conditions |
| <input type="checkbox"/> Plan Amendment | <input type="checkbox"/> Planned Development | <input type="checkbox"/> Preliminary Plat | <input type="checkbox"/> Site Design Review |
| <input type="checkbox"/> Request for Special Meeting | <input type="checkbox"/> Request for Time Extension | <input type="checkbox"/> Signs | <input type="checkbox"/> Stage II Final Plan |
| <input type="checkbox"/> SROZ/SRIR Review | <input type="checkbox"/> Staff Interpretation | <input type="checkbox"/> Stage I Master Plan | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Type C Tree Removal Plan | <input type="checkbox"/> Tree Permit (B or C) | <input type="checkbox"/> Temporary Use | <input type="checkbox"/> Other (describe) |
| <input type="checkbox"/> Villebois SAP | <input type="checkbox"/> Villebois PDP | <input type="checkbox"/> Villebois FDP | |
| <input checked="" type="checkbox"/> Zone Map Amendment | <input type="checkbox"/> Waiver(s) | <input type="checkbox"/> Conditional Use | |



Exhibit A1
Planning Division Staff Report
Annexation of 63rd Avenue Right-of-Way

Development Review Board Panel 'B'
Quasi-Judicial Public Hearing
Adopted July 24, 2017

Hearing Date:	July 24, 2017
Date of Report:	July 17, 2017

Application No.:	DB17-0019 Annexation
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Request/Summary: The Development Review Board is being asked to review a Quasi-judicial Annexation request.

Location: South side of SW Advance Road at SW 63rd Avenue. The property is specifically known as an eastern portion of Tax Lot 2100, Section 18, Township 3 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon.

Owner/Applicant: Tim Woodley
West Linn-Wilsonville School District

Applicant's Representative: Keith Liden
Bainbridge

Comprehensive Plan Designation: Agriculture (Clackamas County)

Zone Map Classification: EFU (Exclusive Farm Use, Clackamas County)

Staff Reviewers: Kimberly Rybold, AICP, Associate Planner

Staff Recommendation: Recommend approval of Annexation to City Council.

Vicinity Map



Background:

The 2,206 square-foot subject property was acquired by the West Linn-Wilsonville School District in order to complete the required improvements for the new SW 63rd Avenue that will provide access to Meridian Creek Middle School, which is currently under construction. A future 10-acre city community park is planned north of the school and on the east side of SW 63rd Avenue. The entire District property, including most of the future SW 63rd Avenue right-of-way, was annexed with a Public Comprehensive Plan designation, and a Public Facilities (PF) Zone designation in 2015 (Ordinance Nos. 773, 774 and 775).

A minor UGB amendment was recently approved by Metro to bring the 2,206 square-foot site into the UGB (Metro UGB Case 17-01 / DLCD File No. 002-17).

Summary:

The proposed annexation would bring an additional 2,206 square feet into the City of Wilsonville to enable the completion of SW 63rd Avenue right-of-way improvements. Ultimately, the right-of-way for SW 63rd Avenue will be dedicated to the City of Wilsonville. Since the subject property will be right-of way in its entirety, Comprehensive Plan Map and Zone Map Amendments are not required.

Conclusion and Conditions of Approval:

Staff has reviewed the Applicant’s analysis of compliance with the applicable criteria. The Staff report adopts the applicant’s responses as Findings of Fact except as noted in the Findings. Based on the Findings of Fact and information included in this Staff Report, and information received from a duly advertised public hearing, Staff recommends that the Development Review Board approve the proposed application (DB17-0019) with no additional conditions.

Master Exhibit List:

The following exhibits are hereby entered into the public record by the Development Review Board as confirmation of its consideration of the application as submitted. This is the exhibit list that includes exhibits for Planning Case File DB17-0019.

Planning Staff Materials

- A1. Staff report and findings (this document)
- A2. Staff’s Presentation Slides for Public Hearing (to be presented at Public Hearing)

Materials from Applicant

- B1. Signed Application
- B2. Narrative and Other Submitted Documentation

Development Review Team Correspondence

N/A

Other Correspondence

N/A

Procedural Statements and Background Information:

1. The statutory 120-day time limit applies to this application. The application was received on June 23, 2017. On June 30, 2017 staff conducted a completeness review within the statutorily allowed 30-day review period and found the application to be complete. The City must render a final decision for the request, including any appeals, by October 28, 2017.
2. Surrounding land uses are as follows:

Compass Direction	Zone:	Existing Use:
North:	EFU	Rural residential
East:	PF	63rd Avenue/Future Park
South:	PF	School
West:	EFU	Rural residential

3. Previous Planning Approvals:
 Metro Ordinance No. 13-1316 Major UGB Expansion
 DB15-0046 Annexation
 DB15-0047 Comprehensive Plan Map Amendment
 DB15-0048 Zone Map Amendment (Base Zone and SROZ)
 DB15-0049 Stage I Preliminary Plan
 DB15-0101 et. seq. Stage II Final Plan, Site Design Review, Tentative Partition Plat, Class 3 Sign Permit
 Metro Case File 17-01 Minor UGB Expansion
4. The applicant has complied with Sections 4.013-4.031 of the Wilsonville Code, said sections pertaining to review procedures and submittal requirements. The required public notices have been sent and all proper notification procedures have been satisfied.

Findings:

NOTE: Pursuant to Section 4.014 the burden of proving that the necessary findings of fact can be made for approval of any land use or development application rests with the applicant in the case.

General Information

Application Procedures-In General Section 4.008

Criteria: This section lists general application procedures applicable to a number of types of land use applications and also lists unique features of Wilsonville's development review process.

Response: The application is being processed in accordance with the applicable general procedures of this Section.

Initiating Application Section 4.009

Criterion: "Except for a Specific Area Plan (SAP), applications involving specific sites may be filed only by the owner of the subject property, by a unit of government that is in the process of acquiring the property, or by an agent who has been authorized by the owner, in writing, to apply."

Response: The application has been submitted on behalf of the property owner, West Linn-Wilsonville School District, and is signed by an authorized representative.

Pre-Application Conference Subsection 4.010 (.02)

Criteria: This section lists the pre-application process.

Response: No pre-application meeting was necessary for the application.

Lien Payment before Approval Subsection 4.011 (.02) B.

Criterion: "City Council Resolution No. 796 precludes the approval of any development application without the prior payment of all applicable City liens for the subject property. Applicants shall be encouraged to contact the City Finance Department to verify that there are no outstanding liens. If the Planning Director is advised of outstanding liens while an application is under consideration, the Director shall advise the applicant that payments must be made current or the existence of liens will necessitate denial of the application."

Response: No applicable liens exist for the subject property. The application can thus move forward.

General Submission Requirements
Subsection 4.035 (.04) A.

Criteria: “An application for a Site Development Permit shall consist of the materials specified as follows, plus any other materials required by this Code.” Listed 1. through 6. j.

Response: The applicant has provided all of the applicable general submission requirements contained in this subsection.

Request: DB17-0019 Annexation

As described in the Findings below, the applicable criteria for this request are met or will be met by Conditions of Approval.

Comprehensive Plan

Allowed Annexation
Implementation Measure 2.2.1.a.

1. **Criterion:** “Allow annexation when it is consistent with future planned public services and when a need is clearly demonstrated for immediate urban growth.”

Response: As a result of Urban Growth Boundary Minor Adjustment Case No. 13-01, the subject property is within the City UGB. The sole purpose of the proposed annexation is to provide the additional space to fully improve SW 63rd Avenue, and thereby provide appropriate multimodal access for the middle school and future community park.

Annexation Review Standards
Implementation Measure 2.2.1.e.

2. **Criteria:** “Changes in the City boundary will require adherence to the annexation procedures prescribed by State law and Metro standards. Amendments to the City limits shall be based on consideration of:” Listed 1 through 5.

Response: As further explained below or in other findings supporting this request, this proposal complies with applicable state and regional policies.

- Pursuant to consideration 1 (orderly, economic provision of public facilities and services), the City has been planning for a future city park, a public middle school, and a primary school for several years. The annexation request is related to providing the necessary transportation access to the new school and future community park.
- Pursuant to consideration 2 (availability of sufficient land for marketplace choice), the availability of sufficient land for the middle school, park, and street system to serve it are not really a marketplace choice. However, significant analysis was presented to Metro during its consideration of the UGB amendment, which demonstrated that the District property was the best available alternative to accommodate the educational and recreation demands that must be satisfied by the District and City.
- Consideration 3 (Statewide Planning Goals), is addressed within Finding 9.

- Consideration 4 (Applicable Metro Plans), is addressed within Finding 5.
- Pursuant to consideration 5 (Encouraging Development within City Limits before conversion of urbanizable (UGB) areas), the annexation of the subject 2,206 square-foot site is consistent with this implementation measure because it represents the absolute minimum amount of land area needed to complete the SW 63rd Avenue improvements.

Development Code

Authority to Review Annexation

Subsections 4.030 (.01) A, 11, 4.031 (.01) K, and 4.033 (.01) F.

3. **Criteria:** These subsections prescribe the authority of the Planning Director to determine whether an annexation request is legislative or quasi-judicial, the DRB does the initial review of quasi-judicial annexation, and the City Council takes final local action of quasi-judicial annexation.
Response: The subject annexation request has been determined to be quasi-judicial and is being reviewed by the DRB and City Council consistent with these subsections.

Annexation

Section 4.700

4. **Criteria:** This section defines the criteria and process for annexation review within the City.
Response: All the necessary materials defined by this section have been submitted for review. The annexation is a quasi-judicial action, which satisfies all of the applicable approval criteria as demonstrated herein.

Metro Code

Local Government Boundary Changes

Chapter 3.09

5. **Criteria:** This chapter establishes hearing, notice, and decision requirements as well as review criteria for local government boundary changes in the Metro region.
Response: The subject site is within the Metro UGB, meets the definition of a minor boundary change as an annexation to a city, satisfies the requirements for boundary change petitions as the property owner, there are no electors, a petition with the required information has been submitted, and is annexation is consistent with the Comprehensive Plan and the Wilsonville Development Code.

Oregon Revised Statutes

Authority and Procedure for Annexation

ORS 222.111

6. **Criteria:** ORS 222.111 establishes the authority and procedures for annexation by City's within the state of Oregon.

Response: The applicable requirements in state statute are met including the facts that subject property is within the Metro UGB, is contiguous to the City, the request has been initiated by the property owner of the land being annexed, and there are no electors in the area to be annexed.

Procedure Without Election by City Electors

ORS 222.120

7. **Criteria:** ORS 222.120 establishes the authority and procedures for annexation by City's within the state of Oregon without an election.

Response: There is no City charter requirement for election for annexation. A public hearing process is being followed as defined in the Development Code, and the applicable requirements in state statute are met including the fact that the single owner of the subject property is the petitioner and thus has consented in writing to annexation. There are no electors or residential dwellings within the territory to be annexed.

Annexation by Consent of All Owners of Land and Majority of Electors

ORS 222.125

8. **Criteria:** "The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 (Procedure without election by city electors) when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation."

Response: The territory to be annexed is all owned by the West Linn-Wilsonville School District. As the owner, the District has petitioned and consented to annexation in writing. There are no electors or residential dwellings within the territory to be annexed. However, a public hearing process is being followed as prescribed in the Wilsonville Development Code.

Oregon Statewide Planning Goals

Goals 1, 2, 5, 6, 8, 9, 10, 11, 12, 13

9. **Criteria:** The goals include: citizen involvement, land use planning, natural resources and open spaces, air water and land resource quality, recreational needs, economic development, housing, public facilities and services, transportation, and energy conservation.

Response: The area requested to be annexed will be developed consistent with the City's Comprehensive Plan and the Transportation System Plan, both which have been found to meet the statewide planning goals.

**DEVELOPMENT REVIEW BOARD
RESOLUTION NO. 338**

A RESOLUTION OF THE CITY OF WILSONVILLE RECOMMENDING APPROVAL TO THE CITY COUNCIL OF AN ANNEXATION OF APPROXIMATELY 2,206 SQUARE FEET OF TERRITORY ON THE SOUTH SIDE OF ADVANCE ROAD AT SW 63RD AVENUE. THE PROPERTY IS SPECIFICALLY KNOWN AS AN EASTERN PORTION OF TAX LOT 2100, OF SECTION 18, T3S, R1E, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, WEST LINN-WILSONVILLE SCHOOL DISTRICT – OWNER/APPLICANT.

WHEREAS, an application, together with planning exhibits for the above-captioned development, has been submitted in accordance with the procedures set forth in Section 4.008 of the Wilsonville Code, and

WHEREAS, the Planning Staff has prepared staff report on the above-captioned subject dated July 17, 2017, and

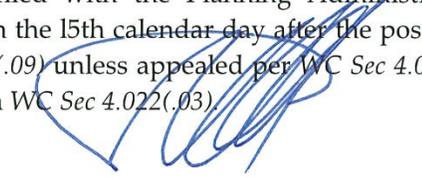
WHEREAS, said planning exhibits and staff report were duly considered by the Development Review Board Panel B at a scheduled meeting conducted on July 24, 2017, at which time exhibits, together with findings and public testimony were entered into the public record, and

WHEREAS, the Development Review Board considered the subject annexation and the recommendations contained in the staff report, and

WHEREAS, interested parties, if any, have had an opportunity to be heard on the subject.

NOW, THEREFORE, BE IT RESOLVED that the Development Review Board of the City of Wilsonville does hereby adopt the staff report dated July 17, 2017, attached hereto as Exhibit A1, with findings contained therein, and authorizes the Planning Director to recommend to the City Council approval of the Annexation request in case-file DB17-0019.

ADOPTED by the Development Review Board of the City of Wilsonville at a regular meeting thereof this 24th day of July, 2017 and filed with the Planning Administrative Assistant on July 25, 2017. This resolution is final on the 15th calendar day after the postmarked date of the written notice of decision per WC Sec 4.022(.09) unless appealed per WC Sec 4.022(.02) or called up for review by the council in accordance with WC Sec 4.022(.03).



Shawn O'Neil, Chair - Panel B
Wilsonville Development Review Board

Attest:



Shelley White, Planning Administrative Assistant



**CITY COUNCIL MEETING
STAFF REPORT**

<p>Meeting Date: August 7, 2017</p>	<p>Subject: Resolution No. 2649 Implementing Frog Pond West Infrastructure Supplemental Fee and Boeckman Bridge Transportation Mitigation Fee, and Establishing a Fund</p> <p>Staff Member: Nancy Kraushaar, PE, Community Development Director Amanda Guile-Hinman, Assistant City Attorney Susan Cole, Finance Director</p> <p>Department: Community Development; Legal; Finance</p>	
<p>Action Required</p>	<p>Advisory Board/Commission Recommendation</p>	
<p><input checked="" type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1st Reading Date: <input type="checkbox"/> Ordinance 2nd Reading Date: <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda</p>	<p><input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input type="checkbox"/> Not Applicable</p> <p>Comments:</p>	
<p>Staff Recommendation: Staff recommends that Council adopt Resolution No. 2649.</p>		
<p>Recommended Language for Motion: I move to approve Resolution No. 2649.</p>		
<p>Project / Issue Relates To:</p>		
<p><input type="checkbox"/> Council Goals/Priorities</p>	<p><input checked="" type="checkbox"/> Adopted Master Plan(s) Implement Fees provided in Frog Pond West Master Plan</p>	<p><input type="checkbox"/> Not Applicable</p>

ISSUE BEFORE COUNCIL:

On July 17, 2017, City Council approved the Frog Pond Master Plan (“Master Plan”). The Frog Pond Master Plan included a Frog Pond West Infrastructure Funding Plan providing for the distribution of costs for the north half of Boeckman Road, the west half of Stafford Road, and the

Neighborhood Park (“Unfunded Projects”) through an infrastructure supplemental fee (“Infrastructure Supplemental Fee”). The Infrastructure Funding Plan contemplates a City-led development effort for these Unfunded Projects, although the fiscal responsibility for funding will be with the Frog Pond West developers. Details on the Infrastructure Supplemental Fee and the Boeckman Bridge transportation mitigation fee (“Boeckman Bridge Fee”) (collectively, the “Frog Pond West Fees”) are discussed below.

EXECUTIVE SUMMARY:

The Resolution details how Frog Pond West developers make financial contributions for the Unfunded Projects and the future Boeckman Bridge adjacent to Frog Pond West while the City leads the development of these projects. The figure below details the current estimated cost of the Unfunded Projects and the estimated financial contribution by developers.

The Resolution also details the incorporation of a Boeckman Bridge Fee, separate from the Infrastructure Supplemental Fee, which will directly fund the unfunded portion of the proposed Boeckman Bridge, proportionate to the impact of Frog Pond West.

Projects	Total Project Cost Public Sector Construction	Oversize Components (City SDCs)	City Share	Net Project Cost to Recover (rounded)	Number of EDUs	Allocation per EDU	Admin Overhead 12.0%	Total Allocation per EDU
Boeckman Rd	3,747,161	122,986	2,026,941	1,597,000	538	2,970	356	3,326
Boeckman Rd sanitary sewer	690,625	265,756	-	425,000	490	870	104	974
Stafford Rd	2,585,548	439,544	-	2,146,000	538	3,990	479	4,469
Stafford Rd sanitary sewer	213,281	20,312	-	193,000	490	390	47	437
Stafford Rd water	365,625	71,094	-	295,000	472	630	76	706
Neighborhood parks	2,407,221	-	-	2,407,000	457	5,270	632	5,902
Total	10,009,461	919,692	2,026,941	7,063,000		14,120	1,694	15,814

1) Unfunded Projects: The unfunded projects for the Frog Pond West development are the north half of Boeckman Road, the west half of Stafford Road, and the Neighborhood Park, included in the chart above. These projects are the fiscal responsibility of Frog Pond West developers. In the interest of a more efficient and expedient completion of these projects, the City has elected to lead the development of these Unfunded Projects while collecting fees from the developers. This will allow the City to exercise more quality control over the projects. This will also allow the City to respond more effectively to changes in schedules and will allow development to follow a more flexible and unified plan.

The proposed Infrastructure Supplemental Fee is in addition to the regular system development charges (SDCs) collected from Frog Pond West developers and will directly fund the Unfunded Projects only. The Infrastructure Supplemental Fee is calculated based on equivalent dwelling units (EDUs) projections of completed Frog Pond West development at an 80% “underbuild.” The Infrastructure Supplemental Fee may be adjusted twice each year, beginning July 15, 2018, based on inflation and several other factors, which ensures that the fee will keep up with development as actual costs of development become realized.

2) Boeckman Bridge: Frog Pond West developers will be responsible for their share of the Boeckman Bridge. The Resolution accounts for this share using a Boeckman Bridge Fee that is proportional to Frog Pond West's share of the long-range trip forecast for the bridge.

This Boeckman Bridge Fee is separate from and in addition to the Infrastructure Supplemental Fee and regular SDCs. It is applicable only to the construction of the unfunded portion of the Boeckman Bridge. The Boeckman Bridge Fee is based on the average daily trips forecast for the Boeckman Bridge in 2035. Since the projected 2035 average daily trips for Frog Pond West's residential development is 9.2%, the amount to be raised by Frog Pond West's residential development will be 9.2% of the total unfunded portion of the bridge. The actual fee will vary depending on how much of the Boeckman Bridge will be unfunded.

Boeckman Bridge is currently estimated to cost \$14 million. For each \$1 million of "net unfunded" bridge cost (not covered by the Urban Renewal Agency (URA) or other citywide sources), the fee would be \$161 (9.2% times \$1,000,000, divided by 571 housing units). The actual fee will depend on the unfunded portion of Boeckman Bridge, for example:

- If \$2 million unfunded, the fee per EDU would be \$322
- If \$10 million unfunded, the fee per EDU would be \$1,610
- If \$14 million unfunded, the fee per EDU would be \$2,254

EXPECTED RESULTS:

Adoption of the Frog Pond West Fees will ensure efficient completion of the Unfunded Projects and Boeckman Bridge, as well as an equitable distribution of the costs of these projects to developers.

TIMELINE:

The Resolution becomes effective on adoption by City Council.

CURRENT YEAR BUDGET IMPACTS:

At this time, the impact on the current year budget is not known. The south half of Boeckman Road is included in the five-year Capital Improvement Program (CIP), slated for fiscal year 2018-19. It is possible that design for both the south and north sections of Boeckman Road could begin this budget year, in which case a Budget Supplemental would be necessary.

FINANCIAL REVIEW / COMMENTS:

Reviewed by: SCole Date: 7/22/2017

LEGAL REVIEW / COMMENT:

Reviewed by: BAJ Date: 7/21/2017

COMMUNITY INVOLVEMENT PROCESS:

Throughout the process of drafting the Infrastructure Funding Plan, which this Resolution implements, there has been extensive collaboration between the project team and interested parties. This collaboration has allowed for vetting of many issues resulting in the Infrastructure Funding Plan that was adopted as part of the Master Plan, which guides this Resolution. In addition, the Frog Pond Master Plan has been the topic of public hearings and public open houses.

POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY:

The approval of the Frog Pond West Fees will ensure a more efficient completion of the Unfunded Projects and Boeckman Bridge, which will lessen the traffic burden on citizens.

ALTERNATIVES:

Frog Pond West developers could pay for their portion of the Unfunded Projects and complete the Unfunded Projects themselves. However, Frog Pond West developers have expressed extreme aversion to that alternative and it would likely cause significant delays in the completion of the development projects.

CITY MANAGER COMMENT:

ATTACHMENTS:

- A. Resolution No. 2649
- B. Exhibit A – Infrastructure Supplemental Fee and Boeckman Bridge Fee Methodology and Example Calculation
- C. Exhibit B – Development Agreement Template
- D. Exhibit C – Map of Frog Pond West
- E. Exhibit D – Illustration of “Local” Developer Portion of Boeckman Road and Stafford Road

RESOLUTION NO. 2649

A RESOLUTION OF THE CITY OF WILSONVILLE ESTABLISHING THE METHODOLOGY FOR THE PRELIMINARY FROG POND WEST INFRASTRUCTURE SUPPLEMENTAL FEE AND THE BOECKMAN BRIDGE TRANSPORTATION MITIGATION FEE, AND ESTABLISHING A FUND

WHEREAS, the City adopted the Frog Pond West Master Plan (“Master Plan”) on July 17, 2017 through Ordinance No. 806; and

WHEREAS, the Master Plan identifies certain Master Plan projects, three of which are the responsibility of developers under the City’s current development process: (1) the local portion of the north half of SW Boeckman Road and associated utilities and amenities; (2) the local portion of the west half of SW Stafford Road and associated utilities and amenities; and (3) the Neighborhood Park (“Unfunded Projects”); and

WHEREAS, development within Frog Pond West is responsible to pay its proportionate share of a bridge to be constructed over Boeckman Creek along SW Boeckman Road, adjacent to Frog Pond West (“Boeckman Bridge”); and

WHEREAS, at its March 8, 2017 meeting, the Planning Commission of the City of Wilsonville recommended approval of the Master Plan to the City Council and, as part of that action, recommended the equitable distribution of the costs associated with the Unfunded Projects and the Boeckman Bridge throughout Frog Pond West development; and

WHEREAS, upon the recommendation of the Planning Commission, the City developed an Infrastructure Funding Plan as a component of the Master Plan that provides for equitable distribution of the costs for the Unfunded Projects through payment of an infrastructure supplemental fee (“Infrastructure Supplemental Fee”) by new development within Frog Pond West; and

WHEREAS, the Infrastructure Funding Plan also provides that development within Frog Pond West pay a Boeckman Bridge transportation mitigation fee (“Boeckman Bridge Fee”) for the unfunded portion of Boeckman Bridge that is proportional to Frog Pond West’s share of the long-range trip forecast for the bridge; and

WHEREAS, Ordinance No. 806 included the Infrastructure Funding Plan, which outlines and authorizes an Infrastructure Supplemental Fee and a Boeckman Bridge Fee (collectively, “Frog Pond West Fees”) to be imposed on all new development within Frog Pond West; and

WHEREAS, the Wilsonville City Council adopted the Infrastructure Funding Plan, which included an Infrastructure Supplemental Fee methodology with estimated project costs, estimated housing units and the resultant estimated fee, and a Boeckman Bridge Fee methodology, as part of the City’s adoption of the Master Plan; and

WHEREAS, in order to construct the Unfunded Projects and Boeckman Bridge, the City requires funding from development within Frog Pond West for the Unfunded Projects and Boeckman Bridge that are separate from the City’s standard system development charges and applies only to development in Frog Pond West; and

WHEREAS, the City contracted with GEL Oregon and FCS Group to review the existing methodologies and determine the best strategy to incorporate a Frog Pond West Infrastructure Supplemental Fee for the Unfunded Projects and the Boeckman Bridge Fee for the unfunded portion of the Boeckman Bridge; and

WHEREAS, **Exhibit A**, attached hereto and incorporated herein, provides methodology and preliminary estimates for the Frog Pond West Fees required to be paid by development within Frog Pond West; and

WHEREAS, the current estimated per-door Infrastructure Supplemental Fee, based on preliminary engineering estimates for the cost of unfunded infrastructure, is \$15,814 per door (2017 dollars), subject to change based on actual project costs, equivalent dwelling units that may be built, inflation as provided in the Engineering News-Record Seattle Construction Cost Index, and other circumstances that may materially impact the fee; and

WHEREAS, the current estimated per-door Boeckman Bridge Fee for the cost of the unfunded portion of Boeckman Bridge is \$161.00 per \$1 million unfunded costs of Boeckman Bridge (e.g., if \$2 million of Boeckman Bridge is unfunded, then Frog Pond West development pays \$322 per door (2 x \$161)), subject to change based on actual project costs, equivalent dwelling units that may be built, inflation as provided in the Engineering News-Record Seattle Construction Cost Index, and other circumstances that may materially impact the fee; and

WHEREAS, the City hereby establishes a new fund to collect the Frog Pond West Fees, and to make disbursements therefrom to construct the Unfunded Projects and other related items in Frog Pond West, as set forth below; and

WHEREAS, the City has identified the need to ensure Frog Pond West developers' financial commitment and obligation to the Frog Pond West Fees; and

WHEREAS, **Exhibit B**, attached hereto and incorporated herein, provides a general template for a development and annexation agreement ("Development Agreement") that will be required of each development within Frog Pond West at the time the developer requests annexation into the City and obligates the developer to pay the Frog Pond West Fees equal to the amount effective at the date of issuance of each building permit, which Development Agreement may be refined by the City Attorney prior to implementation; and

WHEREAS, the City will work with the West Linn-Wilsonville School District ("School District") to enter into an agreement whereby the School District will be obligated to pay the Frog Pond West Fees equal to the amount effective at the time of each building permit issuance date.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

ARTICLE I

PURPOSE

Section 1. Purpose

- A. The purpose of this Resolution is to provide a comprehensive funding strategy by charging developers an Infrastructure Supplemental Fee, in addition to the City's standard fees and system development charges, for the Unfunded Projects adopted by the City in the Frog Pond Master Plan and a Boeckman Bridge Fee.
- B. The Frog Pond West Fees ensure that funding on these projects is directly tied to the development of Frog Pond West and funding is in place for the efficient completion of the Frog Pond West Master Plan projects.

Section 2. Definitions

- A. "Boeckman Bridge" means a bridge to be constructed over Boeckman Creek along Boeckman Road, adjacent to Frog Pond West, at a location commonly referred to as the Boeckman Road dip, approximately 700 feet east of Canyon Creek Road.

- B. “Boeckman Bridge Fee” means the additional proportionate fee that development within Frog Pond West is required to pay for the design and construction of Boeckman Bridge. The amount of the Boeckman Bridge Fee may be adjusted based on the factors listed Article II, Section 3 below and/or may be reduced or eliminated depending on other revenue sources.
- C. “Construction Cost Index” means the most recent Engineering News-Record (ENR) Seattle Construction Cost Index (CCI) published, or other index that replaces the ENR Seattle CCI.
- D. “Development Agreement” means the development and annexation agreement that developers within Frog Pond West will be required to enter into with the City, a sample general template is attached hereto as **Exhibit B**. The Development Agreement template (Exhibit B) is subject to refinement by the City Attorney prior to implementation.
- E. “Equivalent Dwelling Unit (EDU)” means an approximation of the infrastructure demand generated by one single family dwelling unit, as more particularly described in **Exhibit A** attached hereto. EDUs are estimated for residential and non-residential development.
- F. “Frog Pond West” is the area delineated in the map attached hereto as **Exhibit C**.
- G. “Frog Pond West Fees” means the Infrastructure Supplemental Fee and the Boeckman Bridge Fee, collectively.
- H. “Infrastructure Supplemental Fee” means the additional per-door fee that development with Frog Pond West is required to pay for the Unfunded Projects. The amount of the Infrastructure Supplemental Fee may be adjusted based on the factors listed Article II, Section 3 below.
- I. “Master Plan” means the Frog Pond West Master Plan adopted on July 17, 2017 through Ordinance No. 806.
- J. “Neighborhood Park” means the local park identified by the same name in the Master Plan.
- K. “Unfunded Projects” means (1) the twenty-four (24) foot section from face of curb toward the center of the street of the north half of SW Boeckman Road and associated utilities, bicycle facilities, striping and signage, landscaping, irrigation, street lights, sidewalk, and other amenities installed from the curb to the edge of public right of way, which twenty-four (24) feet are identified in **Exhibit D** attached hereto and incorporated

herein, that is the responsibility of the adjacent developer under current City development policy; (2) the twenty-four (24) foot section of the west half of SW Stafford Road and associated utilities, bicycle facilities, striping and signage, landscaping, irrigation, street lights, sidewalk, and other amenities installed from the curb to the edge of public right of way that is the responsibility of the adjacent developer under City development policy at time of project design (*see* **Exhibit D**); and (3) the Neighborhood Park.

ARTICLE II

METHODOLOGY

Section 1. Infrastructure Supplemental Fee and Boeckman Bridge Fee Calculation

The methodologies for calculating the Frog Pond West Fees was calculated by City staff, with guidance from the Frog Pond West Infrastructure Funding Plan, and are set forth in **Exhibit A** of this Resolution. The resulting fees displayed in **Exhibit A** is based upon the best information available at the time and will be valid up to, but not including, July 15, 2018, at which time it will adjust as set forth below. The fees will adjust bi-annually each January and July, as set forth below.

Section 2. Separate Fees

The Frog Pond West Fees are each separate from and in addition to any system development charges or other payments or fees required by the City.

Section 3. Bi-Annual Adjustments

The fees in **Exhibit A** are derived from preliminary planning, preliminary cost estimates, and preliminary assumptions as to the total build out of Frog Pond, and will be refined as more detailed information becomes available. The Frog Pond West Fees will adjust bi-annually on July 15 and January 15 of each year, beginning on July 15, 2018, in order to ensure that the fees continue to meet the demands of the Unfunded Projects. In determining fee adjustments, the City may consider one or more of the following:

- A. The Construction Cost Index;
- B. Any interest or financing costs the City may incur, or may have incurred but not allocated, in the construction of the Master Plan projects;

- C. New cost estimates from advanced planning and design;
- D. Actual design and construction costs as projects are completed;
- E. Revisions to City of Wilsonville Public Works Standards;
- F. The number of EDUs by which the supplemental fees are allocated; and
- G. Other unanticipated costs or revenue offsets.

ARTICLE III

PAYMENT AND RECORDING

Section 1. Time of Building Permit Issuance

The Frog Pond West Fees are non-refundable and are due in full at the time of each building permit issuance by the City, and shall be equal to the fee in effect at the time the permit is issued. Advance payments will not be accepted.

Section 2. Non-Sufficient Funds

In the event the Frog Pond West Fees are paid and a building permit has been issued, but there are non-sufficient funds, the building permit will be immediately revoked and the permittee will be issued a stop work order.

Section 3. Annexation

At the time of annexation, parties, other than the School District, will enter into a development and annexation agreement, in similar form to the development and annexation agreement template attached as **Exhibit B**, which obligates payment of the Frog Pond West Fees at the time of each building permit issuance. The City and the School District will enter into an agreement at time of annexation that obligates the School District to pay the Frog Pond West Fees at the time of each building permit issuance.

Section 4. Personal Obligation

The Frog Pond West Fees liability will survive and be a personal obligation of the permittee.

Section 5. Frog Pond West Fund

A fund entitled “Frog Pond West Fund (FPWF)” is hereby created for recording the collection of the Frog Pond West Fees and to make disbursements therefrom to construct the Unfunded Projects and the Boeckman Bridge, and other improvements as set forth in Section 6.

Section 6. Exhaustion of Funds

At the conclusion of construction of all Unfunded Projects and the Boeckman Bridge, if funds remain within FPWF from whatever source, they will be used for public capital projects within, adjacent to, or for the benefit of Frog Pond West until all funds are exhausted. Upon the exhaustion of funds within FPWF, the fund will be closed.

ARTICLE IV

SEVERABILITY

Section 1. The invalidity of any section, subsection, paragraph, sentence, or phrase of this Resolution, or the exhibits attached hereto which are incorporated herein, will not affect the validity of the remaining portions thereof.

ARTICLE V

INCORPORATION OF RECITAL

Section 1. The City Council hereby adopts the above recitals as findings and incorporates them by reference as if fully set forth herein in support of this Resolution. The City Council also incorporates and adopts **Exhibit A**, **Exhibit B**, **Exhibit C**, and **Exhibit D** attached to this Resolution.

ARTICLE VI

EFFECTIVE DATE

Section 1. This Resolution becomes effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this ____ day of _____, 2017, and filed with the Wilsonville City Recorder this date.

Tim Knapp, Mayor

ATTEST:

Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor Knapp

Council President Starr

Councilor Stevens

Councilor Lehan

Councilor Akervall

Attachments:

Exhibit A – Infrastructure Supplemental Fee and Boeckman Bridge Fee Methodology and Example Calculation

Exhibit B – Development Agreement Template

Exhibit C – Map of Frog Pond West

Exhibit D – Illustration of “Local” Developer Portion of Boeckman Road and Stafford Road

EXHIBIT A

Methodology

Infrastructure Supplemental Fee:

Figure 1 below summarizes the Frog Pond West Infrastructure Supplemental Fee, including associated projects, preliminary cost estimates, and allocation per equivalent dwelling unit (EDU). All costs shown assume that projects will be built by the City and, therefore, public-sector construction cost estimates are used. Cost estimates in Figure 1 include hard (construction) costs, plus external engineering (25% of hard costs), contingency (30% of hard costs), and city overhead (12% of all costs, to account for internal City engineering, finance, and related services). The initial per door Infrastructure Supplemental Fee for development within Frog Pond West is \$15,814. This Infrastructure Supplemental Fee will be adjusted as provided in the Resolution.

Figure 1. Frog Pond West Initial Infrastructure Supplemental Fee

Projects	Total Project Cost Public Sector Construction	Oversize Components (City SDCs)	City Share	Net Project Cost to Recover (rounded)	Number of EDUs	Allocation per EDU	Admin Overhead 12.0%	Total Allocation per EDU
Boeckman Rd	3,747,161	122,986	2,026,941	1,597,000	538	2,970	356	3,326
Boeckman Rd sanitary sewer	690,625	265,756	-	425,000	490	870	104	974
Stafford Rd	2,585,548	439,544	-	2,146,000	538	3,990	479	4,469
Stafford Rd sanitary sewer	213,281	20,312	-	193,000	490	390	47	437
Stafford Rd water	365,625	71,094	-	295,000	472	630	76	706
Neighborhood parks	2,407,221	-	-	2,407,000	457	5,270	632	5,902
Total	10,009,461	919,692	2,026,941	7,063,000		14,120	1,694	15,814

EDUs. An EDU is an approximation of the infrastructure demand generated by one dwelling unit, and is useful since EDUs can also be estimated for non-residential (e.g., school, commercial, or industrial) development. In the case of the Neighborhood Park, costs are allocated across 457 EDUs in Frog Pond West, which is 80% of the 571 total homes allowed in the Master Plan, and accounts for a potential 20% “underbuild.” Assuming that 80% or more of the allowed homes in Frog Pond West are built, they will generate adequate Infrastructure Supplemental Fees for the Neighborhood Park, along with the other Master Plan infrastructure projects. Over the course of development within Frog Pond West, the number of EDUs may be adjusted. In the case of other

infrastructure elements (roads, sewer, water), the proposed school will generate infrastructure demand in addition to demand from residential development. For that infrastructure, the City and project team have estimated school demand (in EDUs) based on comparable past projects, and added this to the housing demand. Therefore, the road, sanitary sewer, and water projects are allocated across a greater number of EDUs. The methodology to be used for the School District development will be based on the number of EDUs displaced by the School District facility.

Boeckman Bridge Fee:

Traffic generated by Frog Pond West is expected to make up a modest portion of the total traffic carried by Boeckman Bridge. The average daily trips (ADT) forecast for Boeckman Bridge in 2035 is 12,750. Frog Pond West's 571 housing units are expected to generate 1,170 ADT over Boeckman Bridge, or 9.2% of the total forecast ADT. The school is estimated to generate 645 ADT, or 5% of the total. In all, the estimated ADT generated by Frog Pond West, at full build out, is 1,815, or 14.3% of total forecasted trips.

The current cost estimate for Boeckman Bridge is \$14.0 million. The amount to be raised by housing development in Frog Pond West will be 9.2% of the total unfunded portion, divided equally between 571 units. For each \$1 million of "net unfunded" bridge cost (not covered by the Urban Renewal Agency or other citywide sources), the fee will be \$161 (9.2% times \$1,000,000, divided by 571 housing units). The actual fee will depend on the unfunded portion of Boeckman Bridge; for example:

- If \$2 million unfunded, the fee per EDU will be \$322.
- If \$10 million unfunded, the fee per EDU will be \$1,610.
- If \$14 million unfunded, the fee per EDU will be \$2,254.

For additional information regarding the methodology of the Infrastructure Supplemental Fee and the Boeckman Bridge Fee, consult the Infrastructure Funding Plan within the Frog Pond West Master Plan, which is incorporated as if fully set forth herein.

EXHIBIT B

DEVELOPMENT AND ANNEXATION AGREEMENT BETWEEN [DEVELOPER] AND THE CITY OF WILSONVILLE, OREGON

This Development and Annexation Agreement (“Agreement”) is entered into by and between the **City of Wilsonville**, an Oregon municipal corporation (“City”), and **[Developer]**, a(n) _____ *[state]* _____ *[corporation/limited liability company, etc.]* (“Developer”). The effective date of this Agreement is the ____ day of _____, 20____ (“Effective Date”). The City and Developer may be referred to herein individually as a “Party” or collectively as the “Parties.”

RECITALS

- A. Developer proposes to construct residential housing within the area commonly referred to as Frog Pond West, which residential housing to be constructed by Developer is depicted on the map attached hereto and incorporated herein as **Exhibit A** (“Developer Property”). A map of the entire area of Frog Pond West is depicted on the map attached hereto and incorporated herein as **Exhibit B** (“Frog Pond West”).
- B. Developer presented to the City a proposed site plan for development of the Developer Property, as depicted in **Exhibit C** (“Proposed Development”) attached hereto and incorporated herein. The Proposed Development includes, but is not limited to, the following improvements: *[state any key infrastructure improvements and oversizing to be done by Developer]*. Developer accepts all responsibility of the Proposed Development as amended and approved by the City.
- C. The Infrastructure Funding Plan (“Funding Plan”), a component of the Frog Pond West Master Plan (“Master Plan”), identifies four (4) off-site infrastructure projects: (1) Memorial Park pump station; (2) Boeckman Creek sanitary sewer trunk line; (3) west side water reservoir; and (4) Boeckman Bridge, which will be west of Frog Pond West over Boeckman Creek (“Boeckman Bridge”). These four (4) off-site infrastructure projects serve the broader City community, will be constructed by the City, and are funded through City system development charges (“SDC”), with possible contributions from other sources. In particular, Boeckman Bridge may be paid partially through a Boeckman Bridge transportation mitigation fee discussed herein in **Section IV** (“Boeckman Bridge Fee”). Developer will be responsible for paying the Boeckman Bridge Fee, to the extent required, at issuance of building permit.
- D. The Funding Plan also identifies four (4) on-site infrastructure projects: (1) local streets and sidewalks; (2) sanitary sewer lines; (3) water lines; and (4) stormwater management (“Developer Improvements”). Unless expressly identified otherwise herein, the construction and cost of these four (4) Developer Improvements are the responsibility of developers

within Frog Pond West.

- E. The Funding Plan lists five (5) Master Plan infrastructure projects, which are the focus of the Funding Plan. These Master Plan infrastructure projects are: (1) the north side of SW Boeckman Road adjacent to Frog Pond West, including sanitary sewer (“Boeckman Road”); (2) the west side of SW Stafford Road adjacent to Frog Pond West, including sanitary sewer and water (“Stafford Road”); (3) the Neighborhood Park within Frog Pond West (“Neighborhood Park”); (4) the Trailhead Park in the western area of Frog Pond West (“Trailhead Park”); and (5) the Boeckman Trail along the west edge of Frog Pond West (“Boeckman Trail”).
- F. Trailhead Park and Boeckman Trail are accounted for in the Parks SDCs and are included in the Parks and Recreation Master Plan. These regional park facilities will be constructed by the City unless otherwise stated herein.
- G. Under current City policy, the cost and construction of part of Boeckman Road, part of Stafford Road, and Neighborhood Park (“Unfunded Projects”) are the responsibility of developers within Frog Pond West. Attached hereto and incorporated herein as **Exhibit D** is a depiction of the “local portion” of Boeckman Road (which similarly applies for Stafford Road) that is the responsibility of the adjacent developer to construct under current City policy.
- H. Due to the size and expense of these three (3) Unfunded Projects and the multiple property ownerships within Frog Pond West, the City will take responsibility for constructing the Unfunded Projects and acquiring land as needed for the Neighborhood Park. Developer is responsible for paying system development charges (SDCs) and an additional infrastructure supplemental fee provided in **Section IV** (“Infrastructure Supplemental Fee”) at issuance of building permit in exchange for the City taking responsibility for constructing the Unfunded Projects.
- I. The City and Developer have agreed that this allocation for the work between the City and Developer is fair and equitable and is a proportional allocation between benefit to the public and benefit to Developer’s development.
- J. Developer will be solely responsible for all up-front costs associated with Developer’s particular Developer Improvements as described in **Section III** below.

AGREEMENT

In consideration of the foregoing Recitals, and incorporating all of the above Recitals by reference in this Agreement as if fully set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, all of the above-named Parties agree as follows:

I. NEW DEVELOPMENT

Developer intends to construct residential development [*and other ancillary amenities*] within Frog

Pond West. Developer's Proposed Development has been approved by the City's Development Review Board, and Developer is currently refining construction plans to be submitted in the permitting processes required by the City for residential development. Developer will pay all fees required by the City for such residential development, including the Infrastructure Supplemental Fee and the Boeckman Bridge Fee described herein (collectively referred to as "Frog Pond West Fees"), in order to obtain the appropriate permits to move forward with Developer's Proposed Development ("Development Approval").

II. CITY'S IMPROVEMENTS (City Obligations)

In consideration for Developer paying certain additional fees described in **Section IV**, the City agrees to construct the Unfunded Projects and to acquire certain real property necessary for development of the Neighborhood Park. The City retains sole and absolute discretion regarding the means, manner, timing, materials, phasing, and all other aspects of acquisition and construction of the Unfunded Projects. Developer agrees to cooperate with the City with regard to the City's construction of the Unfunded Projects, including, but not limited to, providing access to project sites, allowing tie-in to existing and future infrastructure, and coordinating Developer Improvements with construction of the Unfunded Projects. The City may also elect, in its sole and absolute discretion, to assign its responsibility to construct any of the Unfunded Projects.

III. DEVELOPER'S IMPROVEMENTS (Developer Obligations)

Section 3.1 – Description of Developer Improvements

Developer agrees to perform the Developer Improvements, as provided in the Proposed Development (**Exhibit C**), which Developer Improvements are generally described as follows:

[Describe specific improvements to be performed by Developer.]

Section 3.2 – Developer Improvement Costs

[The foregoing Developer Improvements shall be constructed by Developer at Developer's sole expense. The foregoing Developer Improvements must be completed, inspected by the City, and deemed complete by the City before the City will issue any temporary occupancy permits to Developer, assuming Development Approval.]

-OR-

The foregoing Developer Improvements shall be constructed by Developer at Developer's sole expense, except Developer will receive SDC credit or reimbursement relating to _____ [including some potential soft costs]. The foregoing Developer Improvements must be completed, inspected by the City, and deemed complete by the City before the City will issue any temporary occupancy permits to Developer, assuming Development Approval.]

Section 3.3 – Reimbursement of Expense

If Developer is entitled to SDC credit or reimbursement pursuant to **Section 3.2**, Developer must submit a request for SDC credit or reimbursement to the City within ninety (90) days of written acceptance of the improvements by the City. A cover page invoice with Developer's letterhead shall accompany the request for SDC credits or reimbursement. Developer must submit sufficient documentation for specific costs related to construction of such improvements and in a format acceptable by the City. Developer shall also submit a signed letter of completion certifying payment in full to all subcontractors and suppliers. If Developer fails to submit an acceptable request for SDC credit or reimbursement within ninety (90) days from the City's letter of acceptance issuance date, Developer forfeits its right to receive the SDC credit or reimbursement unless the Parties agree in writing.

The City will pay the reimbursement within thirty (30) days of receiving the approved final construction costs request documents for reimbursement, provided there is mutual agreement on any true-up charges. If there is a disagreement on any or all of the true-up charges, that true-up sum(s) may be withheld until such time as any such disagreement is resolved, with that sum(s) being paid within seven (7) days of resolution.

Section 3.4 – Developer Bonds

Prior to commencement of construction of the infrastructure set forth in this Agreement, Developer must provide to the City performance and payment bonds, satisfactory to the City. Prior to commencement of construction, Developer shall also cause the City to be named as an additional insured on the applicable contractor's insurance policy for the construction of the respective infrastructure provided for in this Agreement, in amounts and coverages reasonably satisfactory to the City.

Section 3.5 – Developer Compliance with Frog Pond West Master Plan and City Code

Developer agrees to adhere to the purpose, terms, conditions, guidance, regulations, and requirements contained in the Frog Pond West Master Plan and related Wilsonville Code. Developer is further obligated to act in good faith and pursuant to the City of Wilsonville Public Works Standards in providing access to infrastructure for other development within Frog Pond West. Developer will not prohibit, block, or otherwise impede another developer's ability to access and tie into infrastructure within Frog Pond West. If the City determines, in its sole and absolute discretion, that Developer is engaging in conduct or behavior to prevent, inhibit, or otherwise deter other development from accessing or tying into infrastructure within Frog Pond West, the City may withhold occupancy permits, building permits that are in process, future building permits, and SDC credits or reimbursements unless and until Developer allows other development to access the infrastructure within Frog Pond West.

IV. ADDITIONAL FEES

Section 4.1 – Infrastructure Supplemental Fee

In addition to SDCs required to be paid, Developer will pay an Infrastructure Supplemental Fee of \$_____ per single-family home, as adjusted pursuant to City Resolution No. _____, at issuance of each building permit. If Developer constructs duplexes, the Infrastructure Supplemental Fee is required for each of the two units within the duplex. Developer is not required to pay the Infrastructure Supplemental Fee for any accessory dwelling units, which are defined in Wilsonville Code 4.001.

Section 4.2 – Boeckman Bridge Fee

Developer will also pay the Boeckman Bridge Fee of \$_____ per single-family home, as adjusted pursuant to City Resolution No. _____, for the construction of Boeckman Bridge, which costs are not funded through other sources such as urban renewal or SDCs. The Boeckman Bridge Fee must be paid at issuance of each building permit. If Developer constructs duplexes, the Boeckman Bridge Fee is required for each of the two units within the duplex. Developer is not required to pay the Boeckman Bridge Fee for any accessory dwelling units, which are defined in Wilsonville Code 4.001.

V. DISPUTE RESOLUTION

Section 5.1 – Dispute of Frog Pond West Fees

5.1.1 If Developer disputes the City’s adjustment of either of the Frog Pond West Fees, Developer must submit a letter of appeal (“Appeal Letter”) no later than ten (10) calendar days after the date of issuance of each building permit addressed to the City’s Community Development Director and the City’s Finance Director. Developer cannot appeal the base Frog Pond West Fees of \$_____ (Infrastructure Supplemental Fee) and \$_____ (Boeckman Bridge Fee) listed in **Sections 4.1 and 4.2** above. The Appeal Letter contesting the adjusted amount must include the following information:

- 5.1.1.1 The name of the Developer;
- 5.1.1.2 The location of the parcel;
- 5.1.1.3 The amount of the adjustment that Developer disputes; and
- 5.1.1.4 Reasons why Developer disputes the adjustment.

If Developer fails to provide any of the above-listed information in the Appeal Letter within the allowed ten (10) day period, the Community Development Director will send a letter dismissing the appeal for failure to comply with this Section.

5.1.2 Upon receipt of an Appeal Letter submitted in compliance with **Section 5.1.1**, the Community Development Director and Finance Director will review the Appeal

Letter, will obtain and review any City information regarding the disputed adjustment, and may ask for additional information from the Developer. No later than thirty (30) calendar days after the date of the Appeal Letter, the Community Development Director and Finance Director will issue an opinion of the Community Development Director and Finance Director (“Directors’ Opinion”) regarding whether Developer is entitled to a refund of any portion of the adjusted amount.

- 5.1.3** If Developer disputes the Directors’ Opinion, then Developer may submit a notice of appeal (“Appeal Notice”) no later than fourteen (14) calendar days after the date of the Directors’ Opinion to the City Manager to have the matter reviewed by the City Council. The Appeal Notice must include the information listed in **Section 5.1.1.1 through 5.1.1.4** as well as following information:

5.1.3.1 Reasons why Developer disputes the findings in the Directors’ Opinion.

If Developer fails to provide any of the above-listed information in the Appeal Notice within the fourteen (14) day period, the City Manager will send a letter dismissing the appeal for failure to comply with this Section.

- 5.1.4** Upon receipt of an Appeal Notice submitted in compliance with **Section 5.1.3**, the Community Development Director and Finance Director may supplement their Directors’ Opinion with additional information (“Directors’ Supplement”) to be reviewed by the City Council, which Directors’ Supplement must be submitted to the City Manager no later than fourteen (14) calendar days after the Appeal Notice. The City Council will review the entire record and may, in its sole discretion, request oral testimony. Such review must be held no later than thirty (30) calendar days after the Directors’ Supplement or no later than forty-five (45) calendar days after the Appeal Notice if no Directors’ Supplement is provided. City Council will issue a decision (“Council Decision”) at the review meeting or at later meeting if the City Council decides to continue the review to obtain additional information from the Developer and/or the City.

- 5.1.5** If Developer disputes the Council Decision, Developer will have a statutory right to a writ of review to Clackamas County Circuit Court pursuant to Oregon Revised Statutes 34.010 through 34.100.

Section 5.2 – All Other Disputes

- 5.2.1** **Mediation.** All disputes arising out of this Agreement, other than disputes subject to **Section 5.1** above, shall first be submitted to mediation. Any Party desiring mediation shall provide the other Party with a written notice (the “Request to Mediate”), which shall set forth the nature of the dispute. The Parties shall in good faith cooperate in the selection of a mediator and may adopt any procedural format that seems appropriate for the particular dispute. In the

event a written settlement agreement is not executed by the Parties, in the Parties' sole discretion, within twenty (20) days from the date of the Request to Mediate, or such longer time frame as may be agreed upon in writing by the Parties, any Party may make demand for arbitration pursuant to the following paragraph.

5.2.2 Arbitration or Litigation. Any dispute arising under **Section 5.2.1** of this Agreement which is not resolved through mediation, upon mutual agreement of the Parties may be submitted to arbitration, to be conducted in Wilsonville, Oregon before a single arbitrator selected by mutual agreement of the Parties. The arbitrator shall have substantial experience in commercial real estate and construction disputes. If the Parties are unable to mutually agree upon and select an arbitrator within twenty (20) days, then any Party may file an action in Clackamas County Circuit Court in lieu of arbitration and there will be no obligation to arbitrate unless otherwise required by Oregon law. If arbitrated, judgment upon the arbitrator's award may be entered in any court having jurisdiction of the matter.

5.2.3 Equitable Remedies. Even if the parties undergo mediation or arbitration, the City may still request immediate equitable remedies of either specific performance or injunctive relief to occur while mediation or arbitration is pending or ongoing. The parties will otherwise agree to abate the court case pending completion of the mediation or arbitration.

VI. RECORDING

This Agreement runs with Developer's land that is subject to this Agreement as identified in Exhibit A. Either this Agreement or a memorandum of this Agreement will be recorded by the City with the Clackamas County Recorder's Office for all real property subject to this Agreement.

VII. MISCELLANEOUS PROVISIONS

Section 7.1 – Further Assurances

Each Party will cooperate and perform such 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. Developer understands and agrees that no occupancy permit will be granted for the Proposed Development until the Developer Improvements have been completed and approved by the City as meeting the requirements set forth herein.

Section 7.2 – Modification or Amendment

No amendment, change, or modification of this Agreement will be valid unless in writing and signed by the Parties hereto.

Section 7.3 – Relationship

Nothing herein may be construed to create an agency relationship or a partnership or joint venture between the Parties.

Section 7.4 – Maintenance

Developer is responsible for maintenance of the Developer Improvements as provided in the 2015 City of Wilsonville Public Works Standards, Section 101.8.18 *Maintenance and Warranty*, and any amendments thereto. Developer remains responsible for submitting a maintenance bond, per Public Works Standards, to the City for all of its required Developer Improvements within the public right-of-way or public easements. If Developer fails to maintain the Developer Improvements during the applicable period, the City may do so and make a claim on the bond and directly against Developer. Any work required to be performed by the City will bear interest at a rate of twelve percent (12%) per annum.

Section 7.5 – Burden and Benefit

The covenants and agreements contained herein shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

Section 7.6 – No Continuing Waiver

The waiver of any Party of any breach of this Agreement will not operate or be construed to be a waiver of any subsequent breach.

Section 7.7 – Applicable Law

This Agreement shall be governed by and construed under the laws of the State of Oregon. Jurisdiction is in Clackamas County, Oregon.

Section 7.8 – Legal Fees

If any Party commences legal proceedings, including arbitration or bankruptcy, for any relief against any other Party arising out of or related to this Agreement, or the breach thereof, the losing Party shall pay the prevailing Party's legal costs and expenses, including, but not limited to, arbitration costs, reasonable attorney fees, and expert witness fees, as determined by the court or the arbitrator at the trial level or on any appeal.

Section 7.9 – Time of Essence

Time is expressly declared to be of the essence of this Agreement.

Section 7.10 – Notices

All notices, demands, consents, approvals, and other communications which are required or

desired to be given by any Party to each 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 (3) 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 machine, such notice shall be deemed given at the time and on the date of machine transmittal.

To City: City of Wilsonville
Attn: _____, City Attorney
29799 SW Town Center Loop East
Wilsonville, OR 97070

To Developer: *[Developer]*
Attn: _____
[Street Address]
[City, State, Zip Code]

Section 7.11 – 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 lieu of, those conferred by law.

Section 7.12 – Counterparts

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

Section 7.13 – No Third-Party Beneficiaries and No Assignment

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 or their respective heirs, successors, and assigns. Developer may not assign its rights under this Developer Agreement without the prior express written consent of the City.

Section 7.14 – Representations and Warranties

Each Party signing on behalf of Developer and the City hereby warrants actual authority to bind their respective Party. The Parties signing below also hereby warrant that entry into this Agreement and the enforcement of its terms will not violate any loan covenants or other agreements pertaining to any of the land or improvements impacted hereby.

Section 7.15 – Legal Review

All of the Parties to this Agreement hereby affirm that they have been represented in the negotiation hereof by their own independent legal counsel who have reviewed this Agreement and advised their respective client concerning the same. Therefore it shall be interpreted accordingly and shall not be construed against the drafter.

IN WITNESS WHEREOF, the Parties have hereunto set their hands as of the day and year first written above.

[DEVELOPER],
a[n] _____[limited liability company/corporation]

CITY OF WILSONVILLE,
a municipal corporation

By: _____

Print Name: _____

As Its: _____

By: _____

Print Name: _____

As Its: City Manager

APPROVED AS TO FORM:

By: _____

_____, City Attorney

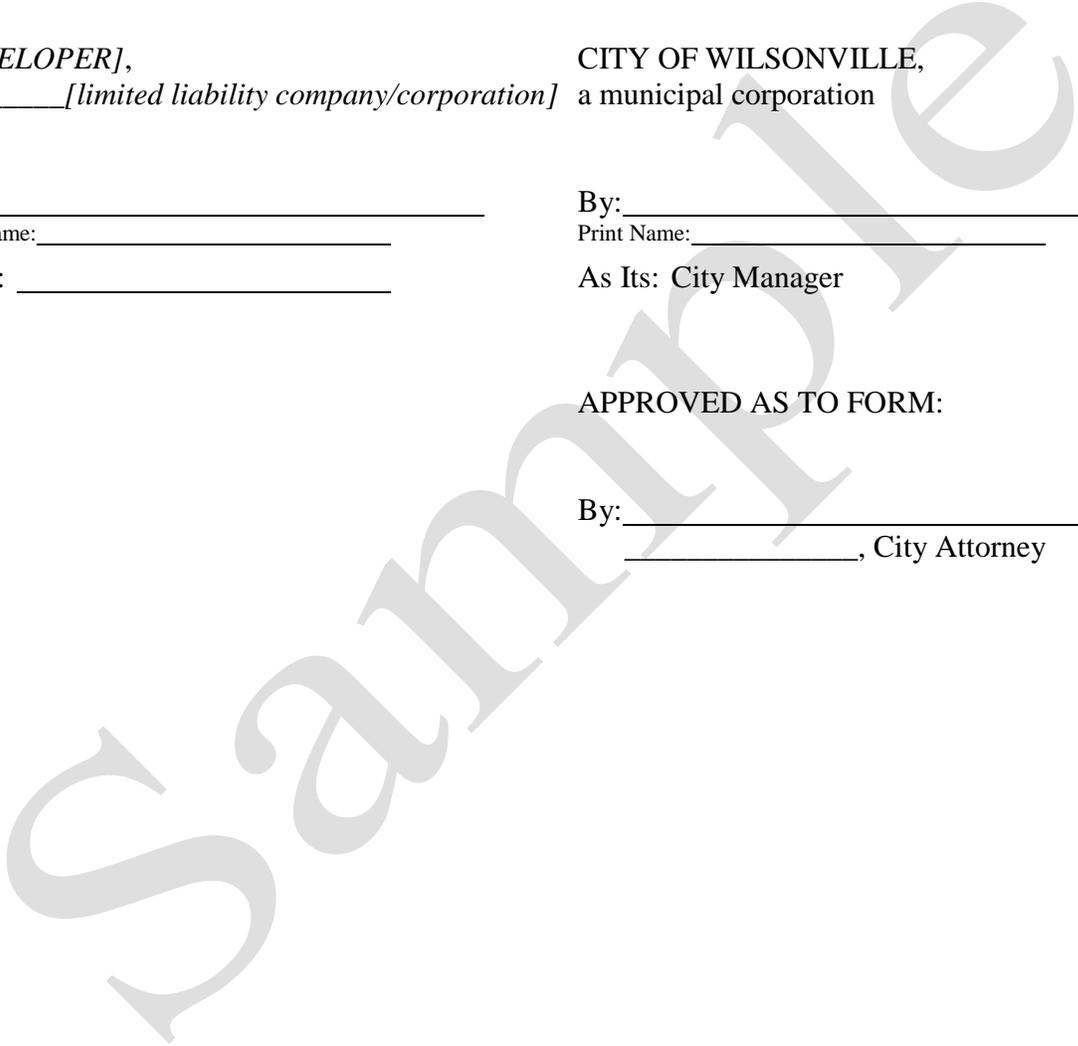


EXHIBIT A

Map of Developer Property

[To be inserted]

Sample

EXHIBIT C

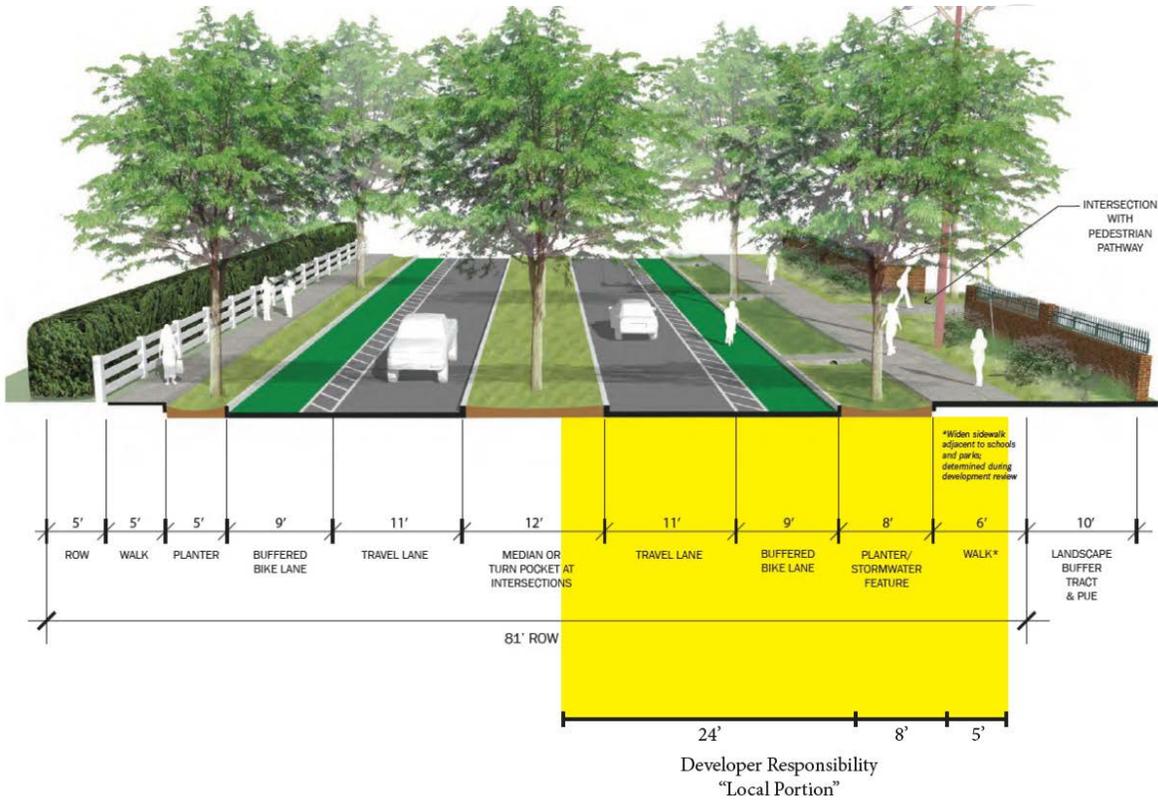
Proposed Development

[To be inserted]

Sample

EXHIBIT D

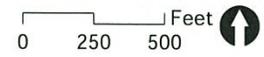
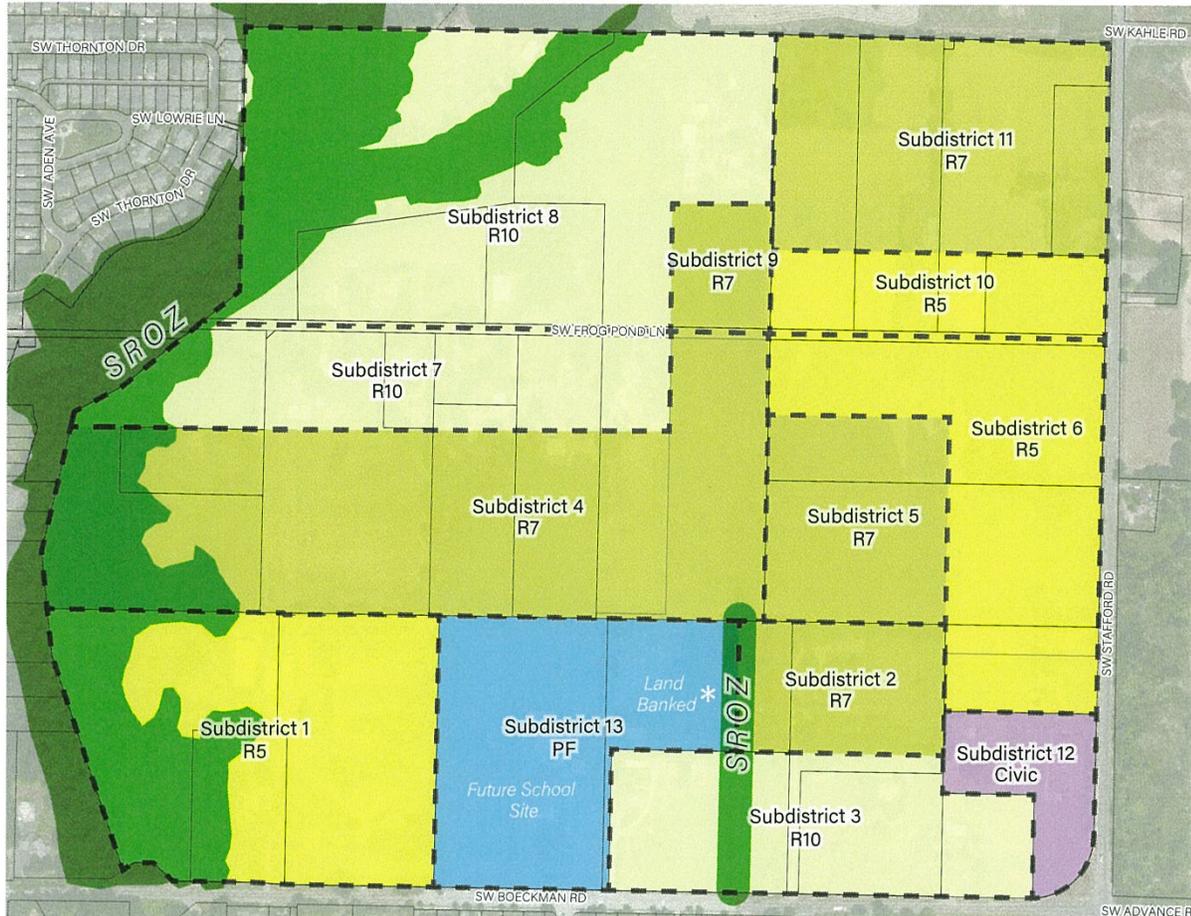
Illustration of “Local Portion” of Boeckman Road (Applicable for Stafford Road)

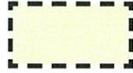


§

Frog Pond **WEST**
Master Plan

Figure 6. Frog Pond West Land Use and Subdistricts



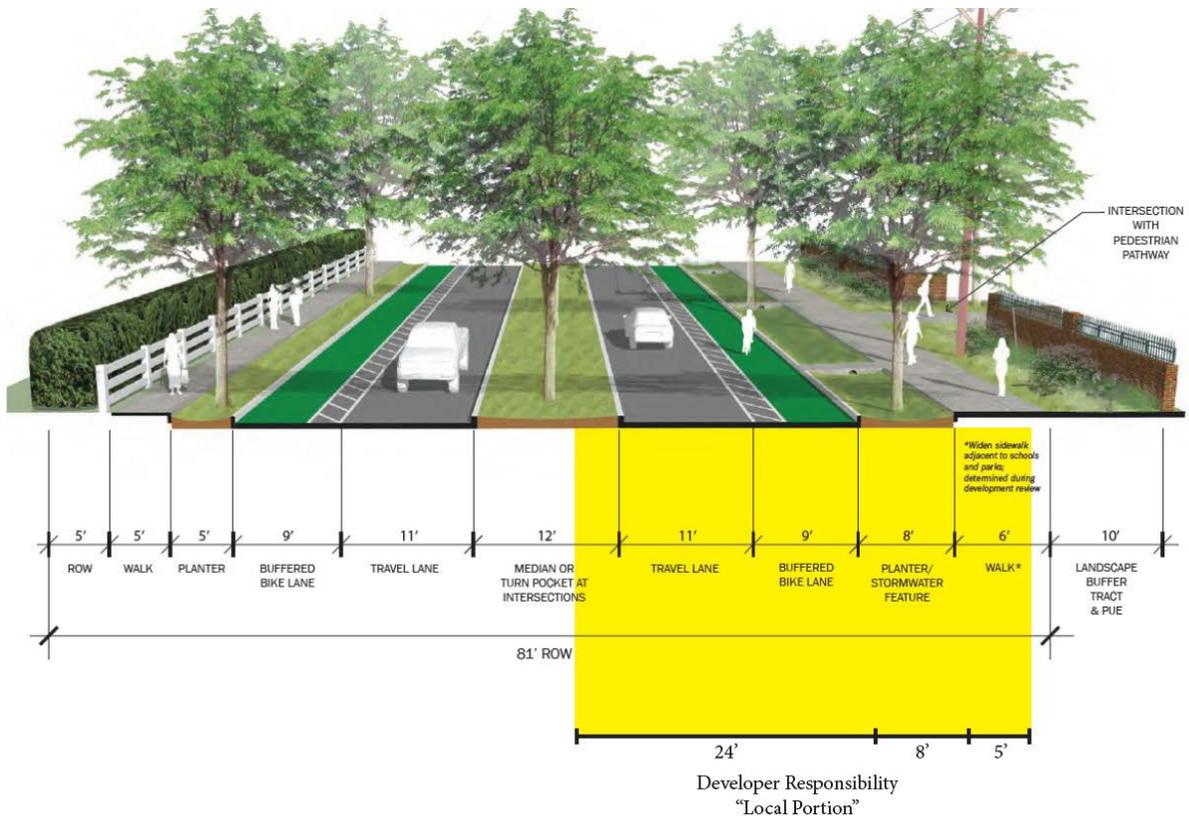
- | | | | |
|---|-------------------------------|--|---|
|  | R5 - Small Lot Single Family |  | Public Facilities |
|  | R7 - Medium Lot Single Family |  | Civic |
|  | R10 - Large Lot Single Family |  | Significant Resources Overlay Zone (SROZ) |

* Land banked for school facilities, a neighborhood park, and/or residential use.



EXHIBIT D

Illustration of “Local” Developer Portion of Boeckman Road/Stafford Road





**CITY COUNCIL MEETING
STAFF REPORT**

Meeting Date: August 7, 2017		Subject: Resolution No. 2650 Designating the City of Wilsonville as a Bee City USA Affiliate	
		Staff Member: Kerry Rappold, Natural Resources Program Manager	
		Department: Community Development	
Action Required		Advisory Board/Commission Recommendation	
<input checked="" type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable	
		Comments:	
Staff Recommendation: Staff recommends that Council approve Resolution No. 2650.			
Recommended Language for Motion: I move to approve Resolution No. 2650			
Project / Issue Relates To: <i>[Identify which goal(s), master plans(s) your issue relates to.]</i>			
<input checked="" type="checkbox"/> Council Goals/Priorities	<input type="checkbox"/> Adopted Master Plan(s)	<input type="checkbox"/> Not Applicable	

ISSUE BEFORE COUNCIL: Designate Wilsonville as a Bee City USA affiliate.

EXECUTIVE SUMMARY: The 2017-18 City Council Goals include becoming a Bee City USA affiliate. Bee City USA is a nationwide effort to foster ongoing dialogue in urban areas to raise

awareness of the role pollinators play in our communities and what each of us can do to provide them with healthy habitat. Currently, there are 50 Bee City affiliates across the country, but only four in Oregon (i.e., Ashland, Gold Hill, Phoenix, and Talent)

The Natural Resources Program and the Program Manager are designated as the sponsor and the liaison for the Bee City program, respectively. The Parks and Recreation Advisory Board will facilitate the program with the assistance of the Natural Resources Program Manager.

To maintain the Bee City USA designation, the City needs to provide the following programming:

1. Annually celebrate National Pollinator Week or some other appropriate occasion with educational events, pollinator habitat plantings, or restoration, proclamations, or promotions that showcase the City's commitment to enhancing pollinator health and habitat.
2. Install and maintain at least one authorized Bee City USA street sign in a prominent location, and create and maintain a webpage on the City website which includes, at minimum, a copy of this resolution, links to the national Bee City USA website, contact information for the City's Bee City USA liaison – the Natural Resources Program Manager, contact information for the Parks and Recreation Advisory Board, and reports of the pollinator-friendly activities the community has accomplished in the previous year(s).
3. Develop and implement a program to create or expand pollinator-friendly habitat, which can include, but is not limited to:
 - a. Identification and inventory of City real property that can be enhanced with pollinator-friendly plantings;
 - b. Creation of a recommended locally native species list to include forbs, grasses, vines, shrubs, and trees and a list of local suppliers for those species;
 - c. Creation of a least toxic integrated pesticide management plan;
 - d. Dissemination of informational and educational materials to the public; and
 - e. Tracking annual area of pollinator habitat created or enhanced by square footage and/or acreage.
4. Adopt, through the City Council, a policy in the Parks and Recreation Master Plan to acknowledge and commit to the Bee City USA designation.
5. Review pesticide management policies and practices as they relate to pollinator conservation, identify appropriate locations for pollinator-friendly plantings, and consider other appropriate measures.
6. After completing the first full year as a Bee City USA affiliate, each January, apply for renewal of the City of Wilsonville's Bee City USA designation following the format provided by Bee City USA, including a report of the previous year's Bee City USA activities, and paying the renewal fee based on the City's population. The costs associated with the Bee City USA program will be rather minor (i.e., signage, pollinator celebration, and reporting requirements) due to the existing work being completed with the Bee Stewards

program. Annual costs are estimated to be \$10,000 - \$15,000 to implement the Bee City USA program, which will be primarily for staff time. The annual Bee City USA fee is \$200.

Bee City USA corresponds with many of the existing “Bee Stewards” program initiatives, such as creating pollinator habitat, developing an integrated pest management plan for City properties, and raising community awareness and participation in pollinator conservation.

EXPECTED RESULTS: The Bee City USA program will raise the public’s awareness of pollinators’ role in maintaining a healthy environment, increase the amount of pollinator habitat, and implement an environmentally-friendly program for managing pests on City properties.

TIMELINE: The program will be implemented on annual basis, but one-time Bee City USA requirements (e.g., adding a policy to the Parks and Recreation Master Plan, or developing an integrated pest management plan) will be completed over the next year.

CURRENT YEAR BUDGET IMPACTS: The City of Wilsonville has received \$80,000 in grant funding to support and implement the Bee Stewards program, which will also help support the corresponding Bee City USA program requirements.

FINANCIAL REVIEW / COMMENTS:

Reviewed by: SCole Date: 7/20/2017

LEGAL REVIEW / COMMENT:

Reviewed by: BAJ Date: 7/25/2017

COMMUNITY INVOLVEMENT PROCESS: The community will be involved with a variety of initiatives and activities, such as educational and habitat planting events, receiving information related to pollinator-friendly measures, and participating in creating and maintaining a healthier environment for pollinators.

POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY (businesses, neighborhoods, protected and other groups): As mentioned above, the program will have multiple benefits to community members.

ALTERNATIVES: Not applicable.

CITY MANAGER COMMENT:

ATTACHMENTS:

A. Resolution No. 2650

RESOLUTION NO. 2650

A RESOLUTION OF THE CITY OF WILSONVILLE DESIGNATING THE CITY OF WILSONVILLE AS A BEE CITY USA® AFFILIATE

WHEREAS, the mission of BEE CITY USA is to galvanize communities to sustain pollinators, responsible for the reproduction of 90% of the world's wild plant species, providing them with healthy habitat rich in a variety of native plants and nearly free of pesticides; and

WHEREAS, due in part to the tremendous diversity of wild native bees, along with the honey bees that were brought to the United States from Europe in the 1700s, people in the United States have very diverse dietary choices rich in fruits, nuts, vegetables, and even dairy products-- one in every three bites of food people eat is courtesy of insect pollination; and

WHEREAS, bees and other pollinators have experienced population declines due to a combination of causes, including but not limited to habitat loss, use of pesticides, and the spread of pests and diseases; and

WHEREAS, pollinator-friendly communities can benefit local and regional economies through healthier ecosystems, increased vegetable and fruit crop yields, and increased demand for pollinator-friendly plant materials from local nurseries and growers; and

WHEREAS, an ideal pollinator-friendly habitat:

1. Provides diverse and abundant nectar and pollen from plants blooming in succession throughout the growing season;
2. Provides water for drinking, nest-building, cooling, diluting stored honey, and butterfly puddling;
3. Provides undisturbed spaces (leaf and brush piles, un-mowed fields or field margins, fallen trees and other dead wood) for nesting and overwintering for wild pollinators;
4. Is pesticide-free or has pesticide use carried out with least ill effects on pollinators;
5. Is comprised of mostly, if not all, native species of annual and perennial forbs, grasses, vines, shrubs, and trees in landscapes because many wild pollinators prefer or depend on the native plants with which they co-adapted;
6. Includes, where possible, designated pollinator zones in public spaces with signage to educate the public and build awareness; and
7. Provides for safe and humane removal of honey bees when required; and

WHEREAS, supporting pollinators fosters environmental awareness and sustainability, and increases interactions throughout the community, such as among community stewards, backyard beekeepers, farmers, children, educators, master gardeners, individual and community gardeners, property owners, landscapers, local businesses, faith-based organizations, and nature-related organizations; and

WHEREAS, in order to enhance understanding among the staff of the City of Wilsonville (“City”) and the public about the vital role that pollinators play and what each person can do to sustain them, the City chooses to support and encourage pollinator habitat creation and enhancement on both public and private land; and

WHEREAS, based on the foregoing the City of Wilsonville should be certified a BEE CITY USA community in accordance with the 2017-2018 Council Goal of becoming a Bee City. NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The City of Wilsonville Natural Resources Program is hereby designated as the BEE CITY USA program sponsor and, as such, will provide oversight of the implementation of the BEE CITY USA program outlined in paragraph 4 below.
2. The Natural Resources Program Manager of the City of Wilsonville is designated as the BEE CITY USA liaison and will assist in providing oversight of the implementation of the BEE CITY USA program outlined in paragraph 4 below.
3. Facilitation of the City’s BEE CITY USA program is assigned to the Parks and Recreation Advisory Board.
4. The Parks and Recreation Advisory Board is authorized to and should provide the following programming:
 - a. **Celebration:** Annually celebrate National Pollinator Week or some other appropriate occasion with educational events, pollinator habitat plantings, or restoration, proclamations, or promotions that showcase the City’s commitment to enhancing pollinator health and habitat.
 - b. **Publicity & Information:** Install and maintain at least one authorized BEE CITY USA street sign in a prominent location, and create and maintain a webpage on the City website which includes, at minimum, a copy of this resolution, links to the national BEE CITY USA website, contact information for the City’s BEE CITY USA liaison – the Natural Resources Program Manager, contact information for the Parks

and Recreation Advisory Board, and reports of the pollinator-friendly activities the community has accomplished in the previous year(s).

- c. **Habitat:** Develop and implement a program to create or expand pollinator-friendly habitat, which can include, but is not limited to:
 - i. Identification and inventory of City real property that can be enhanced with pollinator-friendly plantings;
 - ii. Creation of a recommended locally native species list to include forbs, grasses, vines, shrubs, and trees and a list of local suppliers for those species;
 - iii. Creation of a least toxic integrated pesticide management plan;
 - iv. Dissemination of informational and educational materials to the public; and
 - v. Tracking annual area of pollinator habitat created or enhanced by square footage and/or acreage.
 - d. **Policy:** Adopt, through the City Council, a policy in the Parks and Recreation Master Plan to acknowledge and commit to the BEE CITY USA designation.
 - e. **Plan Review:** Review pesticide management policies and practices as they relate to pollinator conservation, identify appropriate locations for pollinator-friendly plantings, and consider other appropriate measures.
 - f. **Renewal:** After completing the first full year as a BEE CITY USA affiliate, each January, apply for renewal of the City of Wilsonville's BEE CITY USA designation following the format provided by BEE CITY USA, including a report of the previous year's BEE CITY USA activities, and paying the renewal fee based on the City's population.
5. The City Manager, or designee, has authority to pay the initial and renewal fees required by BEE CITY USA.
 6. This Resolution becomes effective upon the date of adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 7th day of August, 2017, and filed with the Wilsonville City Recorder this date.

Tim Knapp, Mayor

ATTEST:

Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor Knapp

Council President Starr

Councilor Stevens

Councilor Lehan

Councilor Akervall

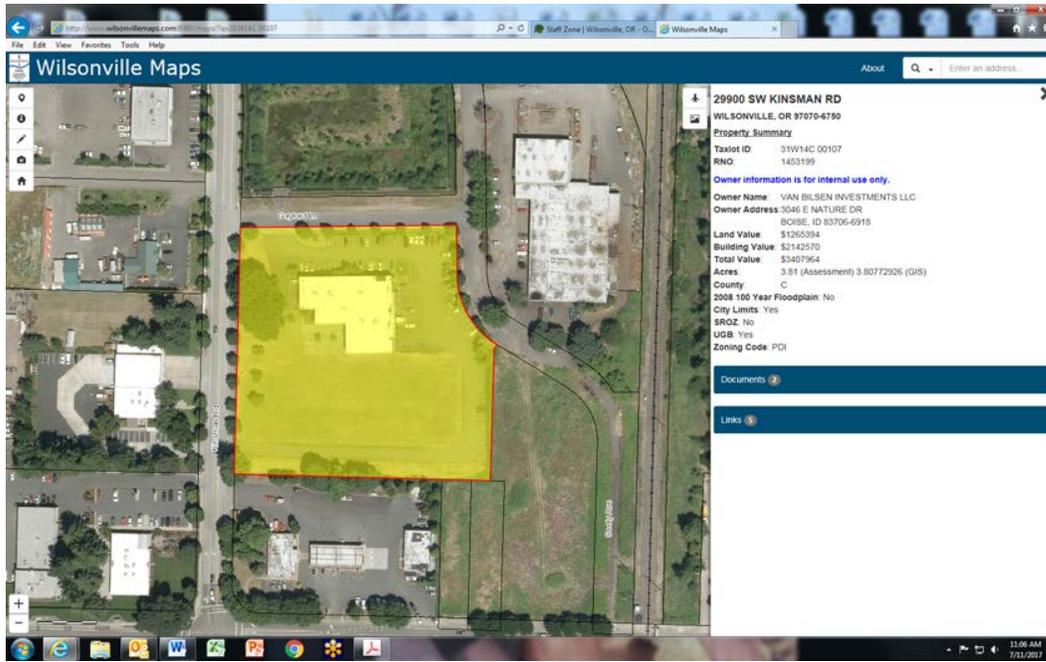


**CITY COUNCIL MEETING
STAFF REPORT**

<p>Meeting Date: August 7, 2017</p>	<p>Subject: Appeal of Planning Director’s Interpretation (AR17-0024) Regarding Commercial Uses in the Industrial Zone</p> <p>Staff Member: Chris Neamtzu AICP, Planning Director Department: Community Development</p>	
<p>Action Required</p>	<p>Advisory Board/Commission Recommendation</p>	
<p><input checked="" type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1st Reading Date: <input type="checkbox"/> Ordinance 2nd Reading Date: <input type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda</p>	<p><input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable</p> <p>Comments:</p>	
<p>Staff Recommendation: Staff recommends that Council affirm the Planning Director’s interpretation regarding square footage limitations on commercial uses in the Planned Development Industrial (PDI) Zone.</p>		
<p>Recommended Language for Motion: I move to affirm the Planning Director’s interpretation.</p>		
<p>Project / Issue Relates To:</p>		
<p><input type="checkbox"/> Council Goals/Priorities</p>	<p><input type="checkbox"/> Adopted Master Plan(s)</p>	<p><input checked="" type="checkbox"/> Not Applicable</p>

ISSUE BEFORE COUNCIL: Mr. Jordan Ward (“Appellant”) requested an interpretation (Attachment A) from the Planning Director (“Director’s Interpretation”) regarding commercial uses in the Planned Development Industrial (PDI) zone. Appellant has appealed the Director’s interpretation. Appellant seeks to have Council interpret WC 4.135 (.03) O. 3. to permit a stand-alone 20,000 square foot commercial use in the PDI zone, contrary to the Director’s Interpretation.

EXECUTIVE SUMMARY: The Wards, through their company, Van Bilsen Investments LLC, own 3.81 acres of land along the east side of SW Kinsman Road, just north of the Fred Meyer gas station along Wilsonville Road. The site address is 29900 SW Kinsman Road (T3S, R1W, Section 14C, Tax Lot 00107), the site is zoned Planned Development Industrial (PDI).



Appellant sought a Director's Interpretation of WC 4.135 (.03) O. that a single 20,000 square-foot (sq) commercial/retail store was permissible within his property located in a PDI zone. The Director's Interpretation held that WC 4.135 (.03) O. only allows 5,000 sf of retail/commercial in a single building or multiple retail/commercial tenants within industrial buildings that are individually 5,000 sf or less and total no more than 20,000 sf combined. In other words, a commercial development that is 20,000 sf must have at least four (4) 5,000 sf buildings ($4 \times 5,000 = 20,000$) within the development. The development could have more buildings, but the total square footage cannot exceed 20,000 sf.

In order to understand the intent of any code section, it is important to analyze several pieces of information. Following the methodology for text interpretations established by the Oregon Supreme Court in *State of Oregon v. Gaines* 346 OR 160 (2009), the requested Director's Interpretation considers: 1) the specific text in question; 2) the broader text found in the City's Code and Comprehensive Plan; and 3) the legislative intent of the Planning Commission and Council in adopting the standard. Pages 2-3 of the Director's interpretation (Exhibit A) go into detail analyzing each of these three areas.

Specific Text:

The Wards had two prior Development Review Board (DRB) approvals for a flex industrial building south of the existing building. Both of those approvals expired over time due to a lack of construction activity. The Wards were recently contacted by representatives of a supermarket

retailer who were interested in building a single, stand-alone 20,000 square foot grocery store south of the existing industrial building. The Wards inquired to City staff if the provisions of WC 4.135 (.03) would allow that.

WC 4.135 (.03) states:

Section 4.135. PDI- Planned Development Industrial Zone.

- (.01) Purpose: The purpose of the PDI zone is to provide opportunities for a variety of industrial operations and associated uses.*
- (.02) The PDI Zone shall be governed by Section 4.140, Planned Development Regulations, and as otherwise set forth in this Code.*
- (.03) Uses that are typically permitted:*
 - A. Warehouses and other buildings for storage of wholesale goods, including cold storage plants.*
 - B. Storage and wholesale distribution of agricultural and other bulk products, provided that dust and odors are effectively contained within the site.*
 - C. Assembly and packing of products for wholesale shipment*
 - D. Manufacturing and processing*
 - E. Motor vehicle services, or other services complementary or incidental to primary uses, and which support the primary uses by allowing more efficient or cost-effective operations*
 - F. Manufacturing and processing of electronics, technical instrumentation components and health care equipment.*
 - G. Fabrication*
 - H. Office complexes - Technology*
 - I. Corporate headquarters*
 - J. Call centers*
 - K. Research and development*
 - L. Laboratories*
 - M. Repair, finishing and testing of product types manufactured or fabricated within the zone.*
 - N. Industrial services*
 - O. Any use allowed in a PDC Zone, subject to the following limitations:*
 - 1. Service Commercial uses (defined as professional services that cater to daily customers such as financial, insurance, real estate, legal, medical or dental offices) not to exceed 5000 square feet of floor area in a single building, or 20,000 square feet of combined floor area within a multi-building development.*
 - 2. Office Complex Use (as defined in Section 4.001) shall not exceed 30% of total floor area within a project site.*

3. *Retail uses, not to exceed 5000 square feet of indoor and outdoor sales, service or inventory storage area for a single building and 20,000 square feet of indoor and outdoor sales, service or inventory storage area for multiple buildings.*
4. *Combined uses under Subsections 4.135(.03)(O.)(1.) and (3.) shall not exceed a total of 5000 square feet of floor area in a single building or 20,000 square feet of combined floor area within a multi-building development.*

The analysis provided in the Director's interpretation finds that it is **not** the intent of this Code section to allow a stand-alone 20,000 square foot retail or commercial building as a primary use. The Code intends to allow for appropriately scaled commercial/retail development that is for the convenience of and supportive of the needs of the employees working within or in close proximity to the industrial area, not to provide retail that undermines the intent of the Planned Development Industrial zone, nor to generate the traffic or compete with like retail establishments located within the commercial zones that are properly planned for this type of larger scale operation and can handle the parking and traffic generated by the larger use of the general public .

The Director's Interpretation explains, on page 2, that the contrary position would allow for a two building development where one of the buildings is a small storage building and the other is an almost 20,000 sf commercial use. This is not reasonable because such an interpretation could render the 5,000 sf limit meaningless and allow for what is essentially one 20,000 sf retail or commercial building. Moreover, the pluralization of "uses" necessarily means that anything more than a single building must have multiple retail or commercial uses.

Comprehensive Plan:

In reviewing the text contained in the Comprehensive Plan, Section 4.1.3.h applies and was amended at the time the PDI standards were adopted in 2004 as part of Ordinance No. 574.

*Implementation Measure 4.1.3.h - The City, in accordance with Title 4 of the Metro Urban Growth Management Functional Plan supports **appropriate retail development** within Employment and Industrial Areas. Employment and Industrial areas are expected to include **some limited retail commercial uses, primarily to serve the needs of people working or living in the immediate Employment or Industrial Areas**, as well as office complexes housing technology-based industries. Where the City has already designated land for commercial development within Metro's employment areas, the City has been exempted from Metro development standards. (***Emphasis added***)*

The intent behind this Comprehensive Plan provision is clear. Retail should be scaled to be appropriate and limited, serving the needs of the workers, providing services that workers need, such as food, coffee or daycare. A 20,000 square foot stand-alone commercial/retail store is not purely supportive of employees needs but is intended to serve the entire community and beyond.

In addition, IM 4.1.3.j states:

Implementation Measure 4.1.3.j - All industrial areas will be developed in a manner consistent with industrial planned developments in Wilsonville. Non-industrial uses may be allowed within

a Planned Development Industrial Zone, provided that those non-industrial uses do not limit the industrial development potential of the area.

Utilization of the un-developed portion of the Ward property for a commercial/retail use would result in limiting the ability of the site to accommodate industrial users in the future, which would be in conflict with this provision of the Comprehensive Plan.

Legislative Intent:

The city's PDI standards were re-written in 2004 in response to a regional request from Metro specifically to limit commercial uses in industrial areas. Region wide, the utilization of cheaper, more abundant industrial land by commercial uses was undermining the industrial sector causing a Metro area shortage of available industrial land. There was a focused effort across the region to tighten up municipal codes consistent with Title 4 of Metro's Urban Growth Management Functional Plan. The region was coming out of a major UGB expansion process that had the potential to place a significant amount of the region's industrial lands around Wilsonville, including the foundational farmlands of French Prairie. It was at this point in time that the rules around commercial uses in industrial zones significantly changed to expressly limit commercial uses in industrial zones.

Section 4 of Ordinance No. 574, which adopted the PDI standards states: "*Commercial conversion of industrial land reduces the inventory of employment land for industry. Metro does not consider such lands as available for industrial use, causing it to look to lands beyond the Urban Growth Boundary to satisfy the need. The land around Wilsonville has historically been one of the primary areas proposed for urban expansion. The City recently resisted proposals to expand the UGB to include lands east of the city and south of the Willamette River. Continued loss of the city's industrial land inventory and increased pressure to designate rural land for industry causes irreparable harm to the city and the region. Recently, the loss of industrial lands to commercial use has been both rapid and significant. In the last several months, the city has seen a number of large commercial interests file for development permits on the city's industrial land. Immediate application of this Ordinance is essential to avoid irreparable harm and to ensure that the needed supply of industrial lands is maintained.*"

Title 4 of Metro's Urban Growth Management Functional Plan provided the primary guidance for the code amendments that occurred in 2004 as part of Ordinance No. 574.

3.07.430 Protection of Industrial Areas

- (a) *Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses such as stores and restaurants and retail and professional services that cater to daily customers such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:*

- (1) *Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and*
- (2) *Training facilities whose primary purpose is to provide training to meet industrial needs.*

(b) Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for the uses described in subsection (a) to ensure that they do not interfere with the efficient movement of freight along Main Roadway Routes and Roadway Connectors shown on the 3.07 – 21 Regional Freight Network Map in the RTP. Such measures may include, but are not limited to, restrictions on access to freight routes and connectors, siting limitations and traffic thresholds. This subsection does not require cities and counties to include such measures to limit new other buildings or uses.

It is with extensive knowledge on this topic, having been a City of Wilsonville planner for 22 years and upon researching the legislative intent as outlined above that City staff rendered the interpretation limiting commercial uses in the PDI zone to those uses that are “appropriate” and “limited” primarily serving the needs of people working or living in the immediate employment or industrial area.

Appellant’s Grounds for Appeal:

The notice of Administrative Decision states that any appeal must: 1) be filed with the City Recorder within fourteen calendar days of the notice of decision; and 2) that the notice of appeal shall be in writing and indicate the specific issue(s) being appealed and the reason(s) therefore. While Appellant did fill out a permit application for the appeal and filed the required fee in a timely manner, Appellant did not provide any additional written analysis regarding the issues being appealed or the reasons therefore.

To date, Appellant has not provided any reasoning why the Director’s Interpretation is incorrect.

EXPECTED RESULTS: Upholding the Director’s Interpretation will continue to allow commercial uses in the industrial zone that are limited and supportive of the employees in the industrial or employment area while protecting valuable industrial land for industrial users.

TIMELINE: The City Council is the final local authority on this matter. The interpretation that Council authorizes will be effective upon finalization of this appeal.

CURRENT YEAR BUDGET IMPACT: NA

FINANCIAL REVIEW / COMMENTS:

Reviewed by: SCole Date: 7/25/217

LEGAL REVIEW / COMMENT:

Reviewed by: Barbara Jacobson, City Attorney Memo attached 7-21-2017

COMMUNITY INVOLVEMENT PROCESS: There was substantial community involvement into creating the PDI zoning code language, including business outreach through the Chamber of

Commerce. In addition, there was community involvement as part of the local legislative public hearings before the Planning Commission and City Council on the code edits, as well as the hundreds of citizens that participated in the 2004 Metro UGB expansion process, including testimony at hearings, to protect Wilsonville's future.

POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY (businesses, neighborhoods, protected and other groups): Commercial uses in PDI zones can provide significant benefits to employees who work in the area by reducing trips for items such as food at lunch. Conversely, commercial uses in the PDI zone can provide desired services for the community, but can increase traffic and cause congestion in industrial areas impacting freight movement.

Permitting large scale commercial in the PDI zone can also have the unintended consequence of delaying or precluding the filling of other existing commercial space as can be found at the Albertson's shopping center. Retail vacancies are not a healthy indicator for downtowns, main streets or commercial centers. Another consequence, as was identified in 2004, is that allowing large scale commercial uses in the PDI zone significantly reduces the amount of available industrial land within Wilsonville and within the region causing the need to expand the UGB.

ALTERNATIVES: The Council has many options in interpreting the PDI code provisions. Staff has offered one legally defensible interpretation to this question.

CITY MANAGER COMMENT:

ATTACHMENTS:

- A. AR17-0024 Notice of Administrative Decision - Planning Director's Interpretation
- B. Ordinance No. 574
- C. Planning Division Development Permit Application
- D. City Attorney Memo - Procedure for Appeal of Director's Interpretation (AR17-0024)



June 1, 2017

Notice of Administrative Decision

Project Name: Planning Director's Interpretation Regarding 20,000 sf allowance of commercial use in PDI Zone

Case File No.: AR17-0024

Owner/Applicant: Chad Ward/Jordan Ward

Location: East side of Kinsman Road north of Wilsonville Road The property is specifically known as Tax Lot 107, Section 14C, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon.

Note: This is the property on which the interpretation request is based. However, the interpretation will be relied on for future similar inquiries or interpretation requests.

Request: Class II Planning Director's Interpretation of Subsection 4.135 (.03) O. 3. Wilsonville Code regarding allowance of retail and commercial uses in multi-building developments within the PDI Zone.

On June 1, 2017 a Planning Director's interpretation was rendered regarding the specified request:

The written interpretation is on file in the Planning Division. A copy of the interpretation and related materials are available for inspection at no cost and will be provided at \$.25 per page at the Wilsonville Planning Division, 29799 SW Town Center Loop E., Wilsonville OR, 97070.

Section 4.022(.01) of the Wilsonville Code provides that this decision may be appealed by any person who is entitled to written notice or who is adversely aggrieved. Appeal is processed under Wilsonville Code 4.022.

Note: Any appeal must be filed with the City Recorder within fourteen (14) calendar days of the notice of the decision. The notice of appeal shall be in writing and indicate the specific issue(s) being appealed and the reason(s) therefore. Should you require further information, please contact Chris Neamtzu, Planning Director or Daniel Pauly, Senior Planner, with the City Planning Division at 503-682-4960. Last day to appeal: 4:00 P.M. on June 15, 2017

For more information, contact the Wilsonville Planning Division at 503-682-4960



June 1, 2017

Jordan Ward
400 NW 6th Avenue
Canby OR 97013

Re: Planning Director's Interpretation of Subsection 4.135 (.03) O. 3. Wilsonville Code

Dear Mr. Ward:

Per your request, submitted May 1, 2017, the City of Wilsonville Planning Director is providing this formal interpretation, under the authority granted in Subsection 4.030 (.01) O. 3., regarding the allowed size of a single retail use in a multi-building development in Wilsonville's Planned Development Industrial Zone (PDI). Specifically, the applicant has requested that the Director interpret "code allowing 20,000 SF of retail at our building site. All 20,000 SF to be in proposed building."

The list of typically permitted uses in the PDI includes;

"O. Any use allowed in a PDC Zone, subject to the following limitations:

3. Retail uses, not to exceed 5000 square feet of indoor and outdoor sales, service or inventory storage area for a single building and 20,000 square feet of indoor and outdoor sales, service or inventory storage area for multiple buildings."

The question is whether a multi-building development is limited to 5,000 square feet of retail per building or if the total allowance of 20,000 square feet could all be located in a single-building, leaving all other buildings in the development purely industrial with no allowed retail capacity.

The specific property referenced in the interpretation request is located at 29900 SW Kinsman Road. The site is currently zoned Planned Development Industrial.

Following the methodology for text interpretation established by the Oregon Supreme Court in *State v. Gaines* (2009) the requested interpretation considers the specific text in question, the broader text found in the City's Code and Comprehensive Plan, and the legislative intent.

Specific Text

The specific text of the Wilsonville Code can be read a couple ways. The first interpretation is that 5000 square feet is the limit in a single building, regardless of the number of buildings and at least 4 buildings would be needed to take advantage of the 20,000 square foot multi-building allowance. The second is a single building development is limited to 5000 square feet, but once you have "multiple buildings" an allowance of 20,000 square feet is granted which can be divided between buildings, however one chooses. For example, in a 2 building development each building could have 10,000 square feet or one of the buildings could have all 20,000 square feet and the other building be purely industrial. Based on careful analysis of the specific Code text the first interpretation is correct for the following reasons:

- The quadrupling of the allowance with the addition of a second building is not a reasonable interpretation because, carried to extremes, in a two building development, one of the buildings could be a small storage or warehouse building and the other a stand-alone 20,000 commercial retail use in the PDI zone.
- The pluralization of the word "uses" portrays an assumption that anything over a single-building allowance involves multiple retail commercial uses and not a single use over 5000 square feet.

Broader Text

When looking at broader text purpose statements are key. Subsection 4.135 (.01) states "The purpose of the PDI zone is to provide opportunities for a variety of industrial operations and associated uses." I interpret "associated uses" to include commercial uses of a scale to support and provide efficiency within the PDI zone, as opposed to a larger scale use, unassociated with industrial operations, which attract the majority of customers from outside the surrounding industrial businesses. The 5000 square foot maximum supports this notion of smaller commercial businesses associated with surrounding industrial operations.

Wilsonville uses a two map system where the Comprehensive Plan is directly related to the Development Code. For the Industrial designation in the Comprehensive Plan the only implementing zone is the PDI and thus the Industrial language in the Comprehensive Plan must be considered part of the broader text related to uses in the PDI zone. Of note is Comprehensive Plan Implementation Measure 4.1.3.h which states, in pertinent part: "The City, in accordance with Title 4 of the Metro Urban Growth Management Functional Plan, supports appropriate retail development within Employment and Industrial Areas. Employment and Industrial areas are expected to include some limited retail commercial uses, primarily to serve the needs of people working or living in the immediate Employment or Industrial Areas, as well as office complexes housing technology-based industries. Where the City has already designated land for commercial development within Metro's employment areas, the City has been exempted from Metro development standards." This language does not support the proposition of allowing larger retail developments that would primarily draw from outside the surrounding industrial area.

Legislative Intent

Ordinance No. 574 adopted the current PDI zoning language in November 2004. The Ordinance specifically relates to allowable commercial uses of industrially zoned land. It mentions "appropriate" and "limited" commercial uses primarily serving the needs of the people working or living in the immediate Employment or Industrial Area. The Ordinance also explicitly references Title 4 of the Metro Urban Growth Management Function Plan and its aim to limit the type and scale of non-industrial uses in Industrial and Employment Area.

Conformance with Metro Title 4 was a primary intent of the adoption of the current limited allowance of commercial uses in the PDI zone, so examining of Title 4 provides further details on the legislative intent.

The purpose and intent section of Title 4 states that it aims to limit the types and scale of non-industrial uses in Industrial and Employment Areas. Subsection 3.07.430 A. specifically requires the following: "Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the size and location of new buildings for retail commercial uses . . . to ensure that they serve primarily the needs of workers in the area."

This same subsection shares an example of such a measure as a limit of 5,000 square feet for a single commercial outlet, or a total of 20,000 square feet for multiple outlets in a single building or multiple buildings.

In a draft of the proposed Code language presented to the Planning Commission the proposed code language closely matched the example from Title 4 regulating the allowed commercial area by outlet. However, in the end language was adopted limiting commercial area by building and development.

Conclusion

Nowhere in the related language in the Development Code and the Comprehensive Plan, Metro Title 4, or the legislative record does language indicate intent to allow a single commercial outlet or operation in the PDI zone of more than 5000 square feet, but rather speaks of small-scale commercial to serve the surrounding employment and industrial area. The question remains, however, whether a single-building in a multi-building development could have multiple 5000 square foot or less commercial operations or outlets with a combined total of more than 5000 up to 20,000 square feet. Such would be allowed by the example language in Metro title 4. However, the clear differentiation between single building and multi-buildings in Wilsonville's code without reference to outlets indicates no such allowance.

Subsection 4.135 (.03) O. 3., and by association O. 1 and O. 4., are hereby interpreted to limit the retail or commercial square footage associated with a single building in the PDI zone to no more than 5000 square feet. This may be a single or multiple commercial users. Where a development includes more than 4 buildings 5000 square feet or larger an additional limit of 20,000 combined

commercial square footage exists. The 5000 and 20,000 square foot limits include indoor and outdoor sales, service or inventory storage or office space for professional services catering to daily customers. The table below is provided for further clarification:

Number of Buildings in Development	Potential Commercial in any Single Building within Development (square feet)	Total Potential Commercial for Development (square feet)
1	5000	5000
2	5000	10,000
3	5000	15,000
4	5000	20,000
5 or more	5000	20,000



Chris Neamtzu, AICP
Planning Director

cc: Chad Ward, 3046 E Nature Drive, Boise Idaho 83706
File

ORDINANCE NO. 574

AN ORDINANCE AMENDING WILSONVILLE COMPREHENSIVE PLAN IMPLEMENTATION MEASURE 4.1.3.i, W.C. 4.135 (.03) J., W.C. 4.135.5, and W. C. 4.008 (.02) (K) RELATING TO ALLOWABLE COMMERCIAL USES OF INDUSTRIALLY ZONED LAND, CREATING A REGIONALLY SIGNIFICANT INDUSTRIAL ZONE, AND DECLARING AN EMERGENCY.

WHEREAS, the Wilsonville Comprehensive Plan industrial development policy encourages light industry compatible with the residential and urban nature of the City; and

WHEREAS, the policy is supported by Implementing Measures calling for the "maintenance of high-quality industrial development" by "appropriate" and "limited" commercial uses primarily serving the needs of people working or living in the immediate Employment or Industrial Areas; and

WHEREAS, the Metro Urban Growth Management Functional Plan, Title 4: Industrial and Other Employment Areas seeks to improve the region's economic climate by protecting a supply of sites for employment by limiting the type and scale of non-industrial uses in Regionally Significant Industrial Areas, Industrial Areas and Employment Areas; and

WHEREAS, Title 4 further seeks to protect the capacity and efficiency of the region's transportation system for movement of goods and services by encouraging other types of employment to locate in Employment Areas, Centers, Corridors, Main Streets and Station Communities; and

WHEREAS, Title 4 Regionally Significant Industrial Area requirements are best achieved by creating an industrial zone meeting those requirements for application to properties so designated; and

WHEREAS, Comprehensive Plan Implementation Measure 4.1.3.i. must be amended to conform to Title 4 and Comprehensive Plan policies limiting commercial uses in industrial zones to those primarily serving the needs of people working in the immediate Employment or Industrial Areas; and

WHEREAS, the Development Code allows for commercial use of up to 20 percent of industrially zoned land and up to 30 percent for commercial and residential use of such land; and

WHEREAS, experience with non-industrial development of industrial land indicates that the percentages of allowable commercial use are unnecessarily high in light of the realities of the market; and

WHEREAS, the "commercial use" language in the code has been revised to exclude certain storage areas that, in operation, are more commercial than industrial in nature, resulting in even greater consumption of industrial land, contrary to the policy and intent of commercial use limitations; and

WHEREAS, the public interest is served by clarifying the code to better express the policy of limited commercial use of industrial land; and

WHEREAS, following a vetting of the proposals by the Chamber of Commerce and other interested parties, Planning Commission public hearings on the matter and a recommendation for adoption of the proposed amendments, the City Council conducted a properly noticed public hearing on the 1st of November, 2004, and having considered the entire record herein, and being fully advised in the premise.

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section 1. Findings. The City Council hereby adopts as findings of facts the above recitals and that staff report in this matter dated October 18, 2004, attached hereto as Exhibit A and incorporated herein as if fully set forth.

Section 2. Amendments.

1. Wilsonville Comprehensive Plan Implementation Measure 4.1.3. is hereby amended as follows:

Implementation Measure 4.1.3.i. The City shall limit the maximum amount of square footage of gross leasable retail **commercial and/or commercial and professional services that cater to daily customers** in areas designated for industrial development **to ensure that they serve primarily the needs of workers in the area consistent with Metro standards as contained in Title 4 of the Metro Urban Growth Management Functional Plan, 2004.** ~~In order to assure compliance with Metro's standards for the development of industrial areas, retail uses with more than 60,000 square feet of gross leasable floor area per building or business shall not be permitted in areas designated for industrial development.~~

2. Wilsonville Code section 4.135 is amended to read as follows:

Section 4.135. PDI- Planned Development Industrial Zone.

- (.01) ~~Purpose:~~ The purpose of the PDI zone is to provide on-going opportunities for varied a variety of industrial operations and associated uses, along with a range of related and compatible uses; to provide the flexibility to accommodate the changing nature of industrial employment centers; and to facilitate the redevelopment of under-utilized industrial sites.
- (.02) The PDI Zone shall be governed by Section 4.140, Planned Development Regulations, and as otherwise set forth in this Code.
- (.03) ~~Examples of uses-~~ Uses that are typically permitted:
- A. ~~Laboratories, storage buildings, w~~ Warehouses, and other buildings for storage of wholesale goods, including cold storage plants.
 - B. ~~Assembly of electrical equipment, including the manufacture of small parts.~~ Storage and wholesale distribution of agricultural and other bulk products, provided that dust and odors are effectively contained within the site.
 - C. ~~The light manufacturing, simple compounding or processing, packaging, assembling and/or treatment of products, cosmetics, drugs, and food products, unless such use is inconsistent with air pollution, excess noise, or water pollution standards.~~
 - D. ~~Experimental, film or testing laboratories.~~
 - E. ~~Wholesale houses, storage, and warehouses.~~
 - F. ~~Veterinary or animal hospital; provided that any structures or any portion of the premises used is located at least one hundred (100) feet from any residential use and further provided that no outdoor dog runs or kennels are to be provided.~~
 - G. ~~Fertilizer, storage or distribution. Storage and sale of grain, livestock feed, provided dust and smell is effectively controlled.~~
 - H. ~~Motor vehicle service facilities complimentary or incidental to permitted uses.~~
 - I. ~~Where the total area of a PDI application exceeds fifty (50) acres, there may be allowed any use allowed in a PDR Zone, provided such uses shall not exceed twenty percent (20%) of the total acreage and is compatible with the surrounding uses and properly buffered.~~
 - C. Assembly and packing of products for wholesale shipment
 - D. Manufacturing and processing
 - E. Motor vehicle services, or other services complementary or incidental to primary uses, and which support the primary uses by allowing more efficient or cost-effective operations
 - F. Manufacturing and processing of electronics, technical instrumentation components and health care equipment.
 - G. Fabrication
 - H. Office complexes - Technology

I. Corporate headquarters

~~J. Educational and training institutions~~

K. Call centers

L. Research and development

M. Laboratories

N. Repair, finishing and testing of product types manufactured or fabricated within the zone.

O. Industrial services

~~JP. Any use allowed in a PDC Zone, or any other light industrial uses provided that any such use is compatible with industrial use and is planned and developed in a manner consistent with the purposes and objectives of Sections 4.130 to 4.140 and is subject to the following eriterialimitations:~~

- ~~1. Service Commercial uses shall not exceed 20% of total acreage(defined as professional services that cater to daily customers such as financial, insurance, real estate, legal, medical or dental offices) not to exceed 5000 square feet of floor area in a single building, or 20,000 square feet of combined floor area within a multi-building development.~~
- ~~2. Office Complex Use (as defined in Section 4.001) shall not exceed 20%30% of total acreagefloor area within a project site.~~
- ~~3. Technology Office Complex shall not exceed 60% of total acreage. As with other industrial developments, total floor area dedicated to retail use shall not exceed 30% of the total square footage of the ground floors of buildings within the development. On-site parking may be limited in order to control traffic generation. Retail uses, not to exceed 5000 square feet of indoor and outdoor sales, service or inventory storage area for a single building and 20,000 square feet of indoor and outdoor sales, service or inventory storage area for multiple buildings.~~
- ~~4. Commercial Recreation shall not exceed 20% of total acreage. Combined uses under P.1 and 3 shall not exceed a total of 5000 square feet of floor area in a single building or 20,000 square feet of combined floor area within a multi-building development.~~
- ~~5. Neighborhood Commercial shall not exceed 20% of total acreage.~~
- ~~6. Combined commercial uses, listed in J.(1), (4), and (5), above shall not exceed 30% of total acreage.~~

Q. Training facilities whose primary purpose is to provide training to meet industrial needs.

R. Public facilities.

~~K. Combined commercial uses, listed in J(1), (2), (4), and (5), above, and residential uses shall not exceed thirty percent (30%) of total acreage.~~

LS. Accessory uses, buildings and structures customarily incidental to any of the aforesaid principal-permitted uses.

~~MT.~~ Temporary buildings or structures for uses incidental to construction work, which
Such buildings or structures to be removed within 30 days of completion or
abandonment of the construction work.

U. Other similar uses, which in the judgment of the Planning Director, are consistent
with the purpose of the PDI Zone.

~~(.04) Uses subject to the grant of a Conditional Use Permit:~~

~~A. Automobile service stations, subject to the standards of Section 4.184.~~

~~(.05) Prohibited uses:~~

~~A. Retail operations exceeding 60,000 square feet of gross leasable area are~~
~~prohibited within the PDI zone.~~

~~B. Any use or activity that violates the performance standards specified in subsection~~
~~(.07), below.~~

(.05) Block and access standards:

The PDI zone shall be subject to the same block and access standards as the PDC
zone, Section 4.131(.02) and (.03).

(.06) Performance Standards. The following performance standards apply to all industrial
properties and sites within the PDI Zone, and are intended to minimize the potential
adverse impacts of industrial activities on the general public and on other land uses or
activities. They are not intended to prevent conflicts between different uses or
activities that may occur on the same property. ~~Developed industrial sites shall be~~
~~subject to the provisions of this Code and the following:~~

- A. All uses and operations except storage, off-street parking, loading and unloading shall be confined, contained, and conducted wholly within completely enclosed buildings, unless outdoor activities have been approved through as part of Stage II, Site Design or Administrative Review ~~or other land use approval process (e.g., Conditional Use Permit, Site Development Permit).~~
- B. Vibration: Every use shall be so operated that the ground vibration inherently and recurrently generated from equipment other than vehicles is not perceptible without instruments at any boundary line of the property on which the use is located.
- C. Emission of odorous gases or other odorous matter in quantities as detectable at any point on any boundary line of the property on which the use is located shall be prohibited.
- D. Any open storage shall comply with the provisions of Section 4.176, and this Section.
- E. No building customarily used for night operation, such as a baker or bottling and distribution station, shall have any opening, other than stationary windows or required fire exits, within one hundred (100) feet of any residential district and any space used for loading or unloading commercial vehicles in connection with

such an operation shall not be within one hundred (100) feet of any residential district.

F. Heat and Glare:

1. Operations producing heat or glare shall be conducted entirely within an enclosed building.
2. Exterior lighting on private property shall be screened, baffled, or directed away from adjacent residential properties. This is not intended to apply to street lighting.

G. Dangerous Substances: Any use which involves the presence, storage or handling of any explosive, nuclear waste product, or any other substance in a manner which would cause a health or safety hazard for any adjacent land use or site shall be prohibited.

H. Liquid and Solid Wastes:

1. Any storage of wastes which would attract insects or rodents or otherwise create a health hazard shall be prohibited.
2. Waste products which are stored outside shall be concealed from view from any property line by a sight-obscuring fence or planting as required in Section 4.176.
3. No connection with any public sewer shall be made or maintained in violation of applicable City or State standards.
4. No wastes conveyed shall be allowed to or permitted, caused to enter, or allowed to flow into any public sewer in violation of applicable City or State standards.
5. All drainage permitted to discharge into a street gutter, caused to enter or allowed to flow into any pond, lake, stream, or other natural water course shall be limited to surface waters or waters having similar characteristics as determined by the City, County, and State Department of Environmental Quality.
6. All operations shall be conducted in conformance with the City's standards and ordinances applying to sanitary and storm sewer discharges.

I. Noise: Noise generated by the use, with the exception of traffic noises from automobiles, trucks, and trains, shall not violate any applicable standards adopted by the Oregon Department of Environmental Quality governing noise control in the same or similar locations.

J. Electrical Disturbances. Except for electrical facilities wherein the City is preempted by other governmental entities, electrical disturbances generated by uses within the PDI zone which interfere with the normal operation of equipment or instruments with the PDI Zone are prohibited. Electrical disturbances which routinely cause interference with normal activity in abutting residential uses area also prohibited.

K. Discharge Standards: There shall be no emission of smoke, fallout, fly ash, dust, vapor, gases, or other forms of air pollution that may cause a nuisance or injury to

human, plant, or animal life, or to property. Plans of construction and operation shall be subject to the recommendations and regulations of the State Department of Environmental Quality. All measurements of air pollution shall be by the procedures and with equipment approved by the State Department of Environmental Quality or equivalent and acceptable methods of measurement approved by the City. Persons responsible for a suspected source of air pollution upon the request of the City shall provide quantitative and qualitative information regarding the discharge that will adequately and accurately describe operation conditions.

KL. Open burning is prohibited.

LM. Storage:

1. Outdoor storage must be maintained in an orderly manner at all times.
2. Outdoor storage area shall be gravel surface or better and shall be suitable for the materials being handled and stored. If a gravel surface is not sufficient to meet the performance standards for the use, the area shall be suitably paved.
3. Any open storage that would otherwise be visible at the property line shall be concealed from view at the abutting property line by a sight obscuring fence or planting not less than six (6) feet in height.

MN. Landscaping:

1. Unused property, or property designated for expansion or other future use, shall be landscaped and maintained as approved by the Development Review Board. Landscaping for unused property disturbed during construction shall include such things as plantings of ornamental shrubs, lawns, native plants, and mowed, seeded fieldgrass.
2. Contiguous unused areas of undisturbed fieldgrass may be maintained in their existing state. Large stands of invasive weeds such as Himalayan blackberries, English ivy, cherry Laurel, reed canary grass or other identified invasive plants shall be removed and/or mowed at least annually to reduce fire hazard. These unused areas, located within a phased development project or a future expansion cannot be included in the area calculated to meet the landscape requirements for the initial phase(s) of the development.
3. Unused property shall not be left with disturbed soils that are subject to siltation and erosion. Any disturbed soil shall be seeded for complete erosion cover germination and shall be subject to applicable erosion control standards.

(.07) Other Standards:

- A. Minimum Individual Lot Size: No limit save and except as shall be consistent with the other provisions of this Code (e.g., landscaping, parking, etc.).
- B. Maximum Lot Coverage: No limit save and except as shall be consistent with the other provisions of this Code (e.g., landscaping, parking, etc.).
- C. Front Yard Setback: Thirty (30) feet. Structures on corner or through lots shall observe the minimum front yard setback on both streets. Setbacks shall also be

maintained from the planned rights-of-way shown on any adopted City street plan.

- D. Rear and Side Yard Setback: Thirty (30) feet. Structures on corner or through lots shall observe the minimum rear and side yard setbacks on both streets. Setbacks shall also be maintained from the planned rights-of-way shown on any adopted City street plan.
- E. No setback is required when side or rear yards abut on a railroad siding.
- F. Corner Vision: Corner lots shall have no sight obstruction to exceed the vision clearance standards of Section 4.177.
- G. Off-Street Parking and Loading: As provided in Section 4.155.
- H. Signs: As provided in Section 4.156.

3. Wilsonville Code is amended to add the following new section:

Section 4.135.5: Planned Development Industrial – Regionally Significant Industrial Area

(.01) Purpose. The purpose of the PDI-RSIA Zone is to provide opportunities for regionally significant industrial operations along with a limited and appropriate range of related and compatible uses; to provide the flexibility to accommodate the changing nature of industrial employment centers, to protect industrially zoned lands for industrial uses, primarily in those areas near significant transportation facilities for the movement of freight and to facilitate the redevelopment of under-utilized industrial sites.

(.02) The PDI-RSIA Zone shall be governed by Section 4.140, Planned Development Regulations, and as otherwise set forth in this Code.

(.03) Uses that are typically permitted:

- A. Wholesale houses, storage units, and warehouses.
- B. Laboratories, storage buildings, warehouses, and cold storage plants.
- C. Assembly of electrical equipment, including the manufacture of small parts.
- D. The light manufacturing, simple compounding or processing packaging, assembling and/or treatment of products, cosmetics, drugs, and food products, unless such use is inconsistent with air pollution, excess noise, or water pollution standards.
- E. Office Complexes-Technology (as defined in Section 4.001).
- F. Experimental, film or testing laboratories.
- G. Storage and distribution of grain, livestock feed, provided dust and smell is effectively controlled.
- H. Motor vehicle service facilities complementary or incidental to permitted uses.

I. Any use allowed in a PDC Zone or any other light industrial uses provided that any such use is compatible with industrial use and is planned and developed in a manner consistent with the purposes and objectives of Sections 4.130 to 4.140 and is subject to the following criteria:

1. Service Commercial (defined as professional services that cater to daily customers such as financial, insurance, real estate, legal, medical or dental offices) shall not exceed 3000 square feet of floor space in a single building or 20,000 square feet of combined floor area within a multiple building development.
2. Office Use (as defined in Section 4.001) shall not exceed 20% of total floor area within a project site .
3. Retail uses not to exceed 3000 square feet of indoor and outdoor sales, service, or inventory storage area for a single building or 20,000 square feet of indoor and outdoor sales, service or inventory storage area for multiple buildings.
4. Combined uses under I.1 and 3. above shall not exceed a total of 3000 square feet of floor area in a single building or 20,000 square feet of combined floor area within a multi-building development.

J. Residential uses shall not exceed 10% of total floor area.

K. Accessory uses, buildings and structures customarily incidental to any of the aforesaid principal permitted uses.

L. Temporary buildings or structures for uses incidental to construction work, which buildings or structures shall be removed upon completion or abandonment of the construction work.

M. Expansion of a building, structure or use approved prior to October 25, 2004 of up to 20% additional floor area and/or 10% additional land area.

N. Other similar uses which in the judgment of the Planning Director are consistent with the purpose of the PDI-RSIA Zone.

(.04) Prohibited uses.

- A. Retail operations exceeding 3,000 square feet of area for sales, service area or storage area for retail inventory in a single building, or 20,000 square feet of sales, service or storage area for multiple buildings, except training facilities whose primary purpose is to provide training to meet industrial needs.
- B. Any use or activity that violates the performance standards specified in subsection (.06), below.

(.05) Block and Access Standards

The PDI-RSIA Zone shall be subject to the same block and access standards as the PDC Zone [Section 4.131(.02) and (.03)].

(.06) Performance Standards. The following performance standards apply to all industrial properties and sites within the PDI-RSIA Zone, and are intended to minimize the potential adverse impacts of industrial activities on the general public and on other land uses or activities. They are not intended to prevent conflicts between different uses or activities that may occur on the same property or site.

- A. All uses and operations except storage, off-street parking, loading and unloading shall be confined, contained and conducted wholly within completely enclosed buildings, unless outdoor activities have been approved as part of Stage II, Site Design or Administrative Review.
- B. Vibration: Every use shall be so operated that the ground vibration inherently and recurrently generated from equipment other than vehicles is not perceptible without instruments at any boundary line of the property or site on which the use is located.
- C. Emission of odorous gases or other odorous matter in quantities detectable at any time and at any point on any boundary line of the property or site on which the use is located are prohibited.
- D. Any open storage shall comply with the provisions of Section 4.176 and this Section.
- E. No building customarily used for night operation, such as a bakery, bottling and distribution plant or other similar use, shall have any opening, other than stationary windows or required fire exits, within one hundred (100) feet of any residential district and any space used for loading or unloading commercial vehicles in connection with such an operation shall not be within one hundred (100) feet of any residential district.
- F. Heat and Glare.
 - 1. Operations producing heat or glare shall be conducted entirely within an enclosed building.
 - 2. Exterior lighting on private property shall be screened, baffled, or otherwise directed away from adjacent residential properties. This is not intended to apply to street lighting.
- G. Dangerous Substances: Any use which involves the presence, storage or handling of any explosive, nuclear waste product or any other substance in a manner which would cause a health or safety hazard on any adjacent land use or site shall be prohibited.
- H. Liquid and Solid Wastes:
 - 1. Any storage of wastes which would attract rodents or insects or otherwise create a health hazard shall be prohibited.
 - 2. Waste products which are stored outside shall be concealed from view from any property line by a sight-obscuring fence or planting as required by Section 4.176.
 - 3. No connection with any public sewer shall be made or maintained in violation of applicable City or State standards.

4. No wastes conveyed shall be allowed to or permitted, caused to enter, or allowed to flow into any public sewer in violation of applicable City or State standards.
 5. All drainage permitted to discharge into a street gutter, caused to enter or allowed to flow into any pond, lake, stream or other natural water course shall be limited to surface waters or waters having similar characteristics as determined by the City, County, and State Department of Environmental Quality.
 6. All operations shall be conducted in conformance with the city's standards and ordinances applying to sanitary and storm sewer discharges.
- I. Noise: Noise generated by the use, with the exception of traffic uses from automobiles, trucks and trains, shall not violate any applicable standards adopted by the Oregon Department of Environmental Quality governing noise control in the same or similar locations.
 - J. Electrical Disturbances. Except for electrical facilities wherein the City is pre-empted by other governmental entities, electrical disturbances generated by uses within the PDI-RSIA Zone which interfere with the normal operation of equipment or instruments within the PDI-RSIA Zone are prohibited. Electrical disturbances which routinely cause interference with normal activity in abutting residential uses are also prohibited.
 - K. Discharge Standards: There shall be no emission of smoke, fallout, fly ash, dust, vapors, gases or other forms of air pollution that may cause a nuisance or injury to human, plant or animal life or to property. Plans for construction and operation shall be subject to the recommendations and regulations of the State Department of Environmental Quality. All measurements of air pollution shall be by the procedures and with equipment approved by the State Department of Environmental Quality or equivalent and acceptable methods of measurement approved by the City. Persons responsible for a suspected source of air pollution upon request of the City shall provide quantitative and qualitative information regarding the discharge that will adequately and accurately describe operation conditions.
 - L. Open burning is prohibited.
 - M. Storage.
 1. Outdoor storage must be maintained in an orderly manner at all times.
 2. Outdoor storage areas shall be gravel surfaced or better and shall be sufficient for the materials being handled and stored. If a gravel surface is not sufficient to meet the performance standards for the use, the area shall be suitably paved.
 3. Any open storage that would otherwise be visible at the property line shall be concealed from view at the abutting property line by a sight obscuring fence or planting not less than 6' in height.

N. Landscaping.

1. Unused property, or property designated for expansion or other future use shall be landscaped and maintained as approved by the Development Review Board. Landscaping for unused property disturbed during construction shall include such materials as plantings of ornamental shrubs, lawns, native plants, and mowed, seeded fieldgrass.
2. Contiguous unused areas of undisturbed fieldgrass may be maintained in their existing state. Large stands of invasive weeds such as Himalayan blackberry, English ivy, cherry laurel, reed canary grass or other identified invasive species shall be removed and/or mowed at least annually to reduce fire hazard. These unused areas, located with a phased development project or a future expansion cannot be included in the area calculated to meet the landscape requirements for the initial phase(s) of the development.
3. Unused property shall not be left with disturbed soils that are subject to siltation and erosion. Any disturbed soil shall be seeded for complete erosion cover germination and shall be subject to applicable erosion control standards.

(.07) Other Standards

A. Lot Size:

1. Parcels less than 50 acres in size at the time of adoption of this amended Section: Land divisions may occur in conformance with an approved Master Plan consistent with the requirements of this section. No lot size limit, save and except as shall be consistent with the other provisions of this code.
2. Parcels 50 acres or greater in size existing on October 25, 2004 may be divided into any number of parcels or lots pursuant to an approved Master Plan provided that at least one lot or parcel of at least 50 acres in size remains. Provided further however, at least forty percent (40%) of the lot or parcel so created has been developed or planned for industrial uses and associated accessory uses and no portion has been developed or planned for the uses listed in Section 4.135.5 (03) I. 1- 3.
3. Uses not subject to the foregoing lot size provisions:
 - a. Public facilities and services
 - b. Separation of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by DEQ pursuant to ORS 465.225.
 - c. Separation of a lot or parcel containing a nonconforming use from the remainder of the site in order to improve the utility of the remainder site for the intended industrial uses
 - d. Separation for the purposes of financing when the new lot or parcel is consistent with the approved Master Plan.

e. Division of lots or parcels consistent with a Master Plan approved by the City prior to July 1, 2004.

B. Maximum Lot Coverage. No limit save and except as shall be consistent with the other provisions of this code.

C. Front Yard Setback. Thirty (30) feet. Structures on corner or through lots shall observe the minimum front yard setback on both streets. Setbacks shall also be maintained from the planned rights-of-way shown on any adopted City street plan.

D. Rear and Side Yard Setback. Thirty (30) feet. Structures on corner or through lots shall observe the minimum rear and side yard setback on both streets. Setbacks shall also be maintained from the planned rights-of-way shown on any adopted City street plan.

E. No setback is required when rear or side yards abut a railroad siding.

F. Corner Vision. Corner lots shall have no lot obstruction to exceed the vision clearance standards of Section 4.177.

G. Off-street Parking and Loading. As required in Section 4.155.

H. Signs. As required in Section 4.156

4. Wilsonville Code Section 4.008(.02)(K) is amended as follows:

Special features include: mixed use provisions for most zones; ~~(including industrial zones that allow up to 30% of the area to be in residential and commercial uses)~~; ability to “waive” many of the typical development standards based n design improvements that will result; density transfers; strong variance provision; tree protection with mitigation requirements for tree cutting; City Council “Call Up” provisions; heavy landscaping requirements; owner/developer signature to accept and abide by conditions; limited administrative approval power; enforcement powers and practice.

Section 3. Staff Direction. The City Recorder is directed to make the appropriate formatting and stylistic changes to conform the aforementioned amendments to the format and style of the Wilsonville Code.

Section 4. Effective Date. Commercial conversion of industrial lands reduces the inventory of employment land for industry. Metro does not consider such lands as available for industrial use, causing it to look to lands beyond the Urban Growth Boundary to satisfy the need. The land around Wilsonville has historically been one of the primary areas proposed for urban expansion. The City recently resisted proposals to expand the UGB to include lands east of the city and south of the Willamette River. Continued loss of the city’s industrial land inventory and

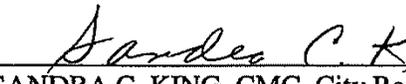
increased pressure to designate rural land for industry causes irreparable harm to the city and the region. Recently, the loss of industrial lands to commercial use has been both rapid and significant. In the last several months, the city has seen a number of large commercial interests file for development permits on the city's industrial land. Immediate application of this ordinance is essential to avoid irreparable harm and to ensure that the needed supply of industrial lands is maintained. As such, an emergency is declared to exist and this ordinance shall take effect immediately upon final reading and passage by the Council.

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 18th day of October, 2004, and scheduled for a second reading at a special meeting of the Council on the, 1st of November 2004 commencing at the hour of 7P.M. at the Wilsonville Community Center.

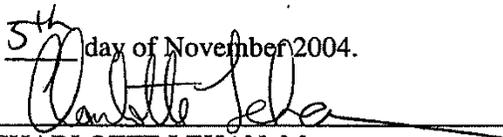

SANDRA C. KING, CMC, City Recorder

Enacted by the City Council on the 1st day of November 2004, by the following votes:

YEAS: -5- NAYS: -0-


SANDRA C. KING, CMC, City Recorder

DATED and signed by the Mayor this 5th day of November 2004.


CHARLOTTE LEHAN, Mayor

SUMMARY OF VOTES:

Mayor Lehan Yes
Councilor Kirk Yes
Councilor Holt Yes
Councilor Scott-Tabb Yes
Councilor Knapp Yes

REC'D 6-15-17 Ach.

Attachment C

Pd. \$475.00



Planning Division
Development Permit Application

Final action on development application or zone change is required within 120 days in accordance with provisions of ORS 227.175

A pre application conference is normally required prior to submittal of an application. Please visit the City's website for submittal requirements

Pre-Application Meeting Date: _____

Incomplete applications will not be scheduled for public hearing until all of the required materials are submitted.

29799 SW Town Center Loop E, Wilsonville, OR 97070
Phone: 503.682.4960 Fax: 503.682.7025
Web: www.ci.wilsonville.or.us

Applicant:

Name: Jordan Ward
Company:
Mailing Address: 400 NW 5th Ave
City, State, Zip: Conby, OR, 97013
Phone: (208) 890-4940 Fax:
E-mail: Jordanward1@gmail.com

Authorized Representative:

Name:
Company:
Mailing Address:
City, State, Zip:
Phone: Fax:
E-mail:

Property Owner:

Name: Chad V. Ward
Company: Van Bilzen Investments
Mailing Address: 3046 E. Nature Dr.
City, State, Zip: Boise ID 83706
Phone: (208) 890-6408 Fax:
E-mail: Chadward@gmail.com

Property Owner's Signature:

Printed Name: Date:
Applicant's Signature: (if different from Property Owner)
Printed Name: Jordan Ward Date: 6/15/17

Site Location and Description:

Project Address if Available: 29900 SW Kinsman Rd Suite/Unit
Project Location:
Tax Map #(s): Tax Lot #(s): County: [] Washington [X] Clackamas

Request:

Appeal AP17-0024 regarding Commercial uses in our industrial site.

Project Type: Class I [] Class II [] Class III []

[] Residential [] Commercial [X] Industrial [] Other: _____

Application Type(s):

- [] Annexation [X] Appeal [] Comp Plan Map Amend [] Parks Plan Review
[] Final Plat [] Major Partition [] Minor Partition [] Request to Modify
[] Plan Amendment [] Planned Development [] Preliminary Plat Conditions
[] Request for Special Meeting [] Request for Time Extension [] Signs [] Site Design Review
[] SROZ/SRIR Review [] Staff Interpretation [] Stage I Master Plan [] Stage II Final Plan
[] Type C Tree Removal Plan [] Tree Permit (B or C) [] Temporary Use [] Variance
[] Villebois SAP [] Villebois PDP [] Villebois FDP [] Other (describe)
[] Zone Map Amendment [] Waiver(s) [] Conditional Use

MEMORANDUM

TO: Honorable Mayor and City Council
City Manager

FROM: Barbara Jacobson, City Attorney

DATE: August 7, 2017

RE: **Procedure for Appeal of Director's Interpretation (AR17-0024)**

I. STATEMENT OF FACTS

Mr. Jordan Ward (“Appellant”) requested a Planning Director’s Interpretation (“Director’s Interpretation”) regarding the meaning of Wilsonville Code (WC) 4.030(.01)O. Appellant made this request prior to submitting a development application to avoid the cost of processing an application in the event of an unfavorable staff recommendation to the Development Review Board with respect to inclusion of a certain type and size of commercial retail operation in the industrial zone. Based on Appellant’s request, the Director’s Interpretation, attached to the Staff Report, was issued. As a result, there is no site development permit or pending process with the Development Review Board (DRB) to be reviewed or appealed, as would normally be the case.

II. LEGAL ISSUES

This Memorandum explains the appropriate venue for an appeal of a Director’s Interpretation when the Director’s Interpretation is issued prior to any site development permit and the appeal hearing process.

III. VENUE

A. WC 4.030 – Director’s Interpretation

WC 4.030(.01)(B)(3) grants the Planning Director authority to issue “[w]ritten interpretations of the text or maps of this Code, the Comprehensive Plan or sub-elements of the Comprehensive Plan, subject to appeal as provided in Section 4.022.” The Planning Director can make such interpretations “upon receiving the required filing fee along with a specific written request.” WC 4.030(.01)(B)(3).

On May 1, 2017, Appellant made such a request, in accordance with WC 4.030(.01)(B)(3). After the Planning Director issued the Director’s Interpretation, Appellant filed an appeal within fourteen (14) calendar days. WC 4.030(.01)(B)(3) states that an appeal of a Director’s Interpretation must adhere to WC 4.022.

At that time, the Planning Director requested the City Attorney's office examine the appropriate venue for the appeal of the Director's Interpretation because WC 4.022 does not specify which governing body an appeal of this type of decision should be brought before.

B. WC 4.022 – Appeal of Director's Interpretation

The appeal procedure, outlined in WC 4.022, does not clearly identify the process for appealing a Director's Interpretation that is issued prior to a site development permit. WC 4.022(.01) states, in part:

“A decision by the Planning Director on issuance of a Site Development Permit may be appealed. Such appeals shall be heard by the Development Review Board for all quasi-judicial land use matters except expedited land decisions, which may be appealed to a referee selected by the City to consider such cases.” WC 4.022(.01) (emphasis added).

Subsection (.02) allows an affected party who participated in the hearing before the DRB to appeal the decision of the DRB to City Council within fourteen (14) calendar days of the posting of the notice of decision. The remaining subsections of WC 4.022 do not identify any other appeal procedure regarding a Director's Interpretation. The remaining subsections provide notice requirements, standards for review, and the effective date of a reviewing body's decision.

WC 4.022(.01) is not an appropriate application of the appeal process for this particular appeal because there is no site development permit being reviewed and the DRB has had no involvement in the proposed development at issue. The DRB, therefore, does not have the authority under the Code to hear this type of appeal. Under WC 4.031(.01), DRB has the authority to act on “[c]all-ups or appeals of staff decisions or interpretations involving quasi-judicial applications or procedures, as authorized in Sections 4.022 and 4.172.” WC 4.031(.01)(B). This particular appeal does not fall under WC 4.031(.01)(B) and WC 4.022(.01) because there is no site development permit, nor any development application, pending. Furthermore, this appeal is not quasi-judicial, it is legislative. The appeal specifically focuses on the meaning of the Code, not the application of the Code to a site development permit or other development application.

Conversely, Council has the final authority “to interpret and enforce the procedures and standards set forth in this Chapter [4].” WC 4.033(.01). Given the Council's overarching and final authority under WC 4.033(.01) and its authority to hear appeals under WC 4.022(.02), the appropriate venue for the appeal of the Director's Interpretation in this circumstance is before the Council.

IV. APPEAL HEARING PROCESS

Although it is the City Attorney's opinion that City Council has jurisdiction over the Appeal, the Appellant has failed to state any specific grounds for his appeal. From that we must surmise he believes the building he has requested to place in the industrial zone should be allowed. Typically, appeals to City Council are heard on the record only and no additional testimony or evidence is admitted. In this case, the record consists of the Director's Opinion, the Code Sections, the Staff Report, the Appeal Request filed and this memorandum, all of which are included in the packet before you. At its discretion, the City Council may limit an appeal to a review of the record and a hearing for receipt of oral arguments regarding only what it is in the record, or it may also accept new evidence and testimony

The Appellant has presented no argument or reasons as to why he is appealing the Director's Interpretation. Therefore, it is the City Attorney's recommendation that the City Council review, should be based solely upon what is in the record since, by failing to present his reasons, the Appellant has not afforded the Director an opportunity to respond to his objections. City Council may, however, in its discretion, elect to provide for some testimony and even new evidence. If new evidence is admitted, City Council may elect to leave the record open if needed for the Director to respond to any such new evidence or testimony.



Work Plan Updates

Quarter 2 2017



Complete form-based code work currently underway

Project Managers: Kym Rybold and Jordan Vance

During the spring, staff continued to coordinate with the project consultant on developing a schedule for summer work sessions with the Development Review Board, Planning Commission, and City Council to gather feedback on outstanding policy and process considerations identified in July 2015. These work sessions will take place in July and August 2017.

Complete the French Prairie Bridge feasibility study

Project Manager: Zach Weigel

Technical Advisory Committee Meeting #2 & Task Force Meeting #2 were held and recommended bridge evaluation criteria were finalized by the Task Force. Project Management Team is currently assessing bridge alignments based on evaluation criteria.

Promote and make available numerous options for convenient sustainable choices

Project Manager: Mark Ottenad

Staff of Metro Resource Conservation & Clackamas County Recycling Div. and Resource Conservation & Solid Waste Program briefed City Council in June on commercial food-scrap composting

Complete the Parks Master Plan and, subsequently, master planning for Boones Ferry Park

Project Manager: Mike McCarty

On-line survey is live until June 30th. Between random 3,500 mailings and on-line Wilsonville has a 19% return thus far which is far ahead of normal according to GreenPlay which is 8-10% returns. GreenPlay will be in town August 2nd and 3rd, with a Town Hall Meeting taking place at 6PM the night of the 2nd.

Townhall

Hold educational town hall / summit meeting(s) regarding traffic challenges, affordable housing, building elevation, and density policy trade-offs

Project Managers : Nancy Kraushaar and Jon Gail

The project team met in June and is planning to hold a Transportation Summit and Open House on Saturday, Nov. 4, 10 am–2 pm at City Hall in Council Chambers. The event will include a wide variety of transportation related agencies such as Oregon Department of Transportation, Clackamas County and others both on panel discussion related to addressing transportation congestion, safety, and safe routes to schools among other topics. City Council is invited to attend and the Mayor is expected to serve as the moderator for panel discussions.

A Housing Summit is planned for the spring of 2018 at a point in time when the Equitable Housing Strategic Plan is considering potential new programs and resources to be included in the draft Equitable Housing Strategic Plan. The date and time of the event is not set at this time.

“We have been a part of this community for 25 years and have nothing but love and respect for our neighbors and businesses. The Best place to live!” Quote from Facebook Post



Evaluate the results of the housing affordability study and begin policy development, including addressing housing mix

Project Managers : Jon Gail and Miranda Bateschell

In May the City entered into an Inter-Governmental Agreement (IGA) with Metro to fund the Equitable Housing Strategic Plan. Currently the City has issued a Request for Proposals to identify and select a firm to serve as the project lead researcher and facilitator for the project. Selection of the consultant is hoped to occur in July with the consultant beginning work on the project in August. The overall plan is to provide City Council the Equitable Housing Strategic Plan along with at least six specific policies and or strategies to implement by December 31, 2018.



Complete the Town Center Master Plan, including an International Square

Project Manager : Miranda Bateschell

The Wilsonville Town Center Plan focuses on creating a community-driven vision for the Town Center and a plan that will guide future development and implement that vision. Over the past few months, staff have been busy engaging community members in a dialogue about their vision for the future of Town Center.

Public outreach activities to date have included:

- A Community Kick-off Event, held on February 28, 2017;

- A citywide online survey;

- Over 30 meetings with residents, property owners, businesses, community groups, students, and elected officials;

- “Questions of the month,” distributed both online and at the library and community center; and

- Two meetings with project Task Force comprised of community members, businesses, landowners and neighborhood service organizations.

Participants at the Community Kick-Off Event identified assets and challenges in Town Center and shared their visions for what Town Center might look like in the future. Small group activities provided a forum for all community members, including youth and Spanish-speakers, to share their specific ideas. Feedback from the event centered on topics including but not limited to transportation, circulation, public spaces and economic development. The project Task Force convened in March 2017 for the first time and reviewed the community feedback from the event and online survey, breaking into small groups to begin identifying how the feedback translated into a vision statement and goals for the Town Center Plan. The vision and goals were refined through a second Task Force meeting in April (after reviewing more public input) and a joint Planning Commission and City Council meeting on May 15, 2017.

Throughout April and May, the project team has met with students at various Wilsonville Schools and their PTA and Booster Club groups to share project information and receive input; co-hosted the Chamber of Commerce morning SPARK meeting; presented project information at the Rotary Club luncheon; hosted individual meetings and focus groups with property owners and local businesses; and presented at various HOA and community meetings. In addition, the project team has visited many of the businesses in Town Center to establish relationships, engage them in the project, and provide them with promotional materials to display to their customers regarding our upcoming events and surveys.

The project team has also been working on a variety of activities slated for Summer 2017 in order to gain community input on the next phase of the project: design alternatives. Staff finalized plans for the Town Center Design Workshop that will be held at Clackamas Community College – Wilsonville Campus on June 26 at 5:00–8:00 pm. With this initial input on design, the project team will develop an online public survey for additional input from the community, coming July 26-August 20. The project team will also have a presence to get public feedback in-person during these summer events and advertise the survey: July 27 – Rotary Concert, July 29 – Kiwanis Fun Run, August 3 – Rotary Concert, August 5 – Fun in the Park, August 10 – Rotary Concert, August 12 – Wilsonville Brewfest, and August 16 – Community Block Party. Staff is actively working on marketing materials and publicizing the upcoming summer activities as well as designing pop-up activities for the Community Block Party to give residents in attendance the opportunity to experience the ideas they have had so far for Town Center. Finally, staff is also promoting a summer Instagram photo contest through Labor Day (June 13 – September 5) to build excitement and engage the community in thinking about “What are your favorite things about living/working/playing in the Town Center?” by asking them to post a picture and caption that answers this question to Instagram with hashtag #mywilsonville for a chance to win a prize!



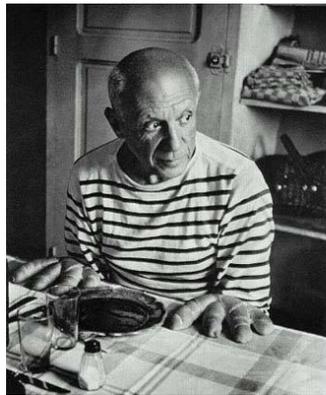
Explore the establishment of an Arts and Culture Commission, based on the results of the Arts and Culture Commission Study, and develop a strategy to reinstitute the sculpture program

Project Managers : Angela Handran and Mike McCarty

Working with the legal department and Clackamas County Arts Alliance to complete a grant agreement for the \$26,100 Community Enhancement Program award to cover the funding for Clackamas County Arts Alliance to complete a Arts and Culture Survey and strategic plan. The grant agreement is hoped to be signed by early July with work on the project beginning later this summer. The Needs Assessment Survey is planned for this fall and stakeholder interviews are planned for early 2018. Council consideration of the Draft Solutions Report is expected by next spring

with a final draft of the report for Council Consideration by next fall. The main parts of the goal to establish Arts and Culture Commission and to reinstitute a sculpture program are dependent on the results of the survey and community support and will be addressed in the recommended measures from Clackamas County

Arts Alliance final work for consideration by the City Council in fall of 2018. The Needs Assessment Survey seeks to gauge the level of public support for establishing and Arts and Culture Commission and also to reinstitute a sculpture program.



**“Every child is an artist.
The problem is how to
remain an artist
once we grow up”**

- Pablo Picasso

Organize Library archives; capture history as it happens and before it changes, including coordinating photography

Project Manager: Pat Duke



The Wilsonville/Boones Ferry Historical Society has been reconstituted with a nine member Board of Directors. The new Board is reviewing bylaws for the organization and beginning to prioritize possible projects like organizing the archives and capturing history as it happens

Install interpretive signage for Beauty and the Bridge and on Murase architectural features; inventory all public art with interpretive recognition

Project Managers : Angela Handran and Mike McCarty

In May City Council approved a \$20,000 award to the Beauty and the Bridge Interpretive Signs project to fund four signs at each end of the project to educate the community and visitors about how the project was made possible in partnership with local primary schools, middle schools, the high school, and the Oregon Department of Transportation. A planning session with City Councilor Charlotte Lehan is scheduled for late summer 2017.



Complete the preliminary work necessary to begin soliciting bids on Phase I of the Boones Ferry / Brown Road project

Project Managers : Steve Adams and Nancy Kraushaar

30% Construction plans submitted on 6/16 for city review. Draft Bridge Type, Size and Location Report, draft Archeological Report, and Public Involvement Plan submitted

Secure funding to design the Pedestrian and Bikeway Bridge

Project Manager : Zach Weigel

Project work will begin July 1, 2017.

Promote farm and forest land protection

Project Manager : Mark Ottenad

Proposed 2017 land-use legislation that permitted development of 'Red Barn' site located in French Prairie

Develop and implement a street tree replacement program

Project Managers : Delora Kerber and Kerry Rappold

Started recruitment of interns who will perform street tree inventory. Met with internal stakeholder to discuss optimal street trees and updating the preferred street tree list.

Become a Bee City

Project Manager : Kerry Rappold

A resolution has been prepared, and the application/resolution will be submitted to Bee City USA for their review. The resolution will be presented to the Council on August 7.

Advocate for auxiliary lane on Interstate 5 Southbound over the Boone Bridge

Project Managers : Nancy Kraushaar and Mark Ottenad

Proposed transportation investment package legislation, HB 2017-3, contains earmark note suggestion of \$120 million for Boone Bridge lane addition and seismic retrofit.

Advocate for more funding for all transportation facilities

Project Managers: Dwight Brashear and Mark Ottenad

Transportation investment package legislation, HB 2017-3, proposes \$8.1 billion in new transportation funding over 10 years, including generating \$100 million/year statewide for transit operations. We anticipate that our portion would be in the range of \$440K - \$1M annually, which would more than fund all transportation facilities. We should know by mid-July whether the bill becomes law.



Advocate for increased WES service

Project Manager: Dwight Brashear

Met with the head of TriMet, Neil McFarlane, on May 31st and then again on June 15th for the purpose of discussing increasing WES service. Although there seemed to be support for the idea, there are sticking points, such as how to pay for the increase. In the absence of clear answers to this and a few other salient questions, more time is going to be need to flesh out the issues and settle on a plan.

Continue to negotiate with TriMet to adjust its service boundaries

Project Manager : Dwight Brashear

Staff met with the head of TriMet, Neil McFarlane, on May 31st and then again on June 15th for the purpose of discussing service boundaries. All sides understand that TriMet's service area boundaries and those of the City of Wilsonville are in conflict with one another, especially as they relate to Coffee Creek and Basalt Creek. Staff clearly explained our position, being that SMART intends to provide transit services throughout its city limits, and that Wilsonville further expects to collect all payroll tax revenue within the same. TriMet is not yet ready to relinquish that which they believe to be theirs; the service area boundaries and the taxes therein. That said, they appeared willing to discuss and entertain an idea that would allow SMART to operate service inside of their service area, while being compensated by TriMet. More discussions on this matter are being planned.

Update the solid waste franchise agreement and consider curbside composting options

Project Manager : Mark Ottenad

Staff of Metro Resource Conservation & Clackamas County Recycling Div. and Resource Conservation & Solid Waste Program briefed City Council in June on commercial food-scrap composting. Staff intends to bring franchise-related issues for Council consideration in Fall 2017.



City of Wilsonville 2017-2018 Work Plan





City of Wilsonville 29799 SW Town Center Loop E. Wilsonville, OR 97070
503.682.1011

The 2017/2018 Wilsonville City Council Work Plan provides a high level overview of community priorities established by your governing body. The Work Plan includes plans and projects that address important issues related to residential growth, transportation enhancements, growing the City’s tax base, adding family–wage jobs, environmental preservation, and expanding cultural opportunities in the City.

Wilsonville is a fast–growing city with a high quality of life. The adopted Work Plan will ensure that, as growth continues, it will occur in a way that adds value to the City’s existing residents and businesses.

We encourage participation in the Work Plan by all city stakeholders. You can track our progress online by visiting : <http://www.ci.wilsonville.or.us/CouncilGoals>. You can also call Community Outreach Specialist Angela Handran at 503.570.1503, or email handran@ci.wilsonville.or.us.



Tim Knapp
Mayor



Scott Starr
Council President



Susie Stevens
City Councilor



Charlotte Lehan
City Councilor



Kristin Akervall
City Councilor

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Wilsonville Key Performance Areas City of Wilsonville

Quality Education: Wilsonville creates a life-long learning environment that prepares productive, successful citizens.

Fiscal Discipline: Wilsonville exercises fiscal discipline through strategic investments, adequate reserves, sound financial plans and policies with innovative service delivery.

Environmental Stewardship: The most important things for life are clean air, water and soil. Seven generations from now the people living in Wilsonville are thankful that prior decisions and actions preserved these elements as well as our natural systems.

Clear Vision and Community Design: Wilsonville's clear vision and community design engages citizens to ensure a cohesive community with a high quality of life, physically, economically and socially.

Thoughtful Land Use: Wilsonville balances land uses to create a sense of community that preserves our historical identity.

Well-Maintained Infrastructure: Wilsonville is innovative in proactively building and maintaining clean, attractive and cost effective infrastructure.

Community Amenities and Recreation: Wilsonville has opportunities and facilities for leisure activities, entertainment and social interaction that interest people of all ages.

Welcoming Engaged and Satisfied Residents: The City of Wilsonville embraces diversity and engages and communicates with residents, and responds to changing expectations as technology evolves.

Multi-Modal Transportation Network: Wilsonville's multi-modal transportation network is safe, inviting and easy to navigate, connecting the City's neighborhoods to each other and to its commercial areas, employment centers and public and recreational facilities.

Safe, Healthy and Aesthetically Pleasing Community: The ideas of public safety, healthy living and aesthetic values are intertwined in all decision making.

Economic Development: Wilsonville's economic development promotes an environment that enables existing and new business – small, medium and large – to flourish!

Regional Awareness and Influence: Wilsonville is proactively involved at county, regional, state and federal levels to influence decisions that impact the City.

Council Goals

1. Complete form-based code work currently underway.
2. Conduct a study of the Arrowhead Creek Planning Area.
3. Complete the French Prairie Bridge feasibility study.
4. Promote and make available numerous options for convenient sustainable choices.
5. Update the Parks and Recreation Master Plan
6. Complete the Master planning for Boones Ferry Park.
7. Hold educational town hall meetings on important community issues.
8. Evaluate the results of the housing affordability study and begin policy development, including addressing housing mix.
9. Complete the Town Center Master Plan, including an International Square.
10. Explore the establishment of an Arts and Culture Commission, based on the results of the Arts and Culture Commission Study, and develop a strategy to reinstitute the sculpture program.
11. Organize Library archives; capture history as it happens and before it changes, including coordinating photography.
12. Install interpretive signage for Beauty and the Bridge and on Murase architectural features; inventory all public art with interpretive recognition.
13. Develop a wayfinding program.
14. Complete the preliminary work necessary to begin soliciting bids on Phase I of the Boones Ferry / Brown Road project.
15. Secure funding to design the I-5 Pedestrian & Bikeway Bridge (Town Center Loop to Barber Street).
16. Promote farm and forest land protection.
17. Develop and implement a street tree replacement program.
18. Become a bee city.
19. Improve Wilsonville's Walk Score.
20. Complete the fiber business plan.



How The Work Plan Was Created

In February of this year, City Council and City Staff held a two day goal setting session. During that session, City Council set Objectives, Goals, and Administrative Initiatives for the next two years. This document lays out each goal and administrative initiative in a Work Plan format.

A Work Plan Project Consists Of

A Project Owner. This person is responsible for the project. Contact information is also provided if you would like more information.

A Project Description. This provides details on the project.

Council/Commission Interactions. This section describes how the project uses input or direction from City Council or other advisory boards.

Outreach/Communication. This provides details about groups that will be asked to provide input.

Key Public Meetings. This identifies what type of key public meetings will occur and when.



The Projects in 2017-18 Work Plan are Divided up Into the Following Four Categories

- Create a safe, livable community, while promoting an active and connected way of life.
- Enhance tourism and promote arts and culture.
- Ensure protection of our environment and natural resources.
- Invest in infrastructure and technology. Be a hub for economic activity and innovation.

These categories are representative of the commitment the City has to provide essential services to the community, as well as establishing a connection between the goals to achieve the vision and priorities of the Council.





Create a Safe, Livable Community, While Promoting an Active and Connected Way of Life.



Conduct a Study of the Arrowhead Creek Planning Area

PROJECT OWNER

Chris Neamtzu AICP, Planning Director; neamtzu@ci.wilsonville.or.us

PROJECT DESCRIPTION

This project will conduct a study of the Arrowhead Creek Planning Area, including consideration for river access options, transportation, and land use issues.

COUNCIL/COMMISSION INTERACTIONS

Update and Adoption

KEY PUBLIC MEETINGS
A funding request for this project is planned to occur with the FY 18/19 budget. Detailed timelines and approach will be established once project funding is certain.



Improve Wilsonville’s Walk Score

PROJECT OWNER

Jenn Scola, Associate Planner; scola@ci.wilsonville.or.us
Charlie Tso, Assistant Planner; tso@ci.wilsonville.or.us

PROJECT DESCRIPTION

Walk Score measures a communities walkability from 0-100, with 100 being “walkers paradise” or the most walkable. This project will seek ways to increase Wilsonville's current walk score of 30. A walk score of 30 indicates a car dependent community.

COUNCIL/COMMISSION INTERACTIONS

Updates. Direction

KEY PUBLIC MEETINGS
City Council Work Session: Report Findings Q3 2018
City Council Meeting: Present findings Q4 2018



Update the Parks and Recreation Master Plan

PROJECT OWNER

Mike McCarty, Parks and Recreation Director; mccarty@ci.wilsonville.or.us

PROJECT DESCRIPTION

This project calls for an update to the City’s Parks and Recreation Comprehensive Master Plan that will guide future park and recreation needs for Wilsonville. This will require extensive community engagement.

COUNCIL/COMMISSION INTERACTIONS

Update and Adoption

OUTREACH AND COMMUNICATION

Community Survey, Open House

KEY PUBLIC MEETINGS

Public Open House: Q3 2017

Park and Recreation Board Meeting: Q4 2017

Council Meeting: Adoption Q1 2018

Complete the Planning for Boones Ferry Park

PROJECT OWNER

Mike McCarty, Parks and Recreation Director; mccarty@ci.wilsonville.or.us

PROJECT DESCRIPTION

The Boones Ferry Master Plan will be a “stand alone”, document and will be completed by conducting an open house, a hands on workshop, and community surveys. The input received from the public outreach will be used to determine what amenities the community would like to see in this area and where they should be located. Staff will be heavily advertising these meetings to the entire community with extra efforts being made to notify residents in the Boones Ferry Park area.

COUNCIL/COMMISSION INTERACTIONS

Update and Adoption

OUTREACH AND COMMUNICATION

Open House, Hands on Workshop, Community Survey

KEY PUBLIC MEETINGS

Public Open House: Q3 2017

Hands on Workshop: Q3 2017

Park and Recreation Board Meeting: Q4 2017

Council Meeting: Adoption Q1 2018

Complete the French Prairie Bridge Feasibility Study

PROJECT OWNER

Zach Weigel, Engineering; weigel@ci.wilsonville.or.us

PROJECT DESCRIPTION

The French Prairie Bridge project will determine the final bridge location, alignment, size, and type for a bicycle-pedestrian/emergency-access crossing of the Willamette River west of the I-5 Boone Bridge.

COUNCIL/COMMISSION INTERACTIONS

Update, Input, Direction

OUTREACH AND COMMUNICATION

Technical Advisory Committee (TAC) whose members represent public agencies and organizations with technical expertise and implementation authority, and other key stakeholders.

Project Task Force

KEY PUBLIC MEETINGS

- City Council Public Hearing: Select Bridge Alignment Q4 2017
- Open House #2: Q1 2018
- City Council Work Session: Advance Two Bridge Types Q1 2018
- City Council Public Hearing: Select Bridge Type Q2 2018
- Open House #3: Q4 2018
- City Council Work Session: Review Preliminary Bridge Design Plans Q4 2018





Hold Educational Town Hall On Important Community Issues

PROJECT OWNER

Jon Gail, Community Relations Coordinator; gail@ci.wilsonville.or.us

Nancy Kraushaar, Community Development Director; kraushaar@ci.wilsonville.or.us

PROJECT DESCRIPTION

The City Council seeks to hold town hall meetings to engage the public on issues surrounding traffic congestion, affordable housing, and community design.

COUNCIL/COMMISSION INTERACTIONS

Council Participation in Town Halls

KEY PUBLIC MEETINGS

There will be two Town Hall Meetings to be held in Q4 2017 and Q3 2018.

Evaluate the Results of the Housing Affordability Study and Begin Policy Development, Including Addressing Housing Mix

PROJECT OWNER

Jon Gail, Community Relations Coordinator; gail@ci.wilsonville.or.us

Miranda Bateschell, Long Range Planning Manager; bateschell@ci.wilsonville.or.us

PROJECT DESCRIPTION

The City was awarded an Equitable Housing Planning & Development Grant from Metro to research, produce and adopt an Equitable Housing Strategic Plan to be completed by Dec. 31, 2018. The Plan seeks to identify and prioritize housing policies, programs and resources for the City to implement in order to address the community's documented housing gaps that are impacting current community members who reside and/or work in Wilsonville.

Expected outcomes from this project include completion of the following deliverables:

- Housing Market Research Report
- Equitable Housing Summit and Resource Fair
- Council Adoption of an Equitable Housing Strategic Plan
- Initiate implementation of top six or more equitable housing strategies

Objectives of the plan and the strategies follow Metro's overarching objectives for the program which include:

- Increase and diversify market-rate housing options
- Leverage growth for affordability
- Maximize and optimize resources
- Mitigate displacement & stabilize the community

COUNCIL/COMMISSION INTERACTIONS

City Council adoption of Equitable Housing Strategic Plan, including a minimum of six specific implementation strategies the City Council intends to implement to promote equitable housing throughout Wilsonville.

OUTREACH AND COMMUNICATION

Community and Stakeholder Engagement

Equitable Housing Task Force

KEY PUBLIC MEETINGS

Planning Commission and City Council: Q1 2018

City Council Meeting: Request for Council Direction Q2 2018

Planning Commission and City Council: Draft Plan Presentations Q2 2018

Planning Commission and City Council: Final Plan and Recommendations Q3 2018

City Council Public Hearing: Plan Adoption Q4 2018

Secure Funding to Design the I-5 Pedestrian & Bikeway Bridge (Town Center Loop to Barber Street)

PROJECT OWNER

Zach Weigel, Civil Engineer; weigel@ci.wilsonville.or.us

PROJECT DESCRIPTION

This project is to complete work necessary to secure federal funding available beginning October 2018 to design, acquire property, and permit a pedestrian/bike bridge over Interstate 5 connecting Barber Street to Town Center Loop West. This work includes entering into an Intergovernmental Agreement with the Oregon Department of Transportation and selection design consultant team.

COUNCIL/COMMISSION INTERACTIONS

Review Project Scope & Public Outreach Plan
Approve IGA with ODOT

KEY PUBLIC MEETINGS

City Council Work Session: Review Project Scope & Public Outreach Plan Q4 2017
City Council Public Hearing: Approve IGA with ODOT: Q2 2018

Enhance Tourism and Promote Arts and Culture



Explore the Establishment of an Arts and Culture Commission, Based on the Results of the Arts and Culture Commission Study, and Develop a Strategy to Reinstitute the Sculpture Program

PROJECT OWNER

Mike McCarty, Parks and Recreation Director ; mccarty@ci.wilsonville.or.us
Angela Handran, Community Outreach Specialist; handran@ci.wilsonville.or.us
Jon Gail, Community Relations Coordinator; gail@ci.wilsonville.or.us

PROJECT DESCRIPTION

The Arts and Culture Commission Study was funded by a grant through the Wilsonville Metro Community Enhancement Program. Grant funding was awarded by City Council in June 2017. Based on the outcome of the study, the City will seek to become a partner in establishing an independent Arts and Cultural Commission with a focus on the areas that showed community support in the study.

COUNCIL/COMMISSION INTERACTIONS

Community Enhancement Grant awarded- June 2017
City Council to approve A&CC strategic plan

OUTREACH AND COMMUNICATION

Metro Community Enhancement Committee-May 2017
Clackamas Arts Alliance-ongoing

KEY PUBLIC MEETINGS

City Council Meeting: Grant Approval Q3 2017
City Council Meeting: Study Results Presented Q4 2017

Organize Library Archives; Capture History as it Happens and Before it Changes, Including Coordinating Photography

PROJECT OWNER

Pat Duke, Library Director; duke@wilsonvillelibrary.org

PROJECT DESCRIPTION

The Wilsonville Boones Ferry Historical Society has a collection of Wilsonville historical artifacts that are stored at the library. This goal is focused on organizing and preserving these artifacts, and conceivably making them available to the public.

Over the years, the Historical Society has focused on the early 20th century history of Wilsonville. This goal is focused on creating mechanisms that will collect more recent historical elements of the City as well as capturing and collecting artifacts and images as the City changes going forward.

OUTREACH AND COMMUNICATION

Historical Society



Install Interpretive Signage for Beauty and the Bridge and on Murase Architectural Features; Inventory all Public Art with Interpretive Recognition.

PROJECT OWNER

Mike McCarty, Parks and Recreation Director; mccarty@ci.wilsonville.or.us
Angela Handran, Community Outreach Specialist; handran@ci.wilsonville.or.us

PROJECT DESCRIPTION

Interpretive signage for Beauty and the Bridge and Murase will be funded by a grant through the Wilsonville Metro Community Enhancement Program. Grant funding was awarded in June 2017. Inventory of all public art with interpretive recognition will be gathered and displayed on the City website.

COUNCIL/COMMISSION INTERACTIONS

Council approved Grant award in June 2017
Park and Recreation Advisory Board-December 2017

KEY PUBLIC MEETINGS

Public Open House: Q3 2017
Park and Recreation Board Meeting: Q4 2017
City Council Meeting: Adoption Q1 2018



Develop a Wayfinding Program

PROJECT OWNER

Chris Neamtzu AICP, Planning Director; neamtzu@ci.wilsonville.or.us
Daniel Pauly AICP, Senior Planner; pauley@ci.wilsonville.or.us

PROJECT DESCRIPTION

The selected consultant will provide a unified signage design that is reflective of the city's identity and consistent in color, font, materials, architectural elements and graphics.

COUNCIL/COMMISSION INTERACTIONS

Council action to adopt the final signage and wayfinding plan will be required, with a recommendation from the Planning Commission.

OUTREACH AND COMMUNICATION

Develop and implement an innovative public engagement plan that considers cutting-edge technology, multiple platforms, and targeted outreach to reach a broad cross-section of the community, property owners, and traditionally underrepresented community members. Involvement opportunities could involve, but are not limited to: an advisory committee, workshops, focus groups, visual preference surveys, online or mobile feedback, photo and data gathering tools.



KEY PUBLIC MEETINGS

Planning Commission: Q2 2018
City Council Meeting: Adoption Q2 2018



Ensure Protection of our Environment and Natural Resources





Promote and Make Available Numerous Options for Convenient Sustainable Choices

PROJECT OWNER

Mark Ottenad, Director of Government and Public Affairs; ottenad@ci.wilsonville.or.us

PROJECT DESCRIPTION

City staff to provide public information that facilitates the ability of residents and businesses to make sustainable choices in terms of energy generation and conservation, healthy-eating/active-living activities and programs, waste reduction and recycling opportunities.

COUNCIL/COMMISSION INTERACTIONS

Updates, Direction, Participation

KEY PUBLIC MEETINGS

Periodic updates as needed

Promote Farm and Forest Land Protection

PROJECT OWNER

Mark Ottenad, Director of Government and Public Affairs; ottenad@ci.wilsonville.or.us

PROJECT DESCRIPTION

Advocate for farm and forest land protection in legislative and agency venues and raise public awareness of the economic, health and environmental values of farm and forest land protection.

COUNCIL/COMMISSION INTERACTIONS

Updates, Policy Direction, Participation

KEY PUBLIC MEETINGS

Periodic updates as needed



Develop and Implement a Street Tree Replacement Program

PROJECT OWNER

Delora Kerber, Public Works Director; kerber@ci.wilsonville.or.us
Kerry Rappold, Natural Resource Manager; rappold@ci.wilsonville.or.us

PROJECT DESCRIPTION

Develop a Street Tree Replacement/In-fill Program that provides a holistic view of the elements needed to promote a healthy urban forest.

COUNCIL/COMMISSION INTERACTIONS

Discuss funding options
Review and Adopt program
Approve Code updates

OUTREACH AND COMMUNICATION

Online survey

KEY PUBLIC MEETINGS
City Council Meeting: Q2 2018
City Council Meeting: Q3 2018



Become a Bee City

PROJECT OWNER

Kerry Rappold, Natural Resources Program Manager; rappold@ci.wilsonville.or.us

PROJECT DESCRIPTION

Bee City USA certification for the City of Wilsonville

COUNCIL/COMMISSION INTERACTIONS

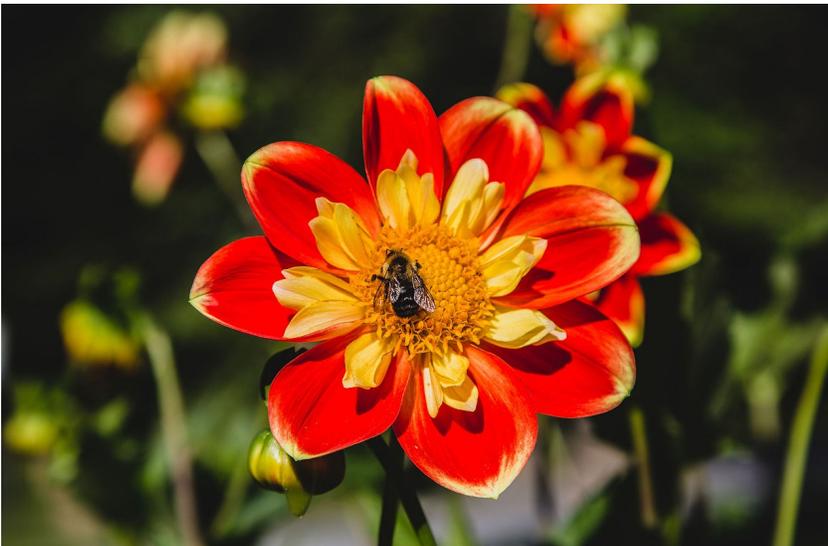
The City Council will adopt a resolution to become a Bee City USA. They will also designate the committee responsible for facilitating the Bee City USA program and adopt a policy included in the Comprehensive Plan. Annually, they will adopt proclamations celebrating National Pollinator Week.

OUTREACH AND COMMUNICATION

In conjunction with the “Bee Stewards” project, outreach will be provided to the community through the City website, BFM, Spokesman, social media, a workshop, and a homeowner toolkit.

KEY PUBLIC MEETINGS

City Council Meeting: Adoption of Resolution Q3 2018





Invest in Infrastructure and Technology. Be a Hub for Economic Activity and Innovation





Complete Form-Based Code Work Currently Underway

PROJECT OWNER

Kim Rybold, Associate Planner; rybold@ci.wilsonville.or.us
 Jordan Vance, Economic Development Manager; vance@ci.wilsonville.or.us

PROJECT DESCRIPTION

The Coffee Creek Form-Based Code (FBC) is intended to provide a regulatory framework to create an industrial area featuring high design standards, functionality for industrial operations, and a greater degree of pedestrian, bicycle, and transit accessibility. The proposed Coffee Creek FBC includes a Regulating Plan, which requires a system of streets and access ways that will facilitate efficient and pleasant multimodal access while respecting the need to accommodate large industrial operations. The draft Form-Based Code, along with an accompanying Pattern Book for the Coffee Creek Industrial Area, was developed in 2014-2015 with funding from a Transportation and Growth Management (TGM) Code Assistance Grant.

COUNCIL/COMMISSION INTERACTIONS

Update, Policy direction, Adoption

OUTREACH AND COMMUNICATION

Technical Advisory Committee

KEY PUBLIC MEETINGS

Development Review Board: Q3 2017
 Planning Commission: Q3 2017
 City Council Work Session: Q3 2017
 Planning Commission: Q4 2017
 City Council Meeting: Public Hearing Q1 2018

Complete the Town Center Master Plan, Including an International Square

PROJECT OWNER

Miranda Bateschell, Long Range Planning Manager; bateschell@ci.wilsonville.or.us

PROJECT DESCRIPTION

The Town Center Plan will guide development in Town Center to create a cohesive, unified district that enhances existing assets in the area and sets the stage for new development. The Plan will provide a community-driven vision for Town Center and strategic actions that will establish a clear path forward to advancing the vision. The strategies may include new projects, programs, partnerships, or policies that will foster an attractive and accessible place for visitors and residents of all ages to shop, eat, live, work, learn and play.

COUNCIL/COMMISSION INTERACTIONS

Update, Policy Direction, Adoption

OUTREACH AND COMMUNICATION

This planning process will be driven by Town Center residents, employees, patrons, property owners, and business owners, as well as the Wilsonville community at-large, including underserved communities, community leaders, City staff and elected officials. The planning process is built around collecting and incorporating ideas, input, and feedback from a wide range of community members to ensure it reflects the whole community and is accessible to all. The Project Team – consisting of City staff and the Consultant Team – will work diligently to encourage community members to get involved and stay involved in the planning process. <http://www.wilsonvilletowncenter.com/>.

KEY PUBLIC MEETINGS

Planning Commission and City Council: Updates Q4 2017

Planning Commission and City Council: Updates Q2 2018

City Council Meeting: Adoption Q3 2018



WILSONVILLE TOWN CENTER PLAN

Complete the Fiber Business Plan

PROJECT OWNER

Andy Stone, IT Manager; stone@ci.wilsonville.or.us

PROJECT DESCRIPTION

The City of Wilsonville has partnered with CTC Technology and Energy (CTC), an independent technology-consulting firm with over 30 years of experience with public and non-profit entities, to develop a Fiber Business Plan. This plan will look at the current and future planned fiber infrastructure in the City and combine that with City metrics, staff interviews, survey data and current industry trends to develop a recommendation to help guide the City in future fiber investments.

KEY PUBLIC MEETINGS

City Council Meeting : Draft Report Q3 2018

City Council Meeting: Final Report Q3 2018

Complete the Preliminary Work Necessary to Begin Soliciting Bids on Phase I of the Boones Ferry / Brown Road Project

PROJECT OWNER

Steve Adams, Engineering Manager; adams@ci.wilsonville.or.us

Nancy Kraushaar, Community Development Director; kraushaar@ci.wilsonville.or.us

PROJECT DESCRIPTION

Phase 1 of the construction project will design and build the roadway segment extending 5th Street west to Kinsman Road, and extending Kinsman Road south to Wilsonville Concrete.

COUNCIL/COMMISSION INTERACTIONS

Approve construction contract in Spring 2018. Council will also receive updates at work sessions as plans are developed

OUTREACH AND COMMUNICATION

Outreach to include landowners, homeowners, renters and businesses within a few hundred feet of the project area. Four public involvement meetings are anticipated to occur over the next year. An online forum may be utilized again. Project will need to coordinate design with the Willamette River Water Project team.

KEY PUBLIC MEETINGS

Planning Commission and City Council: Updates Q4 2017

Planning Commission and City Council: Updates Q3 2018

City Council Meeting: Adoption Q3 2018

Administrative Initiatives

Administrative Initiatives are Council-directed items that are tracked by the Office of City Manager and include such things as lobbying for additional funding for improvements to I-5, promoting preservation of farmland south of the Willamette River, and other initiatives of importance to Council and the community. Many of these initiatives tie into the City Council's Key Performance Areas, and several span multiple years in terms of monitoring and reporting back to Council.

- Advocate for a southbound auxiliary lane on the Boone Bridge between the Wilsonville Road, Charbonneau, and Canby/Hubbard I-5 interchanges.
- Advocate for more funding for all transportation facilities.
- Continue to monitor volumes on major transportation corridors entering Wilsonville.
- Complete congestion mitigation projects related to Interstate 5.
- Explore sustainable funding for SMART.
- Advocate for increased WES service.
- Explore the Blue Zone concept.
- Educate, inform, and monitor the Big Pipe project.
- Create a database of City plants with recommendations of hardy plants suited to the area and post on City Website.
- Update City Website, Including a Coordinated Calendar for Councilor Attended Events .
- Continue to negotiate with TriMet to adjust its service boundaries.
- Update the solid waste franchise agreement and consider curbside composting options.

Advocate for a Southbound Auxiliary Lane on the Boone Bridge Between the Wilsonville Road, Charbonneau, and Canby/Hubbard I-5 Interchanges

PROJECT OWNER

Mark Ottenad, Public Affairs Director; ottenad@ci.wilsonville.or.us

Nancy Kraushaar, Community Development Director; kraushaar@ci.wilsonville.or.us

PROJECT DESCRIPTION

The I-5 bottleneck at the Boone Bridge causes significant congestion on both I-5 and Wilsonville Road. A southbound auxiliary lane on I-5 between the Wilsonville Road interchange and the Charbonneau and Canby-Hubbard interchanges will mitigate the congestion by reducing the conflicts creating by traffic weaving between entrance and exit lanes. Auxiliary lane construction would also provide an opportunity to upgrade the seismic resiliency of the southbound bridge structure. ODOT has estimated a total project cost of \$120 million, with a target date 10 to 15 years out.

COUNCIL/COMMISSION INTERACTIONS

Adoption of Resolution

City Council members' engagement to support a proposed South Metro I-5 Corridor Study, estimated to cost between \$5-\$10 million, that would look at a series of transportation improvements to the larger I-5 corridor, including increased transit services for commuters .

OUTREACH AND COMMUNICATION

Lobby for South Metro I-5 Corridor Study as component of State Transportation Funding package.

KEY PUBLIC MEETINGS

Periodic updates as needed





Advocate for More Funding for All Transportation Facilities

PROJECT OWNER

Dwight Brashear, Transit Director; brashear@ci.wilsonville.or.us
 Mark Ottenad, Public Affairs Director; ottenad@ci.wilsonville.or.us

PROJECT DESCRIPTION

As SMART's infrastructure ages, it will be important that SMART properly maintains and/or replaces facilities and equipment accordingly. To this end, Smart must make it an ongoing priority to seek out and secure funding; state and federal grants are areas with the greatest potential. SMART will continue to aggressively pursue and secure funding grants.

COUNCIL/COMMISSION INTERACTIONS

There is no Council action required until funding streams are identified and/or secured. Once grant dollars are secured and a project list has been developed, the Council will be called upon to consider and approve transit projects. Although difficult to predict exactly when grant opportunities will be made available, SMART expects to seek Council involvement as early as Q2 of the 2017/2018 budget cycle .

OUTREACH AND COMMUNICATION

Citizens groups and public hearings as projects are identified and prioritized.

KEY PUBLIC MEETINGS

City Council Meeting: Direction Q2 2017
 City Council Meeting: Final Report Q3 2018

Continue to Monitor Volumes on Major Transportation Corridors Entering Wilsonville

PROJECT OWNER

Steve Adams; adams@ci.wilsonville.or.us
Nancy Kraushaar; kraushaar@ci.wilsonville.or.us

PROJECT DESCRIPTION

Collect and review recent transportation data of the main intersections of the City. Integrate data into current Transportation Management Report.

OUTREACH AND COMMUNICATION

Staff will work with SMART, ODOT, Metro, and Clackamas and Washington Counties to collect any new data they may have.



Complete Congestion Mitigation Projects Related to Interstate 5

PROJECT OWNER

Eric Mende, Engineering Manager; mende@ci.wilsonville.or.us

PROJECT DESCRIPTION

Evaluate, design, and construct modifications to the street network in the vicinity of I-5 Exit 283 (Wilsonville Road) and Boones Ferry Road to reduce congestion and delays. Four sub-projects were identified:

- Widen Southbound on-ramp to create third stacking lane (ODOT Right of Way)

TIMELINE: Complete Construction Q4 2017

- Re-stripe Boones Ferry Road north of Wilsonville Road.

TIMELINE: Complete Construction Q4 2017

- Modify intersection of Boones Ferry Road and South entrance to Fred Meyer to accommodate second traffic lane – reducing backups for residents leaving Old Town.

TIMELINE: Complete Construction date will be determined Q3 2017.

The scope of congestion improvement projects may expand or change based on new information and/or the effectiveness of these projects.

COUNCIL/COMMISSION INTERACTIONS

Approve budget for project (CIP 4199)

Approve Design or Construction Contracts (if they are over \$100,000)

KEY PUBLIC MEETINGS

Periodic updates as needed

Explore Sustainable Funding for SMART

PROJECT OWNER

Dwight Brashear, Transit Director; brashear@ridesmart.com

PROJECT DESCRIPTION

As the City of Wilsonville continues to grow and develop it is imperative that SMART keep pace with the expanding population and broadening economic centers. To this end, SMART must make it an ongoing priority to explore and secure sustainable funding.

COUNCIL/COMMISSION INTERACTIONS

Updates and Direction

OUTREACH AND COMMUNICATION

Public Meetings, Qtr 3 2018

KEY PUBLIC MEETINGS

City Council Meeting: Funding Recommendations
Q3 2018

Advocate for Increased WES Service

PROJECT OWNER

Dwight Brashear, Transit Director; brashear@ridesmart.com

Mark Ottenad, Director of Public and Government Affairs; ottenad@ci.wilsonville.or.us

PROJECT DESCRIPTION

Through a public outreach campaign conducted during the development of SMART's Transit Master Plan, it was determined that a large number of those surveyed expressed genuine interest in pursuing improved service offerings relative to the WES train; primarily increased frequency and weekend service options. SMART shall work with TriMet and other influential parties to increase service options associated with the WES train.

COUNCIL/COMMISSION INTERACTIONS

Updates and Direction

OUTREACH AND COMMUNICATION

As required by the Federal Transit Administration (FTA), Smart will work with TriMet, METRO and other stakeholders to hold general public meetings. In addition, SMART will need to schedule public meetings with the Planning Commission and City Council.

KEY PUBLIC MEETINGS

City Council Meeting: Q3 2017

Explore the Blue Zone Concept

PROJECT OWNER

Angela Handran, Community Outreach Specialist; handran@ci.wilsonville.or.us

PROJECT DESCRIPTION

Blue Zones are a concept that reflect the lifestyle and the environment of the world's healthiest, longest living people. Dan Buettner, creator of Blue Zones identified five geographic areas where people statistically live the longest : Okinawa (Japan); Sardinia (Italy); Nicoya (Costa Rica); Icaria (Greece) and among the Seventh-day Adventists in Loma Linda, California. He offers an explanation, based on empirical data and first hand observations, as to why these populations live healthier and longer lives. The Blue Zone concept can be applied to cities and communities across the world.

COUNCIL/COMMISSION INTERACTIONS

Update, Direction

OUTREACH AND COMMUNICATION

Oregon Healthiest State Initiative has funded the Blue Zone Oregon Project. City staff will work with Oregon Blue Zone to determine if Wilsonville can apply Blue Zone concepts to the City

KEY PUBLIC MEETINGS

City Council Meeting: Findings Report Q1 2018



Create a Database of City Plants with Recommendations of Hardy Plants Suited to the Area and Post on City Website

PROJECT OWNER

Delora Kerber, Public Works Director; kerber@ci.wilsonville.or.us
Kerry Rappold, Natural Resource Manager; rappold@ci.wilsonville.or.us

PROJECT DESCRIPTION

The project will include researching appropriate plant species and adding a plant data base to the City website.

COUNCIL/COMMISSION INTERACTIONS

No formal action required. Council will be updated upon completion of project in December 2017.

Educate, Inform, and Monitor the Big Pipe Project

PROJECT OWNER

Eric Mende, Engineering Manager; mende@ci.wilsonville.or.us

PROJECT DESCRIPTION

Coordinate design and construction of a privately owned and managed 66” diameter water transmission line (owned by the Willamette Water Supply Program) from the Wilsonville Water Treatment Plant, under City streets, to a connection just north of the intersection of Grahams Ferry Road and Day Road. This is a multi-year effort. Discreet segments of pipe will be designed and constructed by WWSP between 2016 and 2024.

COUNCIL/COMMISSION INTERACTIONS

Approve budget for internal staff support (CIP 1127)

Approve Agreement(s) with WWSP

OUTREACH AND COMMUNICATION

WWSP newsletter and website (www.OurReliableWater.com)

Project specific open houses

Affected property owner individual contact

KEY PUBLIC MEETINGS

To be determined

Update City Website, Including a Coordinated Calendar for Councilor Attended Events

PROJECT OWNER

Andy Stone, IT Manager; stone@ci.wilsonville.or.us
Mark Ottenad, Public Affairs Director; ottenad@ci.wilsonville.or.us

PROJECT DESCRIPTION

Research options to combine City websites (City, Econ-Dev, Library, Parks & Rec and Smart) into one website, including an integrated calendar-of-events that lists all City, City-sponsored and City-sanctioned events, if feasible. An integrated website will allow the public to more quickly find information and events of interest by searching just one website for any relevant content. An integrated calendar-of-events will facilitate ability of City Council members and staff to plan attendance at relevant City and City-sponsored/sanctioned events.

COUNCIL/COMMISSION INTERACTIONS

The City will go through an RFP process to select a vendor that can meet the City's requirements. Key staff members will work with the selected vendor to create mock ups of the design and present it to the Council in the 1st quarter of 2018. Councilors will give feedback and the solution will be adjusted as necessary. Transitioning to a new website will require substantial commitments of funds and staff time. It is expected to take a full six months to implement.

Project Timeline

RFP, Vendor Selection, and Design Mockup: Q4 2017

Present to Council Mock up of Website Designs: Q1 2018

Website Conversion: Q2 2018



Continue to Negotiate with TriMet to Adjust its Service Boundaries

PROJECT OWNER

Dwight Brashear, Transit Director; brashear@ridesmart.com

PROJECT DESCRIPTION

The City of Wilsonville, in an effort grow its economy, will find it necessary to establish a plan for expansion of its urban boundaries, which will in turn require SMART to increase its service area. In order for the City of Wilsonville collect on the payroll tax proceeds from employers doing business in these newly expanded areas. SMART will need to negotiate the boundaries of its service areas and the right to collect the payroll taxes therein.

COUNCIL/COMMISSION INTERACTIONS

Council action will be required to approve any preliminary settlement that is reached between SMART and TriMet.

KEY PUBLIC MEETINGS

City Council Meeting: Q3 2018

Update the Solid Waste Franchise Agreement and Consider Curbside Composting Options

PROJECT OWNER

Amanda Guile-Hinman, Assistant City Attorney; guile@ci.wilsonville.or.us

Mark Ottenad, Director of Government and Public Affairs; ottenad@ci.wilsonville.or.us

PROJECT DESCRIPTION

Update and modernize the City’s 30-year-old solid-waste franchise agreement / governing ordinance to accommodate current and potential garbage and recycling collection options and to provide for a transparent method for rate increases based on objective criteria such as a use of “garbage cost of service index.”

COUNCIL/COMMISSION INTERACTIONS

Council review of a draft franchise plan, and Public Hearings to adopt a new ordinance.

KEY PUBLIC MEETINGS

To be determined

MEMORANDUM

TO: Honorable Mayor and City Council
City Manager

FROM: Barbara Jacobson, City Attorney
Amanda Guile-Hinman, Assistant City Attorney

DATE: July 25, 2017

RE: **Regulation of Panhandling and Related Constitutional Limitations**

I. STATEMENT

This memorandum discusses the legality of regulating panhandling or solicitations by individuals on public sidewalks, in the public right of way, or on other public property. As discussed more fully below, prohibition of panhandling or solicitation on public property is generally unconstitutional under both the Constitution of the State of Oregon and the Federal Constitution.

A few cities in Oregon have passed ordinances prohibiting “abusive solicitation” or the “unlawful transfer” of items from a vehicle to an individual outside the vehicle while the vehicle is in the vehicle section of the public right of way. These approaches attempt to limit panhandling without violating Oregon and federal constitutional protections but, thus far, are untested in Oregon courts.

II. LEGAL ISSUES

1. Are panhandlers on public property protected under the Oregon or Federal Constitutions?
2. What ordinances have other cities in Oregon enacted regarding panhandling?
3. Can the City regulate panhandling on private property?
4. How is panhandling defined in the Wilsonville Code?

III. SHORT ANSWERS

1. Yes. Panhandlers are protected on public property under Article I, Section 8 of the Oregon Constitution and also under the First Amendment to the U.S. Constitution. An

exception to this protection is where there is a real and legitimate health and safety concern or violation of a law that outweighs free speech (“strict scrutiny test”).

2. Several cities have passed “unlawful transfer” ordinances, which make it unlawful to transfer control or possession of any item within the vehicle to a pedestrian within the vehicle portion of the public right of way. Generally, the “unlawful transfer” ordinances fine the individual in the vehicle, not the pedestrian. Springfield gained a lot of press when it passed such an ordinance, against the advice of legal counsel and the police. To date, they have not issued any tickets under this ordinance.
3. The City cannot regulate panhandling on private property unless, again, there is a serious and imminent health and safety concern or violation of a law.
4. Under current City Code, “Panhandling” means any solicitation made in person upon any street, public place, or park in the City in which a person requests an immediate donation of money or other gratuity from another person, and includes seeking donations: “(a) By vocal appeal or for music, singing or other street performance... However, panhandling shall **not** include the act of passively standing or sitting nor performing music, singing or other street performance with a sign or other indication that a donation is being sought, without any vocal request other than response to an inquiry by another person” (emphasis added). In other words, a person standing quietly with a sign asking for money on the sidewalk or at the side of the road is **not** a panhandler under the Wilsonville Code.

IV. DISCUSSION

A. Constitutionality of Anti-Panhandling Ordinances

1. Constitutionality Under Article I, Section 8 of the Oregon Constitution

Oregon’s constitutional right to freedom of speech (Article I, Section 8) prohibits any law “restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right.”

Article I, Section 8 is “a very broad prohibition” on what the government is not allowed to restrict. *State v. Ciancanelli*, 339 Or 282, 293 (2005).

Historically, Oregon places an “especially high value on individual liberty” (*id.* at 306), and so Oregon courts view the adoption of Article I, Section 8 as “intended to prohibit any laws directed at restraining verbal or nonverbal expression of ideas of any kind.” *Id.* at 311. The

ACLU of Oregon notes that the free speech guarantee in the Oregon Constitution is widely considered one of the nation's strongest in the country. Oregon courts divides laws that may implicate expression into three (3) categories:

- (1) “laws that explicitly and in terms prohibit speech itself, regardless of whether the speech causes or is an attempt to cause harm.” An example of this category is a law prohibiting obscenities. These laws are facially unconstitutional unless there is “some historical exception that was well established when the first American guarantees of freedom of expression were adopted and that the guarantees then or in 1859 demonstrably were not intended to reach.” *State v. Rich*, 218 Or App 642, 646 (2008) (emphasis added).
- (2) “laws that prohibit the accomplishment of, or attempt to accomplish, harm and specify that one way that the harm might be caused is by speech.” An example of the second kind of law is a statute prohibiting one person from using a verbal threat to coerce another person into doing something he/she does not want to do. These types of laws are “presumptively constitutional unless they are incurably overbroad.” *Id.* (emphasis added).
- (3) “laws that, without reference to or specification of speech, prohibit the accomplishment of, or attempt to accomplish, harm that, in some circumstances, could be caused by speech.” An example of the third kind of law is a trespass statute that, although it does not mention speech or expression, could be enforced against a political protester engaged in political expression. These laws are facially constitutional, but they could violate Article I, Section 8 depending on the particular facts of the case, in other words, an as-applied challenge. *Id.* (emphasis added).

Regulations against panhandling have difficulty not being classified under the first type of laws regulating expression. This is because a regulation against panhandling is targeting individuals who are asking for money, employment, or other items – in other words, it is regulating individuals simply based on their speech. When a law punishes speech, it is *per se* unconstitutional unless there is a historical exception to free speech guarantees. *Id.* at 647. Such historical exceptions are perjury, solicitation of a crime (i.e., inducing someone else to commit a crime), some forms of theft, forgery, and fraud. *State v. Robertson*, 293 Or 402, 412 (1982). It must be noted, however, even if a law does fall under a historical exception under Oregon law, it must still be narrowly construed under federal law “to avoid over breadth or to scrutiny of its

application to particular facts.” *Id.* In other words, the federal strict scrutiny test will be applied even though the law or regulation is based on a historical exception limiting speech.

Unsurprisingly, litigation in Oregon repeatedly demonstrates that regulating panhandling violates an individual’s freedom of speech under Article I, Section 8 and does not fall under a historical exception. In 1996, the ACLU of Oregon represented an individual who was convicted of unlawful solicitation under ORS 814.090(1), which prohibited a person from soliciting employment or business or from selling or soliciting contributions from persons in a vehicle on or near a highway. *City of Springfield v. Aquizap*, 144 Or App 190 (1996). The State conceded that ORS 814.090(1)(a) violated Article I, Section 8 of the Oregon Constitution. The Oregon Court of Appeals affirmed the State’s concession. However, the statute remained “on the books” for several years. During that time, at least one other case was settled because the law had previously been ruled unconstitutional. As reported by *The Oregonian*, in 2004, the City of Portland agreed to pay \$19,500 to a man who accused Portland of violating his free speech rights by illegally arresting him for panhandling at freeway off-ramps. In 2005, the Oregon State Legislature repealed the law on the basis that it was unconstitutional.¹

In 2008, the City of Medford banned panhandling at intersections, near ATMs, and in public parking lots. In response, on March 3, 2008, the ACLU of Oregon filed a lawsuit against the City, *Volkart v. City of Medford*, alleging the ordinance violated Article I, Section 8. In 2009, the Jackson County Circuit Court ruled the ban was unconstitutional, finding that it violated Article I, Section 8. Medford appealed to the Oregon Court of Appeals, and on June 15, 2009, the Court of Appeals assigned the case to the Appellate Settlement Conference Program. Medford amended its Ordinance throughout the litigation, and again in 2010, and now prohibits

¹ As discussed below, in 2008, ORS 814.070 was amended to regulate requests for money or other items on public highways.

only “abusive solicitation,” which is similar to WC 10.310(4). Medford likely chose to adopt an “abusive solicitation” ordinance so it would fall under the second type of laws discussed above, that is, laws that are presumptively constitutional because they prohibit the accomplishment of, or the attempt to accomplish, harm that might be caused by speech. There has not been a legal challenge to this law, and the City Attorney does not know if anyone has ever been cited under it.

Given that Oregon’s strong constitutional right to free speech dictates that laws punishing speech are *per se* unconstitutional unless some historical exception exists, prohibiting panhandling or solicitations for money or other goods, in and of itself, is unconstitutional because such a prohibition would be regulating the content of an individual’s speech by preventing such person from simply asking for money or other hand-outs.

2. Constitutionality of Anti-Panhandling Ordinances under the First Amendment of the Federal Constitution

Federal jurisprudence analyzing regulations on speech under the First Amendment of the U.S. Constitution establishes a high burden that governments must meet in order to legally regulate speech. A municipality may create “reasonable regulations governing the time, place or manner of speech.” *American Civil Liberties Union of Idaho, Inc. v. City of Boise*, 998 F.Supp.2d 908, 915 (D. Idaho 2014). To satisfy the Federal Constitution, such regulations must meet three criteria: “(1) it must be content-neutral; (2) it must be narrowly tailored to serve an *[sic]* significant governmental interest; and (3) it must leave open ample alternative channels for communication of the information.” *Id.* at 916. If the regulation is not content neutral, i.e., it regulates the content of speech, then the regulation must withstand a “strict scrutiny review.” That means the city must show its ordinance is the least restrictive means of furthering a compelling government interest and the ordinance is necessary to achieve that interest. *Id.*

Content-based ordinances are presumptively unconstitutional because meeting the strict scrutiny test is virtually impossible.

Both the Ninth Circuit (federal appellate court for Oregon) and courts within the Ninth Circuit² have found that regulations against panhandling or solicitations on sidewalks are content-based restrictions and are unconstitutional. In the Ninth Circuit case of *Comite de Jornaleros de Redondo Beach v. City of Redondo Beach*, 657 F.3d 936 (9th Cir. 2011), the court held that a city ordinance prohibiting solicitation of business, employment, and contributions on streets and highways violated the First Amendment under the U.S. Constitution. In that case, the court examined whether the prohibition was overbroad, which occurs when “a substantial number of its applications are unconstitutional, judged in relation to the statute’s plainly legitimate sweep.” *Id.* at 944. The court began its analysis of whether the prohibition was overbroad by stating that solicitation is protected expression under the First Amendment and also that “[p]ublic streets and sidewalks occupy a special position in terms of First Amendment protection.” *Id.* at 945 (internal quotation and citation omitted). Because the ordinance regulated protected speech – solicitations – in a public forum – on streets and highways – the court applied the “time, place, and manner test,” which allows the government to impose reasonable restrictions on the time, place, or manner of protected speech, “provided the restrictions are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.” *Id.* (internal quotation and citation omitted).

² Since Oregon is under the Ninth Circuit’s jurisdiction, a federal challenge to a city ordinance must abide by precedent from the Ninth Circuit (unless overturned by the U.S. Supreme Court).

The court looked at whether the ordinance was narrowly tailored, explaining the government has the burden of showing that “the remedy it has adopted does not burden substantially more speech than is necessary to further the government’s legitimate interests.” *Id.* at 948. (internal quotation and citation omitted). The court held that the regulation was not narrowly tailored because there were several examples of prohibited speech that do not cause the types of problems that motivated the ordinance. For example, the ordinance applied to children selling lemonade on the sidewalk outside their homes, Girl Scouts selling cookies on the sidewalk outside their school, sign bearers on sidewalks seeking customers or offering handbills, motorists who stop on a residential street to inquire whether a neighbor’s daughter or son would be interested in performing yard work or babysitting, or school children shouting and holding “car wash” signs to passing vehicles for a car wash fundraiser. *Id.*

In examining whether an ordinance is narrowly tailored, it is unlikely to be narrowly tailored if less restrictive means of achieving the same goals exist. The court reasoned, “Though we cannot apply a stringent least-restrictive-alternative test, we also cannot uphold the Ordinance if it burdens substantially more speech than is necessary to protect traffic safety and flow.” *Id.* at 949 (internal quotation and citation omitted). The court noted that the city had various laws that could achieve the results it sought without burdening speech, such as laws prohibiting jaywalking, stopping a car so as to obstruct the normal movement of traffic, or city ordinances prohibiting standing in roadways other than in crosswalks if doing so interferes with the lawful movement of traffic. *Id.* The court held the ordinance was not so narrowly tailored to achieve a compelling city interest and so was facially unconstitutional.

The key distinction between the First Amendment of the U.S. Constitution and Article I, Section 8 is that Oregon’s Constitution is even more protective of free speech than is the federal

Constitution. Oregon courts cannot examine whether an ordinance is narrowly tailored to a compelling governmental interest unless there is a historical exception allowing limiting speech, such as perjury or fraud. If the ordinance regulates speech – which regulating panhandling or solicitation does – then only a historical exception will prevent a state court ruling it unconstitutional on its face. If a historical exception does exist (one does not exist for panhandling), the regulation or law still faces a strict scrutiny test requiring it to be narrowly tailored. *Robertson*, 293 Or at 412.

Federal courts will presume that an ordinance regulating speech is unconstitutional and will examine whether the ordinance is narrowly tailored to a compelling governmental interest, and within that analysis will examine whether less restrictive alternatives exist or whether the ordinance provides ample alternatives for the expression. *Reed v. Town of Gilbert, Ariz.*, 135 S.Ct. 2218 (2015) (law is content-based if law applies to particular speech because of the topic, idea, or message expressed; content-based law is presumptively unconstitutional and may only be justified if the government proves it is narrowly tailored to serve compelling state interests); *Nemo v. City of Portland*, 910 F. Supp. 491 (D. Or. 1995) (city regulation requiring a permit for any activity involving a group of four or more people who are soliciting the public's attention was not narrowly tailored to serve a significant government interest).

In addition to challenges under the Oregon Constitution, several Oregon cities have also faced federal challenges to their panhandling ordinances. In 2003, Beaverton and Oregon Department of Transportation settled a federal civil rights lawsuit, paying \$40,000 to two panhandlers who were excluded from highway exit ramps. Cases like these two and the Portland and Medford cases cited above demonstrate that panhandling ordinances face significant state

and federal challenge, especially in Oregon, where the government entity will bear the burden of proving the constitutionality of the ordinances.

B. Other Solutions

1. State Approach – The “Fill the Boot” Statute

In 1983, the Oregon state legislature made it unlawful to solicit employment or business or to sell or solicit contributions from persons while the solicitor was located on or near a highway. In 1996, the Court of Appeals issued its decision in *City of Springfield v. Aquizap*, in which the Court of Appeals agreed with the state’s concession that the statutory provision (ORS 814.090(1)(a)) violated Article I, Section 8 of the Oregon Constitution.

In 1999, the Oregon state legislature amended ORS 814.090, still retaining the prohibition from solicitations on highways, but exempting fire service professionals who were issued permits by the Department of Transportation. Then, in 2005, the Oregon state legislature repealed ORS 814.090 in order to bring its statutes in line with the Oregon Constitution. In other words, the legislature determined that ORS 814.090 was unconstitutional.

By repealing ORS 814.090 in 2005, the remaining statute, ORS 814.070, prohibited a pedestrian from taking a position upon or proceeding along the highway if there is an adjacent usable sidewalk or shoulder. Under the then-current version of ORS 814.070, after the repeal noted above, it was illegal for firefighters to do a “fill the boot” fundraiser.

As a result, in 2008, firefighters lobbied the Oregon Legislature to pass SB 1084 (the “fill the boot” law) so that firefighters could not be found to be in violation of ORS 814.070 as long as they followed certain stated protocol. SB 1084 retained the prohibition for a pedestrian to take a position upon or to proceed along the highway when an adjacent sidewalk was present, but provided an exemption if the individual met four conditions, one of which was obtaining a

permit from the Oregon Transportation Commission. The permit requires liability insurance of not less than \$1 million (ORS 814.072), essentially making it impossible for panhandlers to be on the highway (though they can be on sidewalks). This law thus falls under the third category of laws to determine whether the law is in violation of Article I, Section 8 – i.e., it does not expressly regulate speech, but may regulate speech through its enforcement. Such laws are facially constitutional, but may be challenged as applied to specific individuals. No cases could be found challenging the current “fill the boot” version of ORS 814.070.

2. Unlawful Transfer Ordinances

Cities that try to regulate panhandling through a means other than traffic laws already contained in the Oregon Revised Statutes generally pass an “unlawful transfer” ordinance. These ordinances prohibit the transfer of an item from a vehicle to a person outside when the vehicle is within the vehicle lane of the public right of way. The citations are issued either to the individual in the vehicle or both the individual in the vehicle and the individual to whom the item is passed. Some of these cities have a permit process to allow approved persons to transfer money in a public right of way. Below is a summary of some “unlawful transfer” ordinances adopted in Oregon cities.

- Springfield – Unlawful transfer (“UT”) ordinance, violation and possible fine of \$50; no permitting process authorized
- Roseburg – UT ordinance, violation and fine of up to \$75, but does not apply to persons participating in a “pedestrian activity” for which a permit has been issued in accordance with OAR 734, Division 58³

³ OAR 734 Div. 58 establishes the requirements for issuing permits for pedestrian activities on state highways and the responsibilities of pedestrians participating in the permitted activities. This is the regulation resulting from the “Fill the Boot” Law – SB 1084 (ORS 814.070).

- Coos Bay – UT ordinance, violation and fine of up to \$100, but does not apply to persons participating in a “pedestrian activity” for which a permit has been issued in accordance with OAR 734, Division 58
- Rogue River – UT ordinance with council approval process for pedestrian activity; punishable by a fine up to \$1,000; does not apply to persons participating in a “pedestrian activity” for which a permit has been issued in accordance with OAR 734, Division 58
- Grants Pass – UT ordinance, fine set by resolution of City Council, does not apply to persons participating in a “pedestrian activity” for which a permit has been issued in accordance with OAR 734, Division 58
- Umatilla – UT ordinance, does not apply to persons participating in a “pedestrian activity” for which a permit has been issued in accordance with OAR 734, Division 58 or to a person or vehicle participating in an event approved by the city council where event fees, passes, documents or other materials are passed between event staff and vehicle operators in the conduct of the event and the event is limited to a specific date, time and location
- Central Point – UT ordinance, violation and fine up to \$75, but does not apply to persons participating in a “pedestrian activity” for which a permit has been issued in accordance with OAR 734, Division 58

The City of Springfield garnered considerable attention when it adopted its unlawful transfer ordinance. The City Attorney reached out to the City Attorney for Springfield and learned that Springfield has not issued a single citation under the unlawful transfer ordinance.

3. Abusive/Aggressive Panhandling

In addition to Wilsonville's aggressive panhandling provision, two cities – Medford and Brookings – have adopted “abusive panhandling” ordinances which are substantially similar to Subsection (4) of WC 10.310. Medford adopted its ordinance after its prior panhandling regulation was ruled unconstitutional by Jackson County Circuit Court. The City Attorney's office does not recommend retaining this portion of WC 10.310 because there are less restrictive alternatives that currently exist under Oregon criminal laws – such as crimes for harassment and assault – that address such scenarios giving rise to “abusive” or “aggressive” panhandling.

V. LAW ENFORCEMENT PERSPECTIVE

Wilsonville does not have its own police force. Wilsonville contracts with Clackamas County and, because of that, the officers in Wilsonville must take direction from the County, not the City, as to when it is appropriate to make arrests and for what charge(s) to arrest people. Unlike the City, Clackamas County does **not** have a panhandling ordinance, which may indicate Clackamas County will not support officer enforcement of any expansion of Wilsonville's panhandling ordinance due to constitutional concerns. Because of the long history of finding against the enforcement of panhandling cases nationwide, but especially in Oregon, police officers are reluctant to, and in fact may refuse to, enforce a panhandling ordinance. If Wilsonville were to be sued on the constitutionality of an arrest, Clackamas County is required to defend the City under the current contract. When the City elects to modify, repeal, or replace an ordinance that the Sheriff's Office believes may be problematic for law enforcement, it is reviewed by County Counsel, who will advise them as to enforceability. Police departments do not favor ordinances that restrict speech, especially when there are other laws on the books that can get at speech or behavior that crosses a legal line. Examples of existing laws that can

already be used with respect to panhandling include laws against impeding traffic, trespassing (on private property), disturbing the peace, violating noise ordinances, assault, and harassment, to name a few.

VI. CONCLUSION

Panhandling is protected speech under the Oregon and Federal Constitutions, and Oregon cities must adhere to **both**, not one or the other. Under Article I, Section 8 of the Oregon Constitution, the City can only prohibit speech if one of the above-referenced historical exceptions to free speech guarantees exists. Under the United States Constitution's First Amendment, the City must show that the ordinance meets a compelling governmental interest and is narrowly tailored to address that interest. In order to avoid constitutional challenges, some cities within Oregon have adopted unlawful transfer ordinances because such ordinances do not restrict speech but rather an action, i.e., reaching an arm out a window to hand somebody money. Of course, what such a law does is punish the good Samaritan. Although the argument is that such ordinances do not technically prohibit speech, they are certainly aimed at stopping panhandling indirectly because the direct way has been repeatedly found to be unconstitutional. Although several cities have adopted an unlawful transfer ordinance, we know that at least in Springfield they have not written a single ticket under it. While I think it is safe to say that most people do not enjoy seeing people standing on the streets and sidewalks asking for money, it is their constitutional right to do so, whether their claims are legitimate or not. Those in vehicles and on foot also have a constitutional right not to give money. For all of the foregoing reasons, the City Attorney's office does not recommend enacting an unlawful transfer ordinance but does recommend that City staff work with law enforcement to ensure safety and that people are not stepping out into traffic to collect money.