

HILLSBORO CITY COUNCIL

**Preliminary Agenda
Tuesday, October 2, 2007**

**7 PM
Hillsboro Civic Center Auditorium**

**Regular Session
150 E. Main Street**

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Please silence all electronic devices. Thank you.

Assistive Listening Devices (ALD) are available for persons with impaired hearing and can be scheduled for this 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 call 503.681.6100

When addressing the Council, please use the witness table (center front of the room). All testimony is electronically recorded. Public participation is encouraged. If you wish to speak, please raise your hand or walk to the witness table as the Mayor calls the item, or, on any item not on the agenda, as the Mayor calls for "Communications and Non-Agenda Items." If you are speaking on an item not on the regular agenda, please fill out the card on the table in the back of the room and give to the City Recorder. You are not required to give your address when speaking to the City Council, only your name.

Ordinances and Resolutions marked with an asterisk will not be read in full unless requested by a member of the City Council. Copies were distributed to Council and posted for at least three days, and are available on the north side of the auditorium.

*** SEE ATTACHED AGENDA *
Posted – September 27, 2007**

REGULAR SESSION – 7 PM – AUDITORIUM

PLEDGE OF ALLEGIANCE – Cub Scout Troop 527

CALL TO ORDER - Roll Call

1. **CONSENT AGENDA:** (The items on the Consent Agenda are normally considered in a single motion. Any item may be removed for separate consideration upon request by any member of the Council.)

- A. Consider minutes: September 18, 2007
- B. Authorize the Mayor and City Recorder to execute standard developer contract(s) for the following:

<u>Project Name</u>	<u>Developer</u>
Meadow Oaks Phase I	Centex Homes
Parkside Estates	Riverside Homes
Parks @ Laurel Oaks	Centex Homes

- C. Accept a petition for VAC 07-07 for the vacation of a portion of a north/south alley located between south 1st Avenue, SE 2nd Avenue, SE Maple, and SE Cedar Streets and set a public hearing for November 6, 2007 at 7:00 p.m. Petitioner is Cheryl K. Lund.
- D. Accept a petition for VAC 07-08 for the vacation of SE 8th Avenue between SE Oak Street and SE Baseline Street and set a public hearing for November 6, 2007 at 7:00 p.m. Petitioner is Tuality Hospital.
2. **PRESENTATIONS AND APPOINTMENTS:**

- A. None.

3. **WAIVER OF ORDINANCE READINGS:**

- A. Consider motion to waive reading in full and read by title only Ordinance Nos. _____. (The ordinances have been posted and will be available on the table on the north side of Auditorium.)

4. **PUBLIC HEARINGS:**

- A. SN 2-07: SW Davis Road to SE Davis Road: Consider the renaming a section of a public street from SW Davis Road to SE Davis Road due to a transfer of street jurisdiction from Washington County to City of Hillsboro. **Ordinance No. _____ is available.**

- B. VAC 07-04: Consider vacating a portion of public right of way for NW 229th Avenue north of Westside Light Rail right of way in the City of Hillsboro in Washington County. (*Petition was presented to the City Council on September 4, 2007*) **Ordinance No. * _____ is available.**

5. **UNFINISHED BUSINESS:**

- A. None.

6. **NEW BUSINESS:**

- A. ZC 10-07: Ebberts Avenue: Consider Planning and Zoning Hearings Board recommendation of approval of a zone change from A-1 Duplex Residential to A-4 Multi-Family Residential, on one property approximately 0.16 acres in area. The property is generally located west of NW Ebberts Avenue, east of Freeman Avenue, north of W. Main Street, and south of NW Lincoln Street. The property can be specifically identified as Tax Lot 17000 on Washington County Tax Assessor's Map 1N3-36DA. **Ordinance No. * _____ is available.**
- B. HCP 2-07: Historic Landmarks Advisory Committee: Consider Planning Commission recommendation to adopt amendments to Hillsboro Comprehensive Plan, Section 6 Natural Resources, Open Space, Scenic and Historical Sites regarding cultural resource management and a proposed Historic Landmarks Advisory Committee. **Ordinance No. * _____ is available.**
- C. ZOA 1-07: Historic Landmarks Advisory Committee: Consider Planning Commission recommendation to adopt amendments to Zoning Ordinance No. 1945, Section 132 Cultural Resource Management Ordinance, regarding cultural resource management and a proposed Historic Landmarks Advisory Committee. **Ordinance No. * _____ is available.**
- D. NCU 1-07: Non-Conforming Use Request – Secure Storage Phase II – Appeal: Consider setting a date to hear an appeal of the Planning and Zoning Hearings Board decision to approve expansion of a legally Nonconforming Use for a storage facility in the SCBP Station Community Business Park zone. The property is generally located south of NE Cornell Road, west of the intersection with NE Elam Young Parkway and can be specifically identified as Tax Lot 1500 on Tax Map 1N2-33AA. The recommended hearing date is November 6, 2007. The applicant has requested an on-the-record hearing.
- E. Consider Transportation Committee recommendation declaring it necessary to acquire certain real property, described in Exhibits 1 through 8, to be used for the construction of roadway improvements and in the event of a failure of good faith negotiations, authorizing the commencement of eminent domain proceedings to acquire certain property and the taking of appropriate steps to acquire immediate possession of same, and therefore, declaring an emergency. **Resolution No.* _____ is available.**

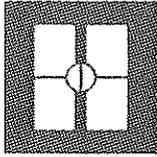
7. **COMMUNICATION AND NON-AGENDA ITEMS:** (Persons wishing to speak on matters not on the agenda may be recognized at this time. *Please fill out the card on the table in the back of the room and give to the City Recorder.* You are not required to give your address when speaking to the City Council, only your name. Presentations are limited to three minutes, with a maximum total of 15 minutes for this agenda item. More time, if needed, may be provided upon completion of the regular agenda.)

8. **ADVICE/INFORMATION ITEMS:**

- A. Proclamation: Arts and Humanities Month – October 2007
- B. Proclamation: ENERGY STAR Change a Light Day – October 3, 2007

ANNUAL COMMUNITY EVENTS:

- C. Saturday Farmers' Market in Downtown Hillsboro: Every Saturday, May 5, 2007 through October 27, 2007 from 8 AM to 1:30 PM.
- D. Sunday Farmers' Market at Orenco Station: Every Sunday, May 13, 2007 through October 7, 2007 from 10 AM to 2 PM.



HILLSBORO CITY COUNCIL

**Minutes
Tuesday, September 18, 2007**

**7 PM
Hillsboro Civic Center Auditorium**

**Regular Session
150 E. Main Street**

REGULAR SESSION – 7 PM – AUDITORIUM

PLEDGE OF ALLEGIANCE – Mayor Tom Hughes

CALL TO ORDER - Roll Call

Present: Mayor Tom Hughes, Councilors Aron Carleson, Ed Dennis, Doug Johnson and Cynthia O'Donnell

Excused Absences: Councilors Joe Keizur and Nenice Andrews

Staff Present: Tim Erwert, Rob Massar, Sarah Jo Chaplen, Rob Dixon, Steve Greagor, Henry Reimann, Barbara Simon, Kevin Hanway, Mike Smith, Pat Ribellia, Debbie Brodie, Amber Deming, Mark Jackson, Debbie Raber and City Attorney Pam Beery

1. CONSENT AGENDA:

- A. Consider minutes: September 4, 2007
- B. Approve an agreement with Oregon Recreation and Park Department for a \$500,000 Local Government Grant for 53rd Avenue Community Park Phase 1 and authorize the Mayor and City Recorder to execute the documents. (Park Commission recommendation)
- C. Approve the following actions related to the Hillsboro Downtown Business Association (HDBA): (Finance Committee recommendation)
 - 1. Increase the Local Improvement District (LID) maintenance agreement, approved at the July 17, 2007 City Council meeting, from \$25,000 to \$27,195.
 - 2. Approve an agreement in the amount of \$15,000 to fund downtown promotional efforts, as determined by the HDBA Board in consultations with City staff.
- D. Schedule a Joint City Council/Planning Commission work session, Thursday, November 1, 2007, 7 PM, Civic Center Conference Rooms C113B and C.

- E. Authorize and ratify expenditures, public contracts, contract amendments and agreements by adopting Resolution No. 2223.

RESOLUTION NO. 2223

A RESOLUTION AUTHORIZING AND RATIFYING THE LISTED EXPENDITURES, PUBLIC CONTRACTS, CONTRACT AMENDMENTS AND AGREEMENTS IN ACCORDANCE WITH CHAPTER 2.16 OF THE HILLSBORO MUNICIPAL CODE.

In response to a question from Councilor Dennis on Consent Agenda Item 1C, Councilors Johnson and O'Donnell explained that the agreement to fund promotional efforts is a one-time expenditure. HDBA has been asked to give City Council updates on the identified projects related to this project.

Motion was made by O'Donnell, seconded by Dennis to approve the Consent Agenda as presented. The motion passed unanimously with Carleson, Dennis, Johnson and O'Donnell voting in favor.

2. PRESENTATIONS AND APPOINTMENTS:

- A. Informational presentation on the Natural Areas Bond Measure and the "New Look at Regional Choices – Making the Greatest Place" programs by Metro Councilor Kathryn Harrington.

Metro Councilor Kathryn Harrington gave a Power Point presentation, updating the City Council on programs underway and upcoming events.

- B. Appointment – Planning and Zoning Hearings Board

Nanita McIlhattan (term expires December 31, 2009)

Appointment – Hillsboro 2020 Vision Implementation Committee

Ana Jiménez (term expires September 1, 2009)

Motion was made by Johnson, seconded by Dennis to confirm the Mayor's appointments. The motion passed unanimously with Dennis, Johnson, O'Donnell and Carleson voting in favor.

3. WAIVER OF ORDINANCE READINGS:

- A. Consider motion to waive reading in full and read by title only Ordinance No. 5797.

Motion was made by O'Donnell, seconded by Dennis to waive the reading in full and read by title only Ordinance No. 5797. The motion passed unanimously with Johnson, O'Donnell, Carleson and Dennis voting in favor.

4. PUBLIC HEARINGS:

- A. CP MISC 2-04 (MOD 1): Consider amending section 15.20.065 (A) (7) of the Hillsboro Municipal Code regarding theater marquees in the Station Community Commercial Sign District. The proposed amendment would eliminate the requirement for the faces of a double-faced marquee to be connected at an angle of 45 degrees or more, and would allow construction of a flat double-faced marquee sign. Ordinance No. 5797 was available.

Mayor Hughes opened the public hearing on CP MISC 2-04 and asked for testimony in support or opposition. There was none. The public hearing was closed.

Ordinance No. 5797 was read by title only. Motion was made by O'Donnell, seconded by Dennis, that Ordinance No. 5797 do pass. Roll call on the motion was as follows: O'Donnell, aye, Carleson, aye, Johnson, aye, Dennis, aye. The motion passed unanimously and Ordinance No. 5797 was declared passed.

ORDINANCE NO. 5797
CP MISC 2-04 (MOD 1): MUNICIPAL CODE CHAPTER 15.20 SIGNS

AN ORDINANCE AMENDING THE HILLSBORO MUNICIPAL CODE AS AMENDED, CHAPTER 15.20 SIGNS, REGARDING THEATRE MARQUEE SIGNS IN THE STATION COMMUNITY COMMERCIAL SIGN DISTRICT.

5. UNFINISHED BUSINESS:

- A. None.

6. NEW BUSINESS:

- A. Consider Utilities Commission recommendation to authorize Clean Water Services to sign a memorandum of agreement between the Bureau of Reclamation and Tualatin Project Title Transfer Partners authorizing a title transfer investigation. (This item was related to the work session discussion on July 17, 2007) Resolution No. 2224 was available.

Motion was made by Johnson, seconded by O'Donnell, that Resolution No. 2224 be adopted. The motion passed unanimously with O'Donnell, Carleson, Dennis and Johnson voting in favor.

RESOLUTION NO. 2224

A RESOLUTION REGARDING A MEMORANDUM OF AGREEMENT FOR INVESTIGATION OF TUALATIN PROJECT TITLE TRANSFER.

- B. Consider endorsement of liquor license application:

1. Costa Vida of Hillsboro, LLC, 22277 NW Imbrie Dr – Original Application - Limited on-premises sales

Motion was made by Johnson, seconded by Dennis, to approve the endorsement as presented. The motion passed unanimously with Carleson, Dennis, Johnson and O'Donnell voting in favor.

7. **COMMUNICATION AND NON-AGENDA ITEMS:**

A. None.

8. **ADVICE/INFORMATION ITEMS:**

A. Proclamation: Dollar Wi\$e Week – “Saving for Kids and Families” - September 24-29, 2007.

B. Proclamation: Family Day – September 24, 2007

ANNUAL COMMUNITY EVENTS:

C. Saturday Farmers’ Market in Downtown Hillsboro: Every Saturday, May 5, 2007 through October 27, 2007 from 8 AM to 1:30 PM.

D. Sunday Farmers’ Market at Orenco Station: Every Sunday, May 13, 2007 through October 7, 2007 from 10 AM to 2 PM.

9. **WORK SESSION ITEM (Item A will be discussed in work session following regular session in Conference Room C113B)**

A. Measure 37 Claim Waivers in Conjunction with Annexation Petitions – presented by City Attorney Pam Beery

There being no further business to come before the Council, the meeting was adjourned to work session at 7:30 PM.

Mayor

ATTEST: _____
City Recorder



Public Works Department, Engineering Division

DATE: October 2, 2007
TO: Mayor and City Council
FROM: Roy Gibson, Public Works Director
PROJECT: Meadow Oaks Phase I

Description: Public improvements to serve a new 77 lot subdivision located at 22805, 23925 SW Davis Ave & 535 SW 234th Avenue (1S21CA01700, 1800, 1900 & 2000)

The developer of the above referenced project has submitted the required financial guarantees, insurance certificates and paid the appropriate fees.

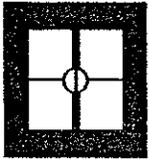
Staff therefore requests authorization for the City Manager and City Recorder to execute standard developer installation agreements as follows:

Developer: Centex Homes

	Construction	Deposit
Street	\$555,457.00	\$19,441.00
Storm	\$386,794.00	\$13,537.79
Sanitary	\$225,179.00	\$9,007.16
Water	\$272,875.00	\$10,000.00
TOTAL	\$1,440,305.00	\$51,985.95

Attachment: Location Map

CITY OF HILLSBORO



Public Works Department, Engineering Division

DATE: October 9, 2007
TO: Utilities Commission
FROM: Roy Gibson, Public Works Director
PROJECT: Meadow Oaks Phase I

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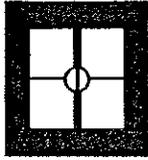
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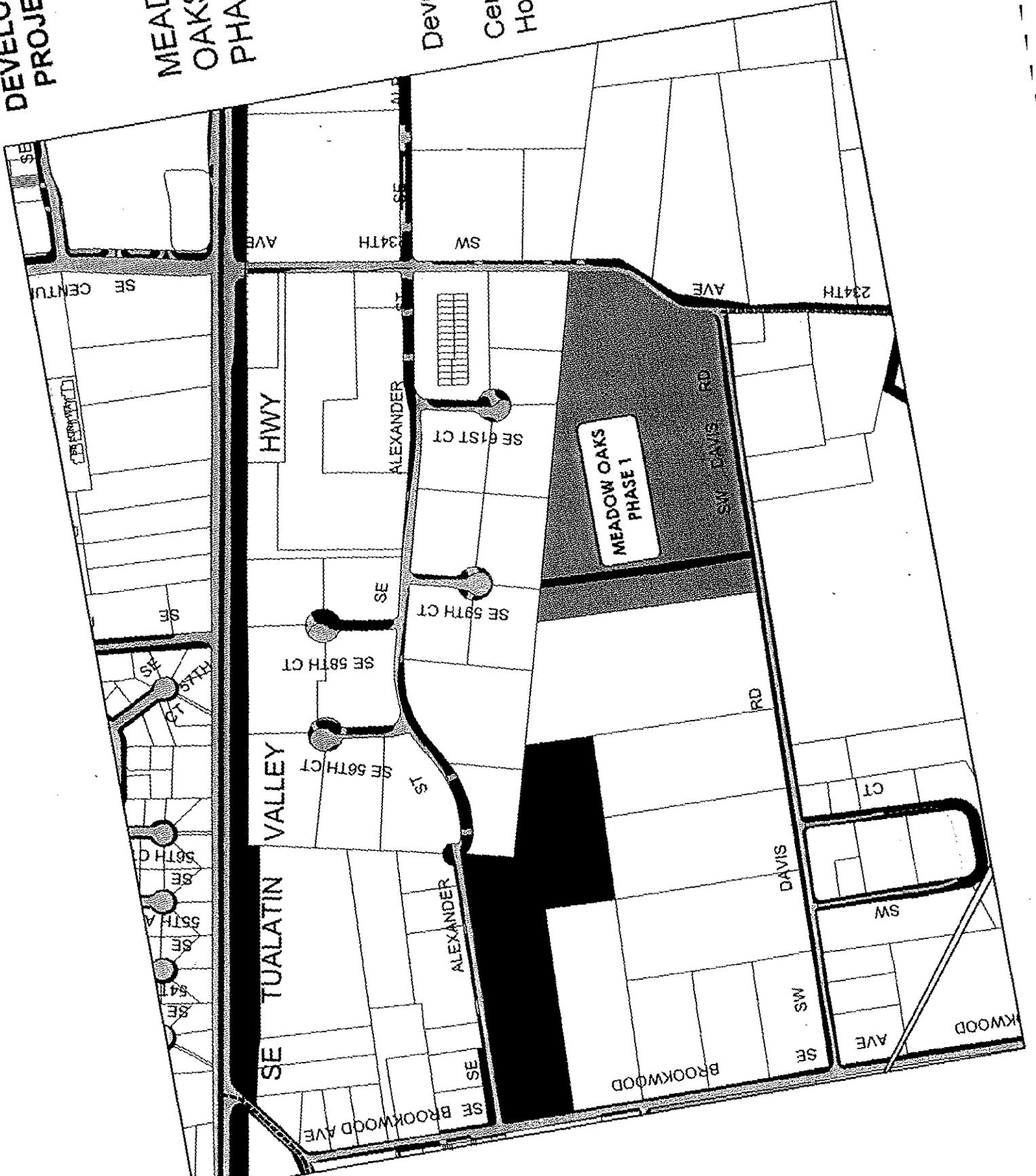
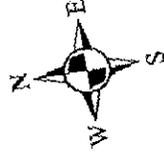
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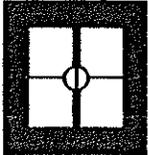
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DEVELOPER
PROJECT

MEADOW
OAKS
PHASE I

Developer:
Centex
Homes





Public Works Department, Engineering Division

DATE: October 9, 2007
TO: Utilities Commission
FROM: Roy Gibson, Public Works Director
PROJECT: Parkside Estates

Description: Public improvements required to serve a new 96 lot subdivision located at 3280 SW River Road.

The developer of the above referenced project has submitted the required financial guarantees, insurance certificates and paid the appropriate fees.

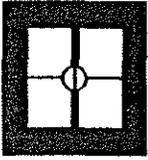
Staff therefore requests authorization for the City Manager and City Recorder to execute standard developer installation agreements as follows:

Developer: Riverside Homes

	Construction	Deposit
Street	\$398,206.00	\$13,937.21
Storm	\$182,831.00	\$7,313.24
Sanitary	\$121,741.00	\$4,869.64
Water	\$79,008.00	\$3,160.32
TOTAL	\$781,786.00	\$29,280.41

Attachment: Location Map

CITY OF HILLSBORO



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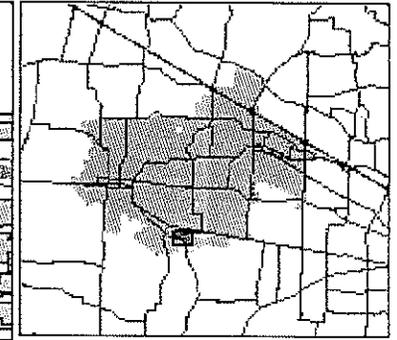
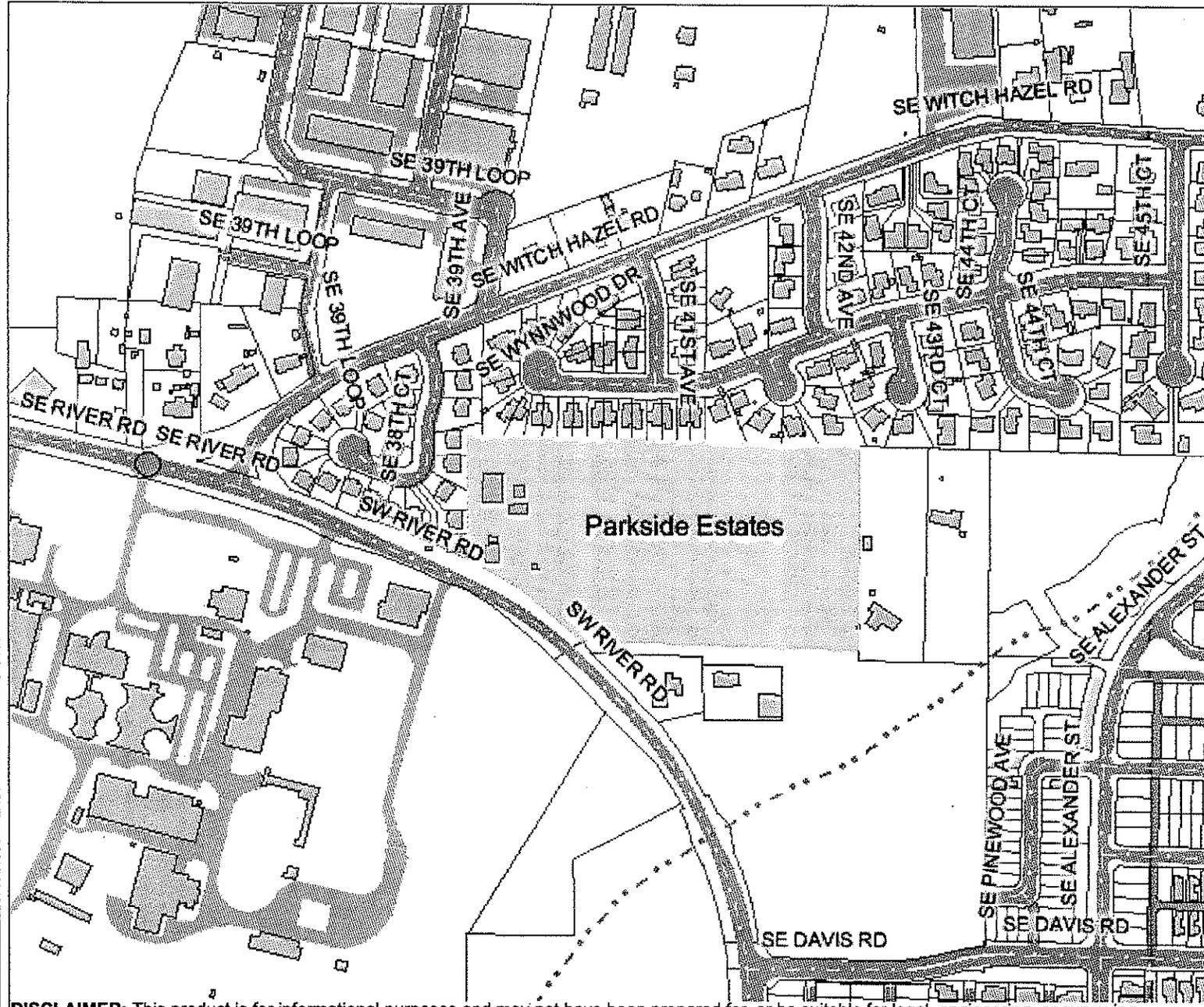
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Attachment: Location Map

Parkside Estates



DISCLAIMER: This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.
SOURCE: Hillsboro & WaCnty Data: Updated Weekly, Metro Data Updated Quarterly

Scale 1:4,800
1 in = 400 ft



Public Works Department, Engineering Division

DATE: October 2, 2007
TO: Mayor and City Council
FROM: Roy Gibson, Public Works Director
PROJECT: Parks @ Laurel Oaks

Description: Public improvements to serve a new 56 lot subdivision located @ 5200 SE Alexander & 3250 SE Brookwood Avenue

The developer of the above referenced project has submitted the required financial guarantees, insurance certificates and paid the appropriate fees.

Staff therefore requests authorization for the City Manager and City Recorder to execute standard developer installation agreements as follows:

Developer: Centex Homes

	Construction	Deposit
Street	\$1,382,909.00	\$48,401.82
Storm	\$272,907.00	\$9,551.75
Sanitary	\$162,304.00	\$6,492.16
Water	\$176,723.00	\$7,068.92
TOTAL	\$1,994,843.00	\$71,514.64

Attachment: Location Map

CITY OF HILLSBORO



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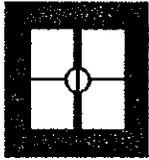
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Staff therefore requests authorization for the City Manager and City Recorder to execute standard developer installation agreements as follows:

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Sanitary	\$162,304.00	\$6,492.16
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TOTAL	\$1,994,843.00	\$71,514.64

Attachment: Location Map



October 2, 2007

To: Mayor and City Council

From: Tina Bailey, Project Manager

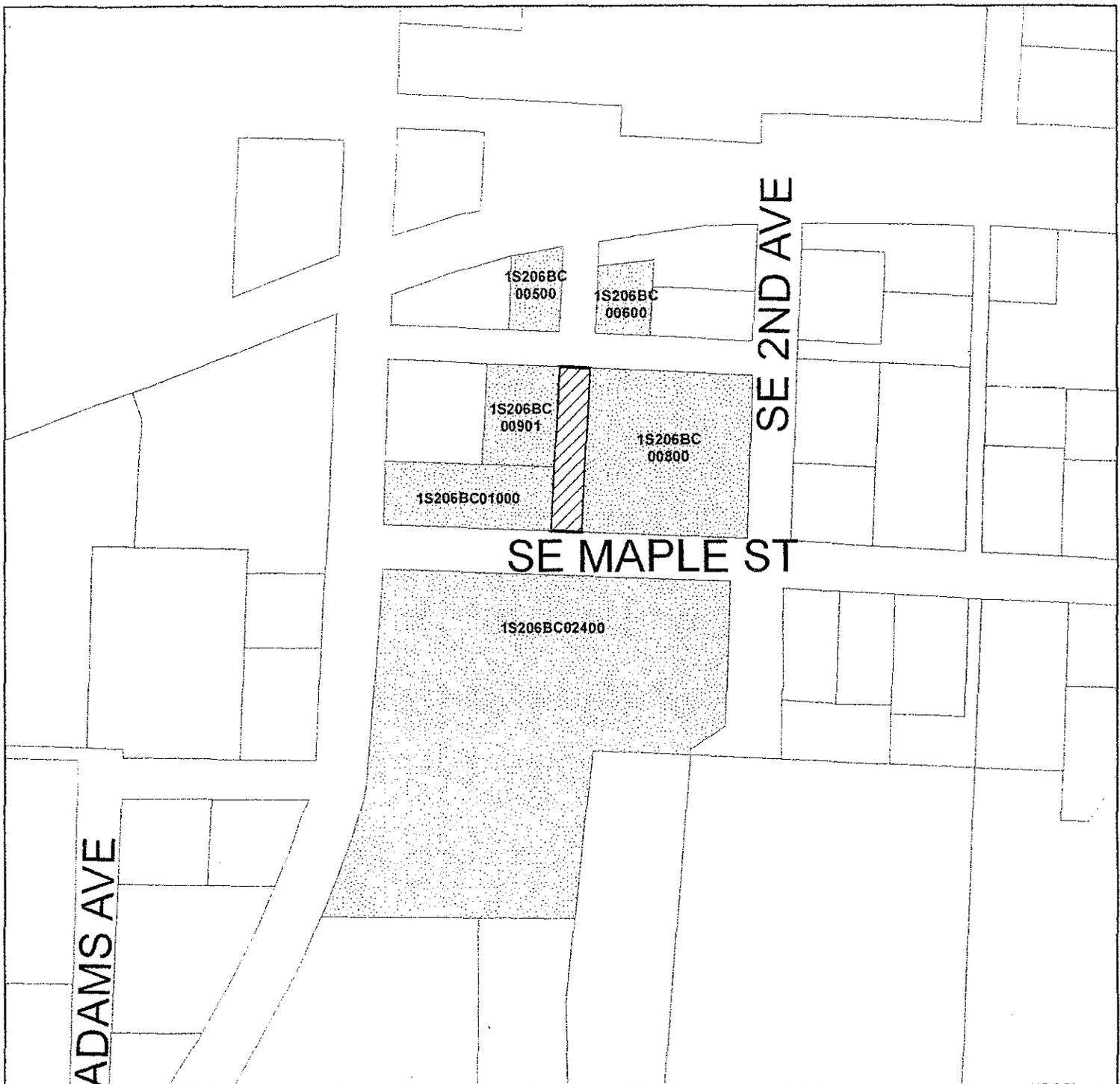
Re: VAC 07-07: Petition for Public Alley Vacation
Portion of North/South Alley in the block of 1st/2nd/Maple/Cedar.

Cheryl Lund has submitted a petition for the vacation of a portion of a north south alley located in the block bounded by S 1st Avenue, SE 2nd Avenue, SE Maple Street and SE Cedar Street. As defined in Section 164 of the Amended City Charter, the following information has been submitted:

1. Written consent of the owners of a majority of the frontage within the consent zone;
2. An affidavit of publication from the Argus, indicating that the notice of intent to petition the Council has been published;
3. A fee in the amount of \$610.00;
4. A bond in the amount of \$200.00 as set forth in Chapter 12.04.050 of the Municipal Code.

Please accept the petition and schedule a public hearing for the regular Council meeting on Tuesday, November 6, 2007. Prior to the public hearing, City staff will notify residents in the immediate area, utility companies, City departments and other public agencies for comment. An engineer's report will be available at the public hearing.

Attachments: Petition
Map



Proposed 1st-2nd Alley Vacation

Legend

- Proposed Vacation
- Consent Zone Properties

1 inch equals 150 feet

Consent Zone Information (As of 07-26-07)

TAX LOT	OWNER	OWNER ADDRESS	CITY	STATE	ZIP	CONSENT
1S206BC-01000 & -02400	HILLSBORO, CITY OF	150 E MAIN ST	HILLSBORO	OR	97123	149
1S206BC-00800 & -00901	LUND, CHRIS J & CHERYL K	2630 N HAYDEN ISLAND DR #35	PORTLAND	OR	97217	281
1S206BC-00500 & -00600	SWENSEN, JAY	475 NE 63RD WAY	HILLSBORO	OR	97124	128
TOTAL CONSENT FRONTAGE						558
MINIMUM FRONTAGE WHICH MUST CONSENT						278

CONSENT FOR VACATION OF STREET OR ALLEY

To the Honorable Mayor and City Council of the City of Hillsboro, Oregon:

We, the undersigned, hereby consent to the vacation of that street or alley or portion thereof in the City of Hillsboro, as described in Exhibit "A", attached hereto. We hereby certify that we are the owners in fee simple or the real property indicated below.

Tax Map and Tax Lot numbers: 15206BC-008004-00901

Cheryl K Lund
Signature

Signature

Cheryl K Lund
Printed Name

Printed Name

Hillsboro Mobile Home Park
Representing

Representing

2630 N Hayden Island #35
Street Address

Address (if different)

Portland OR 97217
City, State, Zip Code

City, State, Zip Code

503. Bus. 233.5863 Fax:
Telephone Number

Telephone Numbers

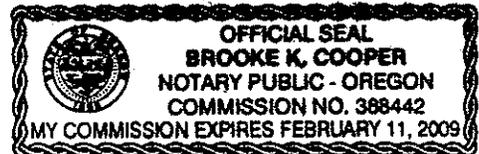
State of Oregon)
)
County of Washington)

This instrument was acknowledged before me on

September 20, 2007 by Cheryl K. Lund for Hillsboro Mobile Home Park

Brooke K Cooper
Notary Public of Oregon

My commission expires: _____



CONSENT FOR VACATION OF STREET OR ALLEY

To the Honorable Mayor and City Council of the City of Hillsboro, Oregon:

We, the undersigned, hereby consent to the vacation of that street or alley or portion thereof in the City of Hillsboro, as described in Exhibit "A", attached hereto. We hereby certify that we are the owners in fee simple or the real property indicated below.

Tax Map and Tax Lot numbers: 19206BC & 1000

Timothy J. Erwert also known as: 145 SE Maple St., Hillsboro, OR

Signature

Signature

Timothy J. Erwert

Printed Name

Printed Name

City of Hillsboro

Representing

Representing

150 E. Main Street

Address (if different)

Street Address

Hillsboro, OR 97123

City, State, Zip Code

City, State, Zip Code

(503)681-6119 (503)681-6232

Bus. Fax:

Telephone Numbers

Telephone Number

State of Oregon)

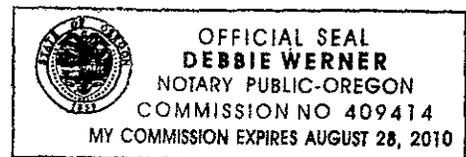
County of Washington)

This instrument was acknowledged before me on

August 8, 2007 by Timothy J. Erwert

Debbie Werner
Notary Public of Oregon

My commission expires: 8/28/10



CONSENT FOR VACATION OF STREET OR ALLEY

To the Honorable Mayor and City Council of the City of Hillsboro, Oregon:

We, the undersigned, hereby consent to the vacation of that street or alley or portion thereof in the City of Hillsboro, as described in Exhibit "A", attached hereto. We hereby certify that we are the owners in fee simple or the real property indicated below.

Tax Map and Tax Lot numbers: 15206BC02400

also known as: 142 SE Maple St., Hillsboro, OR

Timothy J. Erwert
Signature
Timothy J. Erwert

Signature

Printed Name

Printed Name

City of Hillsboro
Representing

Representing

150 East Main Street
Street Address

Address (if different)

Hillsboro, OR 97123

City, State, Zip Code

City, State, Zip Code

(503) 681-6119 (503) 681-6232
Bus. Fax:

Telephone Number

Telephone Numbers

State of Oregon)
County of Washington)

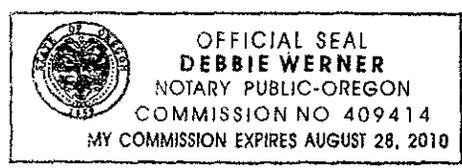
This instrument was acknowledged before me on

August 8, 2007 by Timothy J. Erwert

Debbie Werner

Notary Public of Oregon

My commission expires: 8/28/10



Jay

CONSENT FOR VACATION OF STREET OR ALLEY

To the Honorable Mayor and City Council of the City of Hillsboro, Oregon:

We, the undersigned, hereby consent to the vacation of that street or alley or portion thereof in the City of Hillsboro, as described in Exhibit "A", attached hereto. We hereby certify that we are the owners in fee simple or the real property indicated below.

Tax Map and Tax Lot numbers: 1S206BC00500, 1S206BC00600

Jay Swensen
Signature

Signature

JAY Swensen
Printed Name

Printed Name

N/A
Representing

Representing

475 NE 03rd way
Street Address

Address (if different)

Hillsboro OR 97124
City, State, Zip Code

City, State, Zip Code

Bus. 505 Fax: 781-2882
Telephone Number

Telephone Numbers

State of Oregon)
)
County of Washington)

This instrument was acknowledged before me on 8-17-2007

_____ by JAY SWENSON

Mary C. Gregg

Notary Public of Oregon

My commission expires: 9-16 07



City of Hillsboro
Alley Vacation: Block 4, Simmon's Addition
legal description
NS, August 20, 2007

Exhibit 'A'

A tract of land in Section 6, Township 1 South, Range 2 West, Willamette Meridian, Washington County, Oregon, being more particularly described as follows:

Beginning at the northeast corner of Lot 9, Block 4 of Simmon's Addition to the Town of Hillsboro, a duly recorded subdivision in said county;

thence South along the east line of said lot, a distance of 180.75 feet to the southeast corner thereof;

thence East along the easterly projection of the south line of said lot, a distance of 36 feet to the southwest corner of Lot 10, Block 4 of said subdivision;

thence North along the west line of said lot, a distance of 180.75 feet to the northwest corner thereof;

thence West along the westerly projection of the north line of said lot, a distance of 36 feet to the point of beginning.

No. _____

In the _____ Court of the

State of Oregon
for the
County of Washington

Affidavit of Publication
The Hillsboro Argus

Filed _____ .20 _____

Clerk

Deputy

From the Office of

Attorney for _____

**NOTICE OF INTENT TO
PETITION FOR VACATION
OF A PUBLIC ALLEY**

Notice is hereby given pursuant to Section 164, Chapter XV of the Amended Charter of the City of Hillsboro, OR, that a petition requesting vacation of a public alley will be presented to the Hillsboro City Council at its regular meeting of Oct. 2, 2007.

The portion of said public alley is described as follows: Beginning at the northeast corner of Lot 9, Block 4 of Simmon's Addition to the Town of Hillsboro, a duly recorded subdivision in said county; thence South along the east line of said lot, a distance of 180.75 feet to the southeast corner thereof; thence East along the easterly projection of the south line of said lot, a distance of 36 feet to the southwest corner of Lot 10, block 4 of said subdivision; thence North along the west line of said lot, a distance of 180.75 feet to the northwest corner thereof; thence West along the westerly projections of the north line of said lot, a distance of 36 feet to the point of beginning.

(Aug. 28; Sept. 4, 11, 18, 2007)

Affidavit of Publication

STATE OF OREGON, COUNTY OF WASHINGTON, ss.

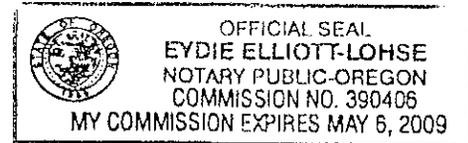
I, Gary B. Stutzman, being first duly sworn, depose and say that I am the Managing Editor of THE HILLSBORO ARGUS, a newspaper of general circulation as defined by ORS 193.010 and 193.020; printed and published at Hillsboro, in the aforesaid county and state; that the Notice of Intent to Petition, a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for four insertion(s) in the following issue(s):

August 28; September 4, 11, 18, 2007

Gary B. Stutzman

Subscribed and sworn to before me this 18th day
of September, 2007.

Eydie Elliott-Lohse





Public Works Department, Engineering Division

October 2, 2007

To: Mayor and City Council

From: Tina Bailey, Project Manager

Re: VAC 07-08: Petition for Public Roadway Vacation
SE 8th Avenue between Oak and Baseline

Tuality Healthcare has submitted a petition for the vacation of SE 8th Avenue from SE Baseline Street to SE Oak Street. As defined in Section 164 of the Amended City Charter, the following information has been submitted:

1. Written consent of the owners of a majority of the frontage within the consent zone;
2. An affidavit of publication from the Argus, indicating that the notice of intent to petition the Council has been published;
3. A fee in the amount of \$610.00;
4. A bond in the amount of \$200.00 as set forth in Chapter 12.04.050 of the Municipal Code.

Please accept the petition and schedule a public hearing for the regular Council meeting on Tuesday, November 6, 2007. Prior to the public hearing, City staff will notify residents in the immediate area, utility companies, City departments and other public agencies for comment. An engineer's report will be available at the public hearing.

Attachments: Petition
 Map

Tuality Healthcare
335 SE 8th Avenue
Hillsboro, OR 97123
503-681-1111
Human Resources:
888 SE Baseline St.
Hillsboro, OR 97123
503-681-1158



Tuality Healthcare
Building a healthier community.

**Tuality
Community Hospital**
335 SE 8th Avenue
Hillsboro, OR 97123
503-681-1111

**Tuality
Forest Grove Hospital**
1809 Maple Street
Forest Grove, OR 97116
503-357-2173
Center for Geriatric Psychiatry:
503-359-6969
Raines Dialysis Center:
503-359-7972

Tuality Health Alliance
335 SE 8th Avenue
Hillsboro, OR 97123
503-681-1817

**Tuality
Health Education Center**
334 SE 8th Avenue
Hillsboro, OR 97123
503-681-1700

**Tuality Health Information
Resource Center**
334 SE 8th Avenue
Hillsboro, OR 97123
503-681-1702

**Tuality
Healthcare Foundation**
335 SE 8th Avenue
Hillsboro, OR 97123
503-681-1170

Tuality HealthPlace
1200 NE 48th Avenue, Suite 700
Hillsboro, OR 97124
503-640-6064

Tuality Home Health
1809 Maple Street
Forest Grove, OR 97116
503-357-2737

**Tuality Medical
Equipment & Supply**
333 SE 7th Avenue, Suite 1200
Hillsboro, OR 97123
503-681-1658

**Tuality/OHSU
Cancer Center**
299 SE 9th Avenue
Hillsboro, OR 97123
503-681-4200

Tuality Urgent Care
17175 SW Tualatin Valley Hwy.
Suite A
Aloha, OR 97006
503-681-4223

September 20, 2007

*Tina Bailey, Project Manager
City of Hillsboro
Public Works, Engineering Division
150 E Main Street, Fourth Floor
Hillsboro, OR 97123-4028*

Subject: Description and Justification for Proposed SE 8th Avenue Street Vacation

Dear Ms Bailey:

Tuality Healthcare (Tuality) seeks approval to vacate SE 8th Avenue between Baseline Street and Oak Street. If successful, Tuality will take responsibility for maintenance and liability and will ultimately close the street to through vehicle access but grant the City a perpetual easement for public pedestrian access. Vacation is required so that Tuality can make right-of-way (ROW) improvements in a portion of SE 8th Avenue, between SE Baseline Street and SE Oak Street, which would not otherwise be permitted. These improvements include a mid-block pedestrian crossing and constructing an expansion of the main hospital building into the area that is currently a public ROW.

Justification. *The street vacation of SE 8th Avenue was considered in the Tuality Healthcare/Pacific University 2005 CDP Update (CDP 1-01, MOD 2), with the understanding that street vacations are subject to a non-land use process governed primarily by state statute. This CDP is currently under review by the Hillsboro Planning Commission with modifications in the Tuality Healthcare/Pacific University Concept Development Plan (CDP 1-01, Mod 3). In 2005, it was envisioned that vehicular traffic would continue to be allowed in a northbound direction. Since then, further studies have revealed a future need to completely close the area to vehicles to allow the expansion of the hospital into the ROW. This is necessary to meet future hospital needs of the intensive care unit, birth center and therapy departments for inpatients and outpatients at the southeast corner of the first and second floors. This is expected to be the next proposed Tuality Healthcare project implemented from the CDP. This expansion will not only provide added square footage for the departments mentioned, but it will also provide a "podium" base for the eventual expansion and/or replacement of the third through sixth floor nursing towers. While these projects have not been designed or funded, the hospital needs certainty of its ability to develop an appropriately sized footprint and to efficiently plan for growth when the funding is available.*



In addition, there is an immediate need to develop a mid-block crossing on 8th Avenue with distinctive paving materials to serve the needs of pedestrians moving around on the hospital's campus. The site is currently in use as a public street. Located in the heart of its campus near the hospital's main entrance, this portion of SE 8th Avenue bisects two blocks that are critical to the operation of the main hospital and is primarily used by pedestrian patients, visitors and employees traveling between the parking structure, Tuality Healthcare Education Center and the 8th Avenue Medical Plaza, to the main hospital and 7th Avenue Medical Plaza. Since the parking structure was developed in the early 1990's, there have been numerous requests to develop a marked, mid-block crossing to improve the safety for the pedestrians. City Staff have declined to approve such a marked crossing on a public street. As a result, Tuality Healthcare is proposing that the street be vacated and fall under hospital ownership in order to develop this crosswalk now and have certainty for planning to build later.

Recent studies indicate during high use times an average of 282 pedestrians per hour are crossing 8th Avenue at random points mid-block between Baseline and Oak. These improvements are designed to provide a safe, pedestrian friendly area for people who are traveling between their vehicles and hospital services; employees and physicians who are conducting business; and the transporters of food, materials and supplies between the hospital and other buildings on the campus.

Proposed Improvements – Phase 1 (Mid-Block Crossing). *The first phase of development on the street, if vacated, will be the construction of a mid-block crossing (Crosswalk). The crosswalk will be located in the SE 8th Avenue roadway between SE Oak Street and SE Baseline Street. It has been placed mid-block to align with the existing covered canopies that end at the curbside to provide for a safe and friendly pedestrian streetscape. The improvements are 360 square feet in size, 12 feet in width and 30 feet in length. The improvements proposed include the addition of scored concrete in the roadway and tactile ADA-compliant warning pavers at each curbside. In addition, an illuminated "crosswalk" sign will be installed on both sides of SE 8th Avenue facing north and south to emphasize the presence of pedestrian traffic crossing the roadway and to slow and calm vehicular traffic in that area. This development further reinforces that this is a major pedestrian pathway on the campus. During this phase of development, the street will remain open for vehicular traffic.*

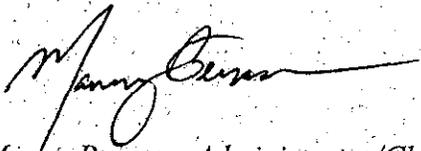
Sidewalk improvements will be undertaken to bring both sides of SE 8th Avenue into general compliance with ADA standards at the point of the crossing. The existing sidewalk along the east and west sides of SE 8th Avenue will retain the current alignment to preserve the existing useable open space area. There are no other planned changes to existing landscaping, sidewalks, lighting or other improvements in the vicinity of the crosswalk.

The CDP standards require that the improvements reflect the overall campus design of Tuality Healthcare/Pacific University. Design materials and colors were adopted in Chapter V of the CDP 1-01, Mod 3, to which all development on the campus should conform. As a result, the paving materials have been selected to match those established at the earlier mid-block pedestrian crossing on SE 7th Avenue between SE Oak Street and SE Baseline Street.

Proposed Improvements – Phase 2 (Hospital Expansion). The second phase of development resulting from the street vacation will close, to vehicular traffic, the southern half of SE 8th Avenue between SE Oak and SE Baseline Streets and significantly re-route vehicles in the southern portion of the campus. This will be undertaken to create a larger site size for the proposed SE Hospital Expansion and to reinforce the primary north/south pedestrian corridor through the campus to the Tuality/SE 8th Avenue Light Rail Transit Station on the north edge. The new closure plan is a modification of the original plan proposed in the 2005 CDP Update, which would have retained one north-bound lane of the ROW for vehicular traffic. In this proposed version, the street segment will be completely closed, with the western lane occupied by the hospital expansion and the east lane and sidewalk by a linear pedestrian plaza; this area will be maintained in pavement to permit fire and emergency access. It is Tuality's intent to include the proposed reconfiguration of the circulation in the southern campus in a future Detailed Development Plan (DDP), most likely as part of the DDP for the SE Hospital Expansion, which drives the physical closure of SE 8th Avenue. However, it may be submitted with a DDP for one of the other Tuality Phase 2 buildings, i.e., Administration Building or Cancer Center Expansion, or as a free-standing DDP.

Transportation Improvements. As noted in the Transportation Impact Study (TIS) prepared by Lancaster Engineering and Group Mackenzie and previously submitted to the City of Hillsboro, the proposed street vacation does not negatively impact existing and future traffic patterns in the area or trigger the need for any off-site transportation improvements or additional parking study because no additional demand is generated.

Sincerely,



Marny Berman, Administrator/Chief Operating Officer
Tuality Healthcare

PETITION FOR VACATION OF STREET, ALLEY OR EASEMENT

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF HILLSBORO, OREGON:

We, the undersigned, do hereby petition the City Council for the vacation of that street or alley or portion thereof as described in Exhibit A attached hereto. With this petition we have included an affidavit of publication for five weeks in a local newspaper; acknowledged signatures(s) of the owner(s) in fee simple of a majority of the real property affected by the proposed vacation, as required by the Amended Charter of the City of Hillsboro, Oregon.

The vacation is being requested because:

1. To develop a mid-block pedestrian crossing.
2. To prepare for the future expansion of the existing hospital structure into the street right-of-way.

If vacated, the land will revert to and become a part of the original lot or tract from which it was derived.

Tax lot and map number of petitioner's land:

1S206AB01600 Tuality Community Hospital Inc.

Tax Lot No. Owner

9/17/07
Signature Date

Signature Date


Signature

Signature

Richard V. Stenson
Printed Name

Printed Name

Tuality Community Hospital, Inc.
Representing

Representing

335 SE Eighth Avenue
Street Address

Street Address

Hillsboro, OR 97123
City, State, Zip Code

City, State, Zip Code

503-681-1893
Telephone Number

Telephone Number

NOTICE OF INTENT TO PETITION
FOR VACATION OF A PUBLIC
STREET

Notice is hereby given pursuant to Section 164, Chapter XV of the Amended Charter of the City of Hillsboro, Oregon, that a petition requesting vacation of the following described portion of a public street will be presented to the Hillsboro City Council at its regular meeting of November 6, 2007.

That portion of SE 8th Avenue, a street dedicated to the public by the dedication of FAIRVIEW ADDITION, in the City of Hillsboro, County of Washington, State of Oregon, recorded July 31, 1896 in Book 46, page 298 of Washington County Records, which lies South of the South line of SE Baseline Street, North of the North line of SE Oak Street, West of the West line of Block 6 of said FAIRVIEW ADDITION and East of the East line of Block 1 of said FAIRVIEW ADDITION.

Argus (Aug. 28; Sept. 4, 11, 18, 2007)



Proposed 8th Avenue Vacation

Legend

- Proposed Vacation
- Consent Zone Property

1 inch equals 150 feet

Consent Zone Information (As of 07-26-07)

TAX LOT	OWNER	OWNER 2	ADDRESS	CITY	STATE	ZIP	FRONTAGE
1N231DC09100	GEHLING, MARY K REV LIV TRUST	BY BAKER BURGER	807 SE BASELINE RD	HILLSBORO	OR	97123	34
1N231DC10000	TUALITY PROPERTY MANAGEMENT		PO BOX 309	HILLSBORO	OR	97123	34
1S206AB00600	TUALITY PROPERTY MANAGEMENT		335 SE 8TH	HILLSBORO	OR	97123	200
1S206AB00900	TUALITY PROPERTY MANAGEMENT INC	ATTN: TIMOTHY J FLEISCHMANN	PO BOX 309	HILLSBORO	OR	97123	188
1S206AB01600	TUALITY COMMUNITY	HOSPITAL INC	740 E BASELINE	HILLSBORO	OR	97123	396
1S206AB05500	MEDICAL LAND MANAGEMENT LLC		405 SE 8TH AVE	HILLSBORO	OR	97123	34
1S206AB07600	CHAVEZ PROPERTIES LLC	ATTN: SHUAN CHAVEZ	808 SE OAK ST	HILLSBORO	OR	97123	34
TOTAL CONSENT FRONTAGE							920
MINIMUM CONSENT REQUIRED							460

CONSENT FOR VACATION OF STREET OR ALLEY

To the Honorable Mayor and City Council of the City of Hillsboro, Oregon:

We, the undersigned, hereby consent to the vacation of that street or alley or portion thereof in the City of Hillsboro, as described in Exhibit "A", attached hereto. We hereby certify that we are the owners in fee simple of the real property indicated below.

Tax Map and Tax Lot numbers: 1N231DC10000 _____

Richard V. Stenson
Signature

Signature

Richard V. Stenson
Printed Name

Printed Name

Tuality Property Management
Representing

Representing

335 SE Eighth Avenue
Street Address

Address (if different)

Hillsboro, OR 97123
City, State, Zip Code

City, State, Zip Code

503-681-1893 Bus. 503-681-1608 Fax
Telephone numbers

Telephone numbers

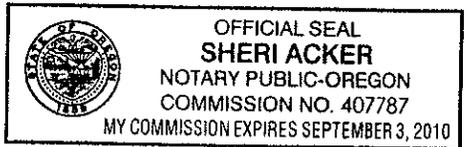
State of Oregon)
)
County of Washington)

This instrument was acknowledged before me on September 17, 2007 by _____

Richard V. Stenson

Sheri Acker
Notary Public for Oregon

My commission expires: 9/3/2010



CONSENT FOR VACATION OF STREET OR ALLEY

To the Honorable Mayor and City Council of the City of Hillsboro, Oregon:

We, the undersigned, hereby consent to the vacation of that street or alley or portion thereof in the City of Hillsboro, as described in Exhibit "A", attached hereto. We hereby certify that we are the owners in fee simple of the real property indicated below.

Tax Map and Tax Lot numbers: 1S206AB00600 _____

Richard V. Stenson
Signature

Signature

Richard V. Stenson
Printed Name

Printed Name

Tuality Property Management
Representing

Representing

335 SE Eighth Avenue
Street Address

Address (if different)

Hillsboro, OR 97123
City, State, Zip Code

City, State, Zip Code

503-681-1893 Bus. 503-681-1608 Fax
Telephone numbers

Telephone numbers

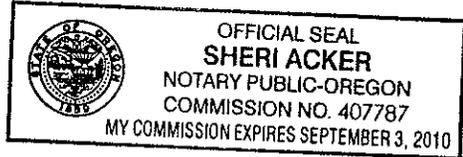
State of Oregon)
)
County of Washington)

This instrument was acknowledged before me on September 17, 2007 by _____

Richard V. Stenson

Sheri Ackler
Notary Public for Oregon

My commission expires: 9/3/2010



CONSENT FOR VACATION OF STREET OR ALLEY

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Tax Map and Tax Lot numbers: 1S206AB00900 _____

Richard V. Stenson
Signature

Signature

Richard V. Stenson
Printed Name

Printed Name

Tuality Property Management
Representing

Representing

335 SE Eighth Avenue
Street Address

Address (if different)

Hillsboro, OR 97123
City, State, Zip Code

City, State, Zip Code

503-681-1893 Bus. 503-681-1608 Fax
Telephone numbers

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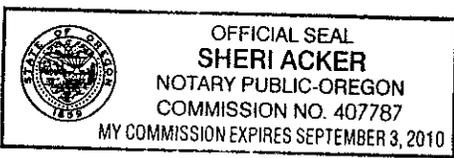
State of Oregon)
)
County of Washington)

This instrument was acknowledged before me on September 17, 2007 by _____

Richard V. Stenson

Sheri Ackler
Notary Public for Oregon

My commission expires: 9/3/2010



CONSENT FOR VACATION OF STREET OR ALLEY

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We, the undersigned, hereby consent to the vacation of that street or alley or portion thereof in the City of Hillsboro, as described in Exhibit "A", attached hereto. We hereby certify that we are the owners in fee simple of the real property indicated below.

Tax Map and Tax Lot numbers: 1S206AB01600 _____

Richard V. Stenson
Signature

Signature

Richard V. Stenson
Printed Name

Printed Name

Tuality Community Hospital, Inc.
Representing

Representing

335 SE Eighth Avenue
Street Address

Address (if different)

Hillsboro, OR 97123
City, State, Zip Code

City, State, Zip Code

503-681-1893 Bus. 503-681-1608 Fax
Telephone numbers

Telephone numbers

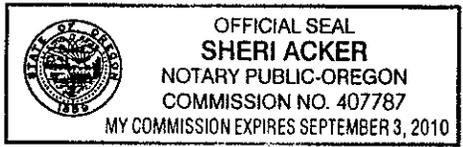
State of Oregon)
)
County of Washington)

This instrument was acknowledged before me on September 17, 2007 by _____

Richard V. Stenson

Sheri Acker
Notary Public for Oregon

My commission expires: 9/3/2010



CONSENT FOR VACATION OF STREET OR ALLEY

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We, the undersigned, hereby consent to the vacation of that street or alley or portion thereof in the City of Hillsboro, as described in Exhibit "A", attached hereto. We hereby certify that we are the owners in fee simple of the real property indicated below.

Tax Map and Tax Lot numbers: 1S206AB05500

Mark Stone
Signature

Signature

Mark Stone
Printed Name

Printed Name

Medical Land Management LLC
Representing

Representing

405 SE Eighth Avenue
Street Address

Address (if different)

Hillsboro, OR 97123
City, State, Zip Code

City, State, Zip Code

503-640-3687 Fax 503-640-3688
Telephone numbers

Telephone numbers

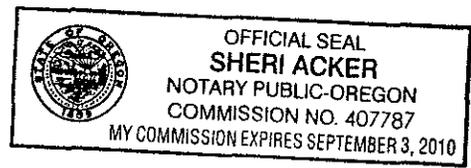
State of Oregon)
)
County of Washington)

This instrument was acknowledged before me on September 20, 2007 by _____

Mark Stone

Sheri Ackers
Notary Public for Oregon

My commission expires: 9/3/2010



CONSENT FOR VACATION OF STREET OR ALLEY

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Tax Map and Tax Lot numbers: 1S206AB07600 _____

Shuan Chavez
Signature

Signature

Shuan Chavez, DMD
Printed Name

Printed Name

Chavez Properties LLC
Representing

Representing

808 SE Oak Street
Street Address

Address (if different)

Hillsboro, OR 97123
City, State, Zip Code

City, State, Zip Code

 Bus. Fax
Telephone numbers

Telephone numbers

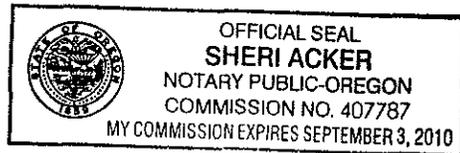
State of Oregon)
)
County of Washington)

This instrument was acknowledged before me on September 20, 2007 by _____

Shuan Chavez,

Sheri Acker
Notary Public for Oregon

My commission expires: 9/3/2010



No. _____

In the _____ Court of the

State of Oregon
for the
County of Washington

Affidavit of Publication

The Hillsboro Argus

Filed _____, 20____

Clerk

Deputy

From the Office of

Attorney for _____

**NOTICE OF INTENT TO
PETITION FOR VACATION
OF A PUBLIC STREET**

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(Aug. 28; Sept. 4, 11, 18, 2007)

Affidavit of Publication

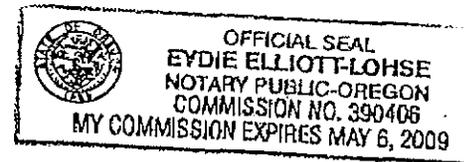
STATE OF OREGON, COUNTY OF WASHINGTON, ss.

I, Gary B. Stutzman, being first duly sworn, depose and say that I am the Managing Editor of THE HILLSBORO ARGUS, a newspaper of general circulation as defined by ORS 193.010 and 193.020; printed and published at Hillsboro, in the aforesaid county and state; that the Notice of Intent to Petition, a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for four insertion(s) in the following issue(s):
August 28; September 4, 11, 18, 2007

Gary B. Stutzman

Subscribed and sworn to before me this 18th day of September, 2007.

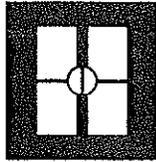
Eydie Elliott-Lohse



CITY OF HILLSBORO

150 E.Main Street
Hillsboro, Oregon 97123
Phone: 503.681.6100
Fax: 503.681.6213
www.ci.hillsboro.or.us

Receipt number:	31031
Date:	9/20/2007
Name:	TUALITY HEALTHCARE
Amount:	810.00
Form of payment:	Check



September 26, 2007

STAFF REPORT

TO: City Council

FROM: Planning Department

RE: Request for Street Name Change --
File No. SN 2-07: SW Davis Road to SE Davis Road

BACKGROUND

In June, 2007, Washington County transferred jurisdiction of a portion of SW Davis Road, in the Witch Hazel Community neighborhood, to the City of Hillsboro. The identification of the right-of-way as SW Davis Road is inconsistent with the City's street naming system.

City staff proposes that the street segment, as shown on the attached map, be renamed SE Davis Road. Renaming the street SE Davis Road will increase safety and make the City's street grid more consistent. On August 22, 2007, the Planning Commission reviewed a request from City Staff to rename the street segment, as shown on the attached map, as SE Davis Road. Renaming the street segment will increase safety and make the City's street grid more consistent.

Staff notes that this change would affect several property owners who are currently addressed on SW Davis Road. Attached is a letter explaining the process for changing the addresses to SE Davis Road, which was mailed to affected property owners.

Additionally, Staff notes that SW Davis Court, which is south of SW Davis Road, has been identified as a likely candidate for a similar renaming process to further increase safety and consistency, as well as eliminate future potential confusion. Since this right-of-way is currently under the jurisdiction of Washington County, City staff has requested and received approval from the County to initiate a street name change and subsequent address changes on these unincorporated properties.

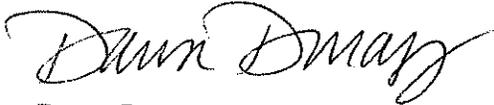
REQUEST

ORS 227.120 sets forth the procedure and approval process for naming or renaming streets. The procedure requires a recommendation from the Planning Commission to the City Council for the renaming of any existing street, highway, or road, other than a County road. Upon receiving the Commission's recommendation, the Council is then required to schedule a public hearing to consider the matter. On September 4, 2007, the Council set October 2, 2007 as the hearing date on this matter and Planning staff has provided notice to affected property owners as required. No written testimony has been received as of the date of this report.

Pursuant to ORS 227.120, the Planning Staff requests that the Council open the public hearing on the proposed street name change and accept any testimony presented. Should the Council choose to approve the requested street name change, a draft ordinance adopting the street name is attached for the Council members' review.

Respectfully submitted,

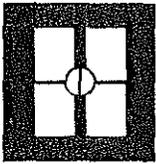
CITY OF HILLSBORO PLANNING DEPARTMENT



Dawn Duray
Urban Planner I

Attachments: Letter to affected property owners
PC Resolution No. 1625-P
Draft City Council Ordinance
Exhibit A: Vicinity Map

CITY OF HILLSBORO



September 12, 2007

Subject: Street Name Change and Site Number Change

Recently Washington County transferred the jurisdiction of that part of SW Davis Road to the City of Hillsboro (Res & Order 07-125). With this order the City of Hillsboro Planning Department has initiated a street name change for the section of road from the intersection of SE Brookwood Avenue and SW Davis Road to the west and the intersection of SW 234th Avenue and SW Davis Road to the east (please see the attached map). While this process takes a period of time to accomplish (from 60 to 90 days generally) I wanted to let you know what the "other part" of this process is and that the change to the street name is the directional; changing it from SW to SE.

I do want to let you know that we work to mitigate the impact of these changes as much as we can. Through our readdressing projects within the city we have developed some guide lines that we use to reduce the impact as much as possible. Our letter of change notifies over 50 agencies and utilities of the impending change (this includes PGE, NW Natural, Verizon, Comcast, Washington County Assessment and Taxation, USPS, etc.) and lists both the old address and the new address, and the time frame of implementation. In an instance such as yours, I will assign a date that you can begin making the change of address notifications and also the date that the new address must be in full use by. Typically the time frame that is given is close to or just over 6 months. In addition to this "dual" address time (the six month period) the Post Office continues notifying senders for one additional year after the must use date. Of course you receive a copy of this change letter as well to make copies of and use as you need to. You also have my e-mail address and my direct phone number so that if you have any additional needs or problems you can contact me easily.

You will receive my official letter of change notification close to the street name change date as determined by the cities name change process; however, in the mean time I would encourage you to contact me concerning this whole process if you would like to. My e-mail address is rocknes@ci.hillsboro.or.us and my direct phone number is 503.681.6151. I am generally in the office Monday through Friday from 6:30 am to 4:30 pm.

Also one item that I would like to cover for you now is that even though you may reside in the county, we have been given authority by the Washington County Surveyor to change addresses as we need to without the involvement of Washington County (this is for emergency response purposes).

would like to close by saying that we work very hard to reduce and limit the impact of this process and I hope that you will contact me with any questions or concerns that you may have.

Sincerely,

City of Hillsboro Planning Department



Lockne Stites

Planning Database

Coordinator

City of Hillsboro

Cc: Richard Zoucha, Darrel Pfeifer, Douglas Reimers 14295 SW Woodhue Street Tigard, OR 97224
Resident 24550 SW Davis Road Hillsboro, OR 97123
Witch Hazel Farm, LLC attn: Patricia Serrurier 41 SW Allen Road Bend, OR 97702
Resident 24060 SW Davis Road Hillsboro, OR 97123
Charles & Cayenne Heron 23720 SW Davis Road Hillsboro, OR 97123
Vernon Woodall 2400 SE Brookwood Avenue Apt 12 Hillsboro, OR 97123
Resident 24600 SW Davis Road Hillsboro, OR 97123
Borain Group, LLC attn: Paul Gabrilis 4220 SW Minter Bridge Road Hillsboro, OR 97123
23800 SW Davis Road Unit A Hillsboro, OR 97123
23800 SW Davis Road Unit B Hillsboro, OR 97123
23800 SW Davis Road Unit C Hillsboro, OR 97123
Jane Aukshunas & Karl Samson 24200 SW Davis Road Hillsboro, OR 97123
Robert & Deanna Strauss 24175 SW Davis Road Hillsboro, OR 97123
Boyer Trust 24500 SW Davis Road Hillsboro, OR 97123
Harvey & Ella Dargatz 24015 SW Davis Road Hillsboro, OR 97123

PLANNING COMMISSION

RESOLUTION NO. 1625-P
SN 2-07: SW DAVIS ROAD TO SE DAVIS ROAD

A RESOLUTION TO THE CITY COUNCIL RECOMMENDING THAT A PORTION OF SW DAVIS ROAD BE RENAMED TO SE DAVIS ROAD.

WHEREAS, the jurisdiction of a section of right-of-way was transferred from Washington County to the City of Hillsboro, and

WHEREAS, the identification of the right-of-way as SW Davis Road is inconsistent with the City's street naming system, and

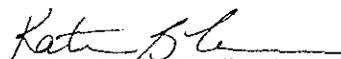
WHEREAS, ORS 227.120 sets forth the procedure for naming and renaming streets and requires the Planning Commission to forward a recommendation to the City Council to hold a public hearing on the proposed street name, and

WHEREAS, naming the street segment east of SE Brookwood Avenue and west of SW 234th Avenue would alleviate potential confusion and provide better emergency service, and

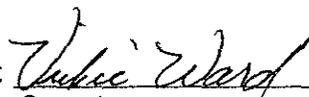
WHEREAS, the Planning Commission considered this matter on August 22, 2007, and supports the proposed street name change as acceptable and appropriate.

NOW, THEREFORE BE IT RESOLVED by the City of Hillsboro Planning Commission that the Commission by and through this resolution hereby recommends that the City Council schedule a public hearing, at a time the Council deems appropriate, to consider naming the street segment identified on Exhibit A as SE Davis Road.

Introduced and passed this 22nd day of August, 2007.



Vice-President

ATTEST: 

Secretary

ORDINANCE NO. _____
SN 2-07: SW DAVIS ROAD TO SE DAVIS ROAD

AN ORDINANCE RENAMING A SEGMENT OF SW DAVIS ROAD AS SE DAVIS ROAD.

WHEREAS, the jurisdiction of a section of right-of-way, east of SE Brookwood Avenue and west of SW 234th Avenue, has been transferred from Washington County to the City of Hillsboro, and

WHEREAS, the identification of the right-of-way as SW Davis Road is inconsistent with the City's street naming system and renaming the street segment would alleviate potential confusion and provide better emergency service, and

WHEREAS, ORS 227.120 sets forth the procedure for naming and renaming streets and requires the Planning Commission to forward a recommendation to the City Council to hold a public hearing on the proposed street name, and

WHEREAS, the Planning Commission considered this matter on August 22, 2007, and adopted Resolution No. 1625-P recommending to the City Council that the Council approve the street name change, and

WHEREAS, pursuant to ORS 227.120 the City Council held a public hearing to consider the recommendation on October 2, 2007, and voted to adopt the Planning Commission's recommendation on this matter.

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

Section 1. The street segment as shown on Exhibit A shall be renamed SE Davis Road.

Section 2. The City Planning Director is hereby instructed to amend the official City maps to reflect the changes in the street names and to notify all pertinent parties and units of government of the change in the street name.

Passed by the Council this 2nd day of October, 2007.

Approved by the Mayor this 2nd day of October, 2007.

Mayor

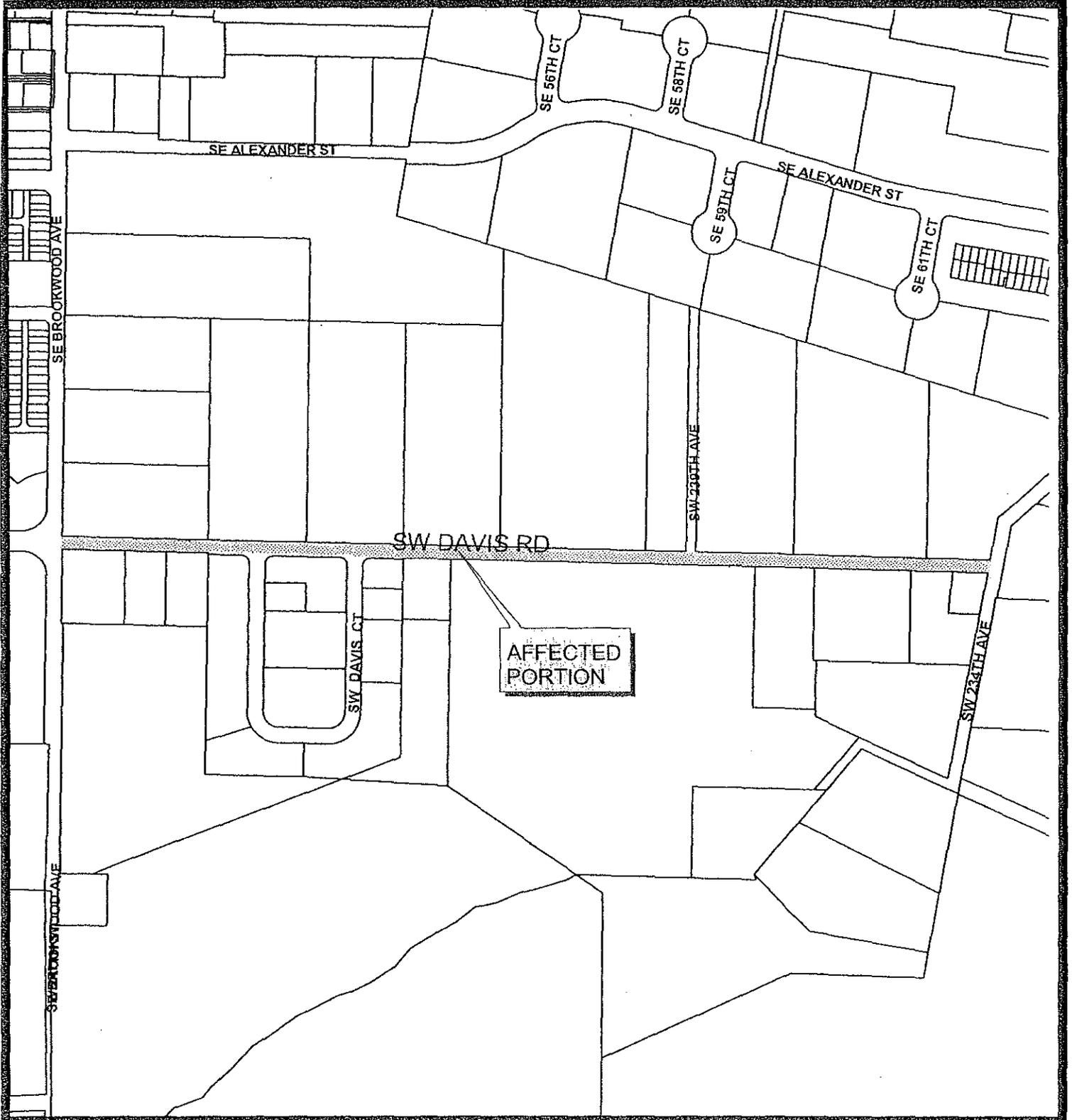
ATTEST: _____
City Recorder



SN 2-07: SW DAVIS RD TO SE DAVIS RD



VICINITY MAP





Public Works Department, Engineering Division

October 2, 2007

To: Mayor and City Council
From: Tina Bailey, Project Manager
Re: VAC 07-04, NW 229th Avenue Vacation

On September 4, 2007 a petition was presented to the City Council requesting the vacation of a portion of the right of way for 229th Avenue at the West Side Light Rail right of way. As a result of the petition, Council scheduled the public hearing on this matter for this date. The proposed vacation is an extension of a vacation (VAC 05-01) previously approved by the City Council in 2005 to vacate NW 229th Avenue from Cherry Drive south to the Light Rail Line. This vacation extends from 20 to 25 feet south of this original vacation. Notice of the proposed vacation was circulated to property owners within the consent zone, utility companies, public agencies, and City of Hillsboro department managers.

The following comments have been received with regards to the proposed vacation:

Franchised Utility Review

- **MCI:**
Has responded indicating that they have no facilities within the proposed vacation.

Public Agency Review

No public agency responses were received.

City Departmental Review

- **Public Works Department:**
 - The roadway currently serves as access to 1430 NW 228th Avenue.
 - Consistent with the previous vacation VAC 05-01, there is a need to extend the 20 foot fire and emergency access easement to be established as part of this vacation south to the south end of this vacation.
- **Administration:**
Has responded expressing concern over the possible future ownership of this right of way.

Discussion:

Engineering review has resulted in the following findings:

1. Based on current record, no public or franchised utilities exist within the proposed vacation.
2. Petitioner has submitted the written consent of the owners of a majority of the real property fronting on both sides of the proposed street vacation, and on an extension thereof, one hundred feet in both directions, as required by Section 164 of the Amended Charter.
3. There is a need to extend a 20 foot fire and emergency access easement, to be withheld as part of VAC 05-01, south through the vacation to light rail.
4. The property currently provides access to 1430 NW 228th Avenue. Prior to the recording of VAC 05-01, an alternative access is required to be provided to 1430 NW 228th Avenue. As this vacation is an extension of VAC 05-01, recording of this vacation following the recording of VAC 05-01 would ensure that an alternative access is provided.
5. The vacation is currently bounded on the east and west by two tax lots owned by TriMet, which Westside Light Rail currently operates on. Upon vacation, it is anticipated by the City and the petitioner that the property will revert back to these lots. This does not affect the operation of Light Rail.
6. The interest of the public would not be prejudiced by the vacation of the street as requested by the petitioner provided that several conditions are attached to the vacation.

Recommendation:

Approval of the petition is recommended subject to the following conditions:

1. Prior the recording of the vacation, City of Hillsboro Ordinance 5505, vacating NW 229th Avenue from Cherry Drive to the north line of this vacation shall be recorded.
2. Prior to the recording of the vacation, a 20 foot fire and emergency access easement, required in City of Hillsboro Ordinance 5505, shall be extended from the north line of the vacation to the south line of the vacation.

Attachments: Ordinance
Map

ORDINANCE NO. _____

AN ORDINANCE VACATING A PORTION OF NW 229TH AVENUE SOUTH OF NE CHERRY DRIVE AND NORTH OF NW ALDER STREET, IN THE CITY OF HILLSBORO, IN WASHINGTON COUNTY, OREGON.

WHEREAS, on the 4th day of September there was filed with the City Council of the City of Hillsboro, Oregon a petition for the vacation of a portion of a public roadway, and

WHEREAS, the City Council has found that the petition had the consent, pursuant to Section 165, Chapter XV of the Amended Charter of the City of Hillsboro, Oregon, of the requisite number of owners in fee simple of the real property fronting on both sides of the roadway and on a one hundred foot extension from each terminus of the portions of roadway sought to be vacated, and that all things necessary to be kept, performed and done have been so kept, performed and done, and

WHEREAS, the City Council has found, pursuant to a public hearing on October 2, 2007 that it will not be prejudicial to the public to vacate the portion of public roadway hereinafter described.

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

Section 1. The following-described section of public roadway, located in the City of Hillsboro, Oregon, is hereby vacated. Upon the effective date of said vacation, possession of the land shall revert to the owner of record as prescribed by the Oregon Revised Statutes and the Amended Charter of the City of Hillsboro:

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 2 WEST, OF THE WILLAMETTE MERIDIAN, CITY OF HILLSBORO, WASHINGTON COUNTY, OREGON, BEING A PORTION OF NW 229TH AVENUE, TO BE VACATED, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF PARCEL 2 OF PARTITION PLAT NO. 2002-006, WASHINGTON COUNTY SURVEY RECORDS, BEING THE SOUTHWEST CORNER OF THAT PORTION OF NW 229TH AVENUE VACATED BY CITY OF HILLSBORO ORDINANCE NO. 5505; THENCE ALONG THE SOUTHERLY BOUNDARY LINE OF SAID RIGHT OF WAY VACATION, ALONG A 2894.93 FOOT RADIUS CURVE, (THE RADIUS POINT BEARS SOUTH 6°14'29" WEST, CONCAVE SOUTHERLY, THROUGH A CENTRAL ANGLE OF 1°11'47", 60.45 FEET, THE CHORD BEARS SOUTH 83°09'37" EAST, 60.45 FEET) TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF NW 229TH AVENUE; THENCE LEAVING SAID VACATION LINE, ALONG SAID RIGHT-OF-WAY LINE, SOUTH 0°09'55" EAST, 25.71 FEET; THENCE LEAVING SAID LINE, ALONG A LINE THAT RUNS 9 FEET OR MORE NORTHERLY FROM THE CENTERLINE OF THE TRIMET WESTSIDE LIGHT RAIL'S NORTH TRACK, ALONG A 3800.00 FOOT RADIUS CURVE,

(THE RADIUS POINT BEARS SOUTH 9°13'43" WEST), CONCAVE SOUTHERLY, THROUGH A CENTRAL ANGLE OF 0°54'57", 60.74 FEET, (THE CHORD BEARS NORTH 81°13'45" WEST, 60.74 FEET) TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF NW 229TH AVENUE; THENCE LEAVING SAID TRIMET LINE, ALONG SAID RIGHT-OF-WAY LINE, NORTH 0°09'55" WEST, 23.64 FEET TO THE POINT OF BEGINNING.

CONTAINS APPROXIMATELY 1,482 SQUARE FEET.

THE BASIS OF BEARINGS IS PER PARTITION PLAT NO. 2002-006 OF THE WASHINGTON COUNTY SURVEY RECORDS

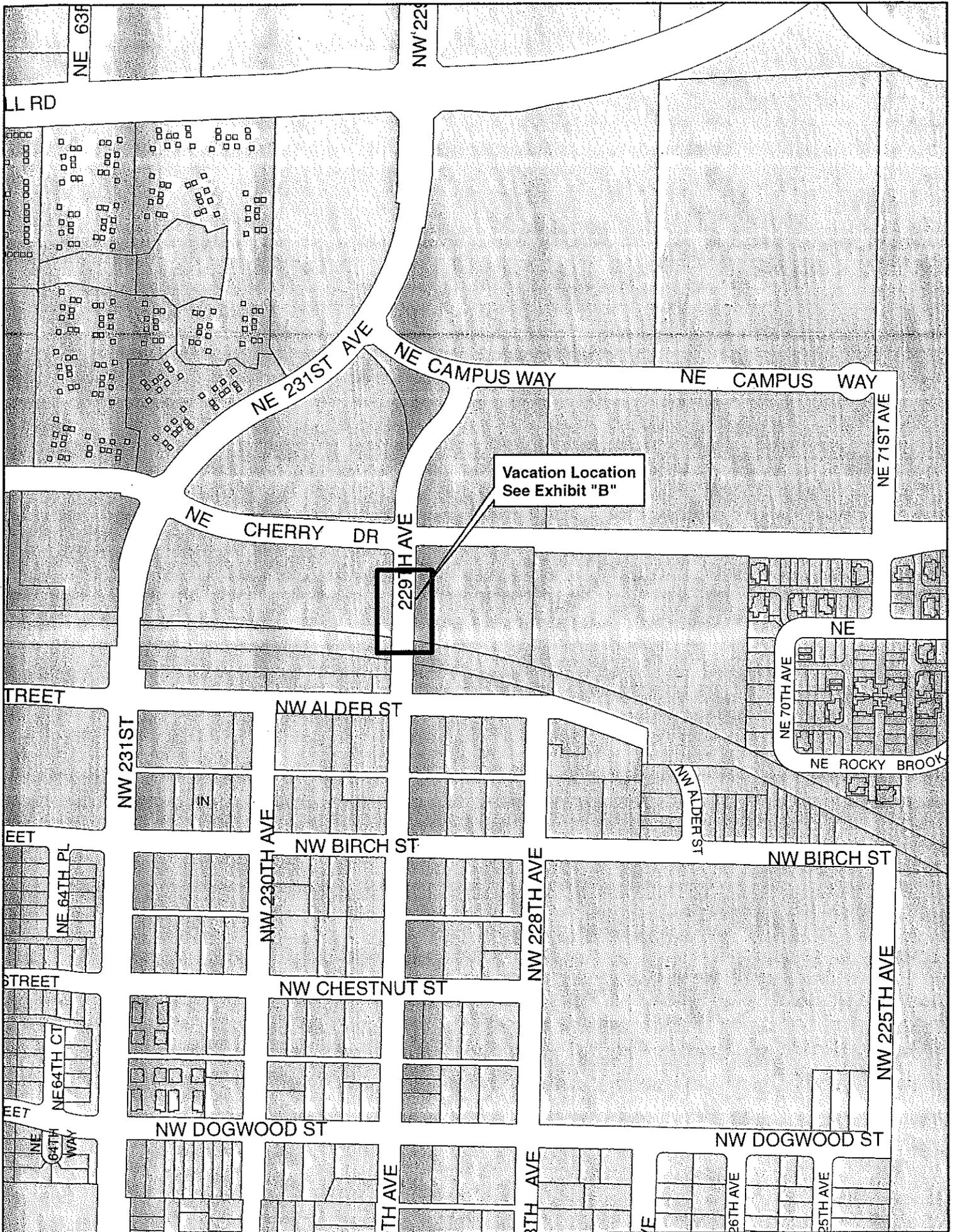
Section 2. The Public Works Director of the City of Hillsboro is directed to record a true copy of this ordinance in the Recorder's Office of Washington County, Oregon, and to deliver a true copy of this ordinance to the petitioner in this matter.

Passed by the City Council this 2nd day of October 2007.

Approved by the Mayor this 2nd day of October 2007.

Mayor

ATTEST: _____
City Recorder



Vacation Location
See Exhibit "B"

229TH AVE

NE 231ST AVE

NE CAMPUS WAY

NE CAMPUS WAY

NE 71ST AVE

NE CHERRY DR

STREET

NW 231ST

NW ALDER ST

NW BIRCH ST

NW CHESTNUT ST

NW DOGWOOD ST

NW BIRCH ST

NE ROCKY BROOK

NW 225TH AVE

NW DOGWOOD ST

FEET

STREET

FEET

NE 63RD

NW 229TH

NE 64TH PL

NE 64TH CT

NE 64TH WAY

TH AVE

TH AVE

VE

26TH AVE

25TH AVE

EXHIBIT "B"



ORENCO III LLC
DOCUMENT NO.
2006-035785

PARTION PLAT
NO. 2002-006
PARCEL 2

VACATED NW 229TH AVENUE
CITY OF HILLSBORO
ORDINANCE NO. 5505

30.00'

30.00'

$\Delta=1^{\circ}11'47''$
 $R=2894.93'$
 $L=60.45'$
 $CH=S83^{\circ}09'37''E,$
60.45'

ORENCO III LLC
DOCUMENT NO.
2006-035784

PARTION PLAT
NO. 1992-054
PARCEL 1

POINT OF
BEGINNING

RADIAL
S06⁺14'29"W

N00⁺09'55"W
23.64'

STREET VACATION
1,482 SQUARE FEET

S00⁺09'55"E
25.71'

9'+

$\Delta=0^{\circ}54'57''$
 $R=3800.00'$
 $L=60.74'$
 $CH=N81^{\circ}13'45''W,$
60.74'

TRIMET WESTSIDE
LIGHT RAIL

NW 229TH
AVENUE

RADIAL
S09⁺13'43"W

CENTERLINE
NORTH TRACK

TRIMET WESTSIDE
LIGHT RAIL

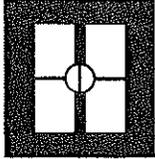
SOUTH TRI-MET
RIGHT-OF-WAY

SOUTH TRI-MET
RIGHT-OF-WAY

DRAWN BY: MEM DATE: 2-15-07
REVIEWED BY: MRG DATE: 2-15-07
PROJECT NO.: 814-002
SCALE: 1"=20'



N: \proj\814-001\dwg\survey\8140015KC5.dwg - SHEET: Layout1-8x11 Apr 11, 2007 - 2:57pm rbsu



September 24, 2007

STAFF REPORT

TO: City Council
FROM: Planning Department
RE: Request for Approval of a Zone Change - ZC 10-07: Ebberts Avenue

REQUEST

Attached are materials relating to an owner-initiated zone change from A-1 Duplex Residential to A-4 Multi-family Residential on a site approximately 0.16 acres in area. The purpose of the proposed zone change is to bring the site into conformance with the Comprehensive Plan designation, as A-4 is the only implementing zone for the RH High Density Residential designation. The site proposed for the zone change is generally located west of NW Ebberts Avenue, north of W Main Street, and south of NW Lincoln Street. The property can be specifically identified as Tax Lot 17000 on Washington County Tax Assessor's Map 1N3-36DA and is addressed as 177 NW Ebberts Avenue.

A staff report is attached for your review. The Planning and Zoning Hearings Board has recommended approval of the proposed zone change with three conditions. Hearings Board Opinion No. 1658, dated September 4, 2007, regarding this matter is attached.

A proposed ordinance has also been attached for your consideration.

Please retain these materials until a final action has been taken on this matter. If you have any questions, please contact the Planning Department at (503) 681-6153.

Respectfully submitted,

CITY OF HILLSBORO PLANNING DEPARTMENT

A handwritten signature in cursive script that reads "Dawn Duray".

Dawn Duray
Urban Planner I

Attachments: Draft Ordinance
Hearings Board Opinion No. 1658
Staff report and maps

ORDINANCE NO. _____

ZC 10-07: EBBERTS AVENUE

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP, A PORTION OF HILLSBORO ZONING ORDINANCE NO. 1945, AS AMENDED, BY CHANGING THE ZONING OF A CERTAIN TRACT OF LAND FROM A-1 DUPLEX RESIDENTIAL TO A-4 MULTI-FAMILY RESIDENTIAL.

WHEREAS, the owner of a certain tract of land described herein, has submitted an application for a zone change from City A-1 Duplex Residential to A-4 Multi-family Residential, and

WHEREAS, the City of Hillsboro Planning and Zoning Hearings Board held a public hearing on the proposed zone change on August 1, 2007, and voted to recommend to the City Council that the subject zone change be granted, based on the findings adopted by the Board as Opinion No. 1658, dated September 4, 2007, and

WHEREAS, the City Council hereby adopts the findings of the Planning and Zoning Hearings Board as its own in regard to this matter, and

WHEREAS, based on those findings, the City Council hereby determines that the zone change conforms with the Hillsboro Comprehensive Plan and Zoning Ordinance, and the particular zone recommended is the best suited for the subject site.

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

Section 1. The following described tract of land is hereby rezoned from A-1 Duplex Residential to A-4 Multi-family Residential:

Tax Lot 17000 on Washington County Tax Map 1N3-36DA, Section 36, Township 1 North, Range 3 West, Willamette Meridian, on record as of April 24, 2007, a copy of which is attached hereto and thereby made a part of this Ordinance.

Section 2. Approval of this zone change is subject to the following conditions:

1. Future development on this site shall occur in conformance with the applicable standards of Sections 34A – 34F of the Zoning Ordinance, except where exceptions may be approved under Sections 106 to 111.
2. Prior to final building permit inspections for new construction on the site, or as conditioned through approval of a land use action as defined in Implementation Measure (B) of the Transportation Plan, the owner(s) shall be required to reconstruct the sidewalk adjacent to the site and install a planter strip in compliance with Transportation Plan requirements for NW Ebberts Avenue and NW Lincoln Street, or shall record a waiver of remonstrance stating an intent not to remonstrate against future local improvement districts which may be formed for the improvement of NW Ebberts Avenue and NW Lincoln Street in lieu of constructing road improvements. The determination of required road improvements or a waiver

of remonstrance shall be made by the City Engineer, based on the level of impact of the proposed land use action.

3. The applicant shall provide a Clean Water Services Service Provider Letter to the City prior to issuance of permits for any new development on the site, and any new development shall comply with and otherwise implement any conditions required by the Letter.

Section 3. The City Planning Director is hereby instructed to cause the official zoning map, a part of Ordinance No. 1945, to be amended to include the zone change set forth in Section 1 hereof.

Section 4. Except as herein amended, Zoning Ordinance No. 1945, as amended, shall remain in full force and effect.

Passed by the Council this 2nd day of October, 2007

Approved by the Mayor this 2nd day of October, 2007

Mayor

ATTEST: _____
City Recorder

**BEFORE THE PLANNING AND ZONING HEARINGS BOARD
FOR THE CITY OF HILLSBORO, OREGON**

In the matter of an application for a zone change from A-1 Duplex Residential to A-4 Multi-family Residential for a 0.16-acre site in the City of Hillsboro.

**City File No. ZC 10-07
(Ebberts Avenue Rezone)**

Opinion No. 1658

I. Summary:

This Opinion is the decision of the Planning and Zoning Hearings Board approving with conditions this application for a zone change from A-1 Duplex Residential to A-4 Multi-family Residential for a 0.16-acre site to comply with and implement the property's underlying Comprehensive Plan designation of RH High Density Residential. This decision is based on the July 27, 2007 Staff Report, as supplemented by the Findings of Fact, Conclusions of Law and conditions of approval set forth below.

II. Subject Property, Proposal and Applicant:

The land subject to this zone change application is a single 0.16-acre lot, currently zoned A-1 Duplex Residential with an RH High Density Residential Comprehensive Plan designation. A-4 Multi-family Residential is the only zone now available to implement the RH plan designation, and the proposal is to rezone the property to conform to the plan designation. The applicant is Emerio Design LLC and the owner is Nilaksha Fernando. The applicant has also submitted a variance request that is part of a specific development proposal for this property (VAR 9-07), but that request will be evaluated separately and decided in a separate decision.

The lot is generally located in the southwest corner of the intersection of NW Ebberts Avenue and of NW Lincoln Street (TL 17000 on Map 1N3-36DA), with a street address of 177 NW Ebberts Avenue. The parcel is currently developed with a single-family home, which is surrounded by semi-mature deciduous and coniferous trees. The property has a curb-tight sidewalk along its NW Ebberts Avenue and NW Lincoln Street frontages. There are no mapped or observed Significant Natural Resources on the site, but the property appears to be within the 250-foot area of potential impact on the Clean Water Services Sensitive Areas Pre-Screen Map. Properties surrounding the lot are zoned A-1 (Duplex Residential) and developed with either single-family detached homes (to the north and east) or duplexes (to the south and west).

III. Local Procedure and Applicable Law:

The City duly noticed and held a public hearing on this application on August 1, 2007 before the Planning and Zoning Hearings Board (the Board), consisting of Chairman Daniel Kearns and members Tony Rosatti and Walter Hellman. At the commencement of the hearing, the Chairman made the procedural statements required by ORS 197.763 (5) and (6) and 197.796. No member of the Board had any ex parte contacts, conflicts of interest or biases to report. There were no procedural objections or objections to the participation of any member of the Board in this matter, and no person

requested a continuance or that the record be kept open. The Staff Report listed the approval criteria, which were recited by City Planner Ruth Klein during the hearing, and recommended three conditions of approval. The applicable approval criteria are set forth in Section 114(2), governing zone changes, which requires the applicant to demonstrate compliance with all of the following criteria:

1. The request must conform with the Hillsboro Comprehensive Plan and Zoning Ordinance;
2. Where more than one designation is available to implement the Comprehensive Plan designation (e.g., R-7 vs. R-10), the applicant must justify the particular zoning being sought and show that it is best suited for the specific site, based upon specific policies of the Hillsboro Comprehensive Plan.

Additionally, the following Comprehensive Plan goals and policies have been implicated as applicable approval standards in this matter: Urbanization Implementation Measures A(1-5), I and J, Housing Policy B and Y, Housing Implementation Measure M, Economy Goal C, Public Facilities and Services Goals A-E, and Public Facilities and Services Policy D.

IV. Summary of the Proceeding and the Record:

The subject site, surrounding area and availability of transportation and public utilities are described in the Staff Report, and these sections are adopted and incorporated herein by the Board. Nilaksha Fernando appeared and spoke as the applicant to describe the project and to answer questions. Several neighbors appeared and spoke in opposition to the proposal (Arnie Audio, Ann Karlen and Roy Benson), but the specific points raised by all of these witnesses related to the applicant's development proposal and the companion variance application (VAR 9-07) and were not germane to any of the zone change approval criteria. Consequently, these points are addressed in the Board's decision on the variance. No one else requested the opportunity to testify on this matter, and the Board closed the record at the conclusion of the August 1st hearing. The record contains the application and supporting materials, a July 27, 2007 Staff Report, an August 1, 2007 Supplemental Staff Report revising one of the proposed conditions and an audio recording of the August 1, 2007 hearing.

V. Discussion, Conclusion and Decision:

Collectively, the opponents objected to this zone change based on the increased residential density that would come and increased traffic. Opponents also cited fears of higher traffic speeds, more on-street parking, school crowding, public safety and crime concerns, reduced neighborhood stability due to apartments that might be developed and generally decreased property values for the surrounding neighborhood. While it is clear that the proposed A-4 Multi-family Residential zoning would allow increased density and apartments, there is no evidence that the negative impacts cited by the opponents will come to pass, and even if there were, those effects are not necessarily tied to the proposed A-4 zoning. If that were not the case, then these arguments, with nothing more, would always be sufficient to deny a zone change from lower density residential zones to more intensive residential designations. Increased density of people and vehicles is a predictable consequence of this proposed zone change, but the

adopted RH Plan designation is an indication that the City has previously determined higher residential densities are appropriate in this area.

On the whole, the issues raised by these witnesses do not pertain to the zone change criteria that control the Board's decision in this matter. Even if that were not the case, these concerns are not supported by any evidence, and therefore are not a legally sufficient basis for us to deny or condition this zone change application. Most of the issues raised relate to the actual development proposal for the property under the A-4 zoning that will result. Accordingly, the proper forum for these concerns is the variance request that must be approved before the site can be developed as proposed.

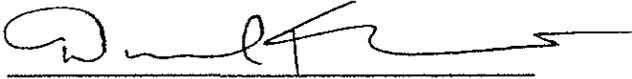
The most compelling reason justifying the zone change is that only the A-4 zone, and specifically not the A-1 zone, implements the property's underlying RH Comprehensive Plan designation. Among other things, the applicable zone change criteria require the Board to find that the proposed is consistent with, and represents the highest use allowed by, the Comprehensive Plan. Because only the A-4 and A-2 Multi-family Residential zones implement the RH Comprehensive Plan designation, and zone changes to A-2 are prohibited, only the A-4 zone is allowed on this site.

The Board concludes that the application adequately responds to and addresses each of the approval criteria, based on the applicant's narrative, the site plan, and staff reports in the record, as supplemented by the foregoing findings. The Board adopts and incorporates herein the Discussion section of the July 27 and August 1, 2007 staff reports and adopts as its own the applicant's narrative addressing the zone change criteria, including the applicable comprehensive plan goals and policies. On this basis, the Board concludes that the application meets all of the applicable approval criteria, and it is hereby approved subject to the following conditions:

1. Future development on this site shall conform to and comply with the applicable standards in Sections 34A through 34F of the Zoning Ordinance, except where one or more variances are approved under Sections 106 to 111.
2. Prior to final building permit inspections for new construction on the site, or as conditioned through approval of a land use action as defined in Implementation Measure (B) of the Transportation Plan, the owner(s) shall be required to reconstruct the sidewalk adjacent to the site and install a planter strip in compliance with Transportation Plan requirements for NW Ebberts Avenue and NW Lincoln Street, or shall record a waiver of remonstrance stating an intent not to remonstrate against the formation of future local improvement districts for the improvement of NW Ebberts Avenue or NW Lincoln Street in lieu of constructing road improvements. The determination of required road improvements or a waiver of remonstrance shall be made by the City Engineer, based on the level of impact of the proposed land use action.
3. The applicant shall provide a Clean Water Services Service Provider Letter to the City prior to issuance of permits for any new development on the site, and any new development shall comply with and otherwise implement any conditions required by the Letter.

Date of Decision: ^{September} August 4, 2007.

PLANNING AND ZONING HEARINGS BOARD

By: 
Daniel Kearns, Chairman

Board Member Action:

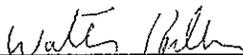
Agree/Object

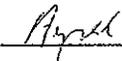
Date:


Tony Rosatti



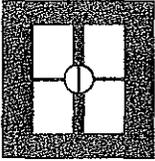
9-4-07


Walter Hellman



8/30/07

CITY OF HILLSBORO



August 1, 2007

SUPPLEMENTAL STAFF REPORT

TO: Planning and Zoning Hearings Board
FROM: Planning Department
RE: Request for Approval of a Zone Change - ZC 10-07: Ebberts Avenue

BACKGROUND

The applicant, Emerio Design, on behalf of property owner Nilashka Fernando, requests a zone change from A-1 (Duplex Residential) to A-4 (Multi-Family Residential) on a property approximately 0.16 acres in size. The property is designated RH (High Density Residential) on the City's Comprehensive Plan land use map. The purpose of the zone change is to bring the site into conformance with the Comprehensive Plan designation, as A-4 is the only implementing zone for the RH designation.

The Planning and Zoning Hearings Board received a staff report on this matter dated July 27, 2007, which transmitted the application materials. The applicant expressed concerns about proposed condition No. 2 related to reconstruction of sidewalks prior to issuance of building permits for new construction. After discussions with the applicant, staff would recommend the following revised language for this condition:

2. ~~Prior to issuance of building permits~~ final building permit inspections for new construction on the site, or as conditioned through approval of a land use action as defined in Implementation Measure (B) of the Transportation Plan, the owner(s) shall be required to reconstruct the sidewalk adjacent to the site and install a planter strip in compliance with Transportation Plan requirements for NW Ebberts Avenue and NW Lincoln Street, or shall record a waiver of remonstrance stating an intent not to remonstrate against future local improvement districts which may be formed for the improvement of NW Ebberts Avenue and NW Lincoln Street in lieu of constructing road improvements. The determination of required road improvements or a waiver of remonstrance shall be made by the City Engineer, based on the level of impact of the proposed land use action.

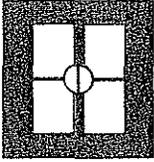
Respectfully submitted,

CITY OF HILLSBORO PLANNING DEPARTMENT

A handwritten signature in cursive script that reads "Dawn Duray".

Dawn Duray
Urban Planner I

CITY OF HILLSBORO



July 27, 2007

STAFF REPORT

TO: Planning and Zoning Hearings Board
FROM: Planning Department
RE: Request for Approval of a Zone Change - ZC 10-07: Ebberts Avenue

REQUEST

The applicant, Emerio Design, on behalf of property owner Nilashka Fernando, requests a zone change from A-1 (Duplex Residential) to A-4 (Multi-Family Residential) on a property approximately 0.16 acres in size. The property is designated RH (High Density Residential) on the City's Comprehensive Plan land use map. The purpose of the zone change is to bring the site into conformance with the Comprehensive Plan designation, as A-4 is the only implementing zone for the RH designation.

SITE DESCRIPTION

The site proposed for the zone change is west of NW Ebberts Avenue, north of W Main Street, south of NW Lincoln Street. The property can be specifically identified as Tax Lot 17000 on Washington County Tax Map 1N3-36DA and is addressed as 177 NW Ebberts Avenue.

The site is developed with one single-family detached home, surrounded by semi-mature deciduous and coniferous trees. The site has a curb-tight sidewalk along its NW Ebberts Avenue and NW Lincoln Street frontages. The site is essentially flat.

NW Ebberts Avenue and NW Lincoln Street are designated as a City Local Streets on the Hillsboro Transportation System Plan (TSP) Functional Classification Plan Map.

The City of Hillsboro Goal 5 Significant Natural Resources Inventory identifies no Significant Natural Resources and/or associated Impact Areas on the site. The entire tax lot appears to be within the 250-foot area of potential impact on the Clean Water Services Sensitive Areas Pre-Screen Map. (see attached map).

DESCRIPTION OF SURROUNDING AREA

<u>Area</u>	<u>Plan</u>	<u>Zoning</u>	<u>Land Uses</u>
North	RM (Medium Density Residential)	A-1 (Duplex Residential)	Single-family detached and duplex residential
South	RH (High Density Residential)	A-1 (Duplex Residential)	Duplex residential
East	RH (High Density Residential)	A-1 (Duplex Residential)	Single-family detached and duplex residential
West	RH (High Density Residential)	A-1 (Duplex Residential)	Duplex residential

PUBLIC UTILITIES

Service	Provider	Size	Location	Distance from site
Water	City	8"	NW Lincoln Street	Adjacent (North)
	City	6"	NW Ebberts Avenue	Adjacent (East)
Sanitary Sewer	City	8"	NW Ebberts Avenue	Adjacent (East)
		6"	NW Lincoln Street	Adjacent (Northwest)
Storm Drain	City	10"	NW Lincoln Street	Adjacent (North)

TRANSPORTATION FACILITIES

Streets	Existing		Plan Designated	
	R-O-W	Improvement	R-O-W	Improvement
NW Ebberts Ave	60'	32'+/-	54'	32'
NW Lincoln Street	60'	32'+/-	54'	32'

Sidewalk Improvements	Existing	Plan Designated
NW Ebberts Ave	5-foot curb-tight	5-foot sidewalk, 5-foot planter strip
NW Lincoln Street	5-foot curb-tight	5-foot sidewalk, 5-foot planter strip

Mass Transit	Bus Route/Light Rail	Distance to Site
Transit	#57	Approx. ¼ mile south
Light Rail Transit (LRT)	Downtown Hillsboro Station	Approx. ¼ mile southeast

Bicycle Lane	Existing	Plan Designated
NW Ebberts Ave	None	None
NW Lincoln Street	None	None

APPLICABLE PLAN POLICIES

Section 2 Urbanization Implementation Measure (IV)(A)(1). Urban services necessary for development include adequate water, sewer, and fire protection. The documentation of the availability of these needed services must be current.

Section 2 Urbanization Implementation Measure (IV)(A)(2). Whenever feasible, the installation of sewage trunk lines shall occur prior to the development of the affected urban area.

Section 2 Urbanization Implementation Measure (IV)(A)(3). Public streets, new or existing, which are proposed for access to a particular site proposed for development, shall be developed in accordance with the transportation element of the Comprehensive Plan.

Section 2 Urbanization Implementation Measure (IV)(A)(4). Other essential services, including school districts, Police or Sheriff's Department, water districts, and transit agency, must be proven to be available to a proposed development within five years of a development approval.

Section 2 Urbanization Implementation Measure (IV)(A)(5). The infill of vacant, bypassed lands, between areas of development, at an urban level, shall be encouraged. Appropriate measures shall be taken to insure that new development in infill areas is compatible with existing developed areas. The City will support a proposed annexation of infill areas and allow subsequent development to occur under the clear and objective standards in its implementing ordinances, including the Zoning and Subdivision ordinances.

Section 2 Urbanization Implementation Measure (IV)(I). Use of services available in the Hillsboro Planning Area will be maximized through the encouragement of new development at maximum densities prescribed by the applicable Comprehensive Plan/land use ordinance, and through the infilling of partially developed areas.

Section 2 Urbanization Implementation Measure (J). Land uses identified by the Comprehensive Plan Land Use Map have been determined to be the most suitable needed by the City. To meet the burden of proof for a proposed zone change, it is both necessary and

sufficient to show that the proposed zone is consistent with and represents the highest use allowed by the Comprehensive Plan Land Use Map, and in the case of zone changes in residential areas, the proposed zone shall allow development of housing at a density within the range designated by the Land Use Map. In addition, the City may attach clear and objective conditions to the zone change provided such conditions are consistent with the Comprehensive Plan, the Zoning Ordinance, and other rules and policies regulating development in the City.

In developed areas where existing uses and zoning are not consistent with the highest use under the Comprehensive Plan Land Use Map, an "incremental" zone change, which would allow development opportunity at the highest Plan use, shall be required prior to further redevelopment.

In undeveloped or newly annexed areas, if services are found to be inadequate to support the highest Plan use, a zone change to a zone which would not allow the opportunity for development at the highest Plan use for that area may be approved. Such an "interim" zone shall be conditioned to prohibit development: 1) until adequate urban services are provided to the site; and 2) until a subsequent "incremental" zone change has been approved which would allow the opportunity for development at the highest Plan use. Incremental zone changes shall be allowed outright if they conform to the Plan and conform with the clear and objective standards of the Zoning Ordinance.

Section 3 Housing Policy (B). A variety of housing units shall be encouraged throughout the planning area for households of all incomes, ages and living patterns. Such housing should include, but not be limited to, single-family residences, accessory dwellings, duplexes, apartments, attached single-family residences, co-op housing, condominiums, townhouses and manufactured housing. Specific locations for each type of housing shall be consistent with the comprehensive plan map and zoning map. Each type of housing should be available at various prices and rents in order to maximize housing choices of the public.

Section 3 Housing Policy (Y). Residential land shall develop within the density range designated by the Comprehensive Plan. However, density reductions and transfers may be allowed within the Significant Natural Resource Overlay (SNRO) District and within Habitat Benefit Areas that fall outside of the SNRO District.

Section 3 Housing Implementation Measure (M). Residential density designations are intended to discourage development at lower densities. The densities of new developments shall be monitored and reviewed annually to assure that residential construction is implementing the Comprehensive Plan designations. If the residential density designations are not being implemented, additional land shall be designated or redesignated to help assure that the overall density will be attained.

Section 10 (I) Goals (C). Conserve energy by lowering commuting distance.

Section 12 Public Facilities and Services Goals:

- (A) Provide public facilities and services in an orderly and efficient manner consistent with the expansion of urbanization into rural areas.
- (B) Utilize the availability of public facilities and services as a tool for guiding urbanization with the Hillsboro Planning Area.
- (C) Provide a safe and healthy living environment.
- (D) Provide that existing land uses are and will continue to be supported by needed public facilities and services.
- (E) Provide that future development is appropriately guided and supported by the provision of public facilities and services in a timely, orderly, and efficient manner.

Section 12 Public Facilities and Services Policy (D). Public facilities and services shall be provided at a level sufficient to create and maintain an adequate supply of housing and service an increasing level of commercial and industrial activity.

The applicant's findings in response to the above goals and policies are found in pages 12-22 of the application narrative.

APPROVAL CRITERIA

Zoning Ordinance No. 1945, Section 114 (2) specifies the approval criteria for a proposed zone change as follows:

- (2) Before the Hearings Board grants a zone change, they shall require that the applicant demonstrate compliance with the following criteria:
 - a. That the request must conform with the Hillsboro Comprehensive Plan and this Ordinance;
 - b. That, where more than one designation is available to implement the Comprehensive Plan designation (e.g. R-7 vs. R-10), the applicant must justify the particular zoning being sought and show that it is best suited for the specific site, based upon specific policies of the Hillsboro Comprehensive Plan.

Section 114(1) of the Zoning Ordinance lists conditions that may be attached to a zone change approval:

- (1) Amendment of this Ordinance by amending the zoning map may be contingent upon compliance with conditions found necessary to accomplish the purposes of this Ordinance and implement the goals and policies of the Hillsboro Comprehensive Plan. To that purpose, any of the following conditions, stipulations or limitations may be attached to a zone change approval:
 - a. Street improvements within/abutting the development
 - b. Street dedication within and/or abutting the development
 - c. Joint use/access agreement
 - d. Improvement agreements for the installation of necessary on-site public facilities
 - e. Utility easements
 - f. Landscaping
 - g. Off-street parking
 - h. Storm drainage improvements
 - i. Off-site public improvements when the rezoning and subsequent development will contribute significantly to the need for such off-site improvements
 - j. Development Review approval by the Planning Commission; for projects in zones or locations for which development requirements and design standards are specified in the Zoning Ordinance
 - k. Screening, fencing
 - l. Limiting access
 - m. Surety/performance bonds
 - n. Non-remonstrance clause

The applicant's narrative with findings responding to the above goals and policies, is attached for the Board's review.

APPLICABLE LAND USE DISTRICTS

There is only one zone which can implement the RH (High Density Residential) plan designation, and that is the A-4 (Multi-Family Residential) zone. The site's current zoning, A-1 (Duplex Residential) is not consistent with the RH plan designation.

Transportation and Access

NW Ebberts Avenue and NW Lincoln Street are identified as a Local Streets on the City's Transportation System Plan (TSP). The streets are improved with a 32-foot paved width and curb-tight sidewalk; staff notes that the existing sidewalk will likely be required to be replaced with a property-line sidewalk with planter strip at the curb, upon development of the site. The road right-of-way measures 60 feet, 30 feet from centerline, so no right-of-way dedication is required.

DEPARTMENTAL COMMENTS

The Water Department submitted comments specific to future development of the site.

TESTIMONY RECEIVED

No written comments or testimony have been received to date from adjacent property owners or affected agencies.

RECOMMENDATION

Should the Hearings Board choose to approve the requested zone change, the Planning staff recommends that the following conditions be placed on the property:

1. Future development on this site shall occur in conformance with the applicable standards of Sections 34A – 34F of the Zoning Ordinance, except where exceptions may be approved under Sections 106 to 111: Variances.
2. Prior to issuance of building permits for new construction on the site, or approval of a land use action as defined in Implementation Measure (B) of the Transportation Plan, the owner(s) shall be required to reconstruct the sidewalk adjacent to the site and install a planter strip in compliance with Transportation Plan requirements for NW Ebberts Avenue and NW Lincoln Street, or shall record a waiver of remonstrance stating an intent not to remonstrate against future local improvement districts which may be formed for the improvement of NW Ebberts Avenue and NW Lincoln Street in lieu of constructing road improvements. The determination of required road improvements or a waiver of remonstrance shall be made by the City Engineer, based on the level of impact of the proposed land use action.
3. A Clean Water Services Service Provider Letter shall be required prior to issuance of permits for any new development on the site, and the new development shall comply with any conditions required by the Letter.

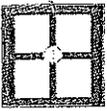
Respectfully submitted,

CITY OF HILLSBORO PLANNING DEPARTMENT



Dawn Duray
Urban Planner I

Attachments: Comprehensive Plan and Zoning Maps
Clean Water Services Sensitive Area Pre-Screen Map
Aerial photo
Application materials



VAR 9-07 & ZC 10-07: EBBERTS AVENUE

REQUEST FOR ZONE CHANGE FROM A-1 DUPLEX RESIDENTIAL TO A-4 MULTI-FAMILY RESIDENTIAL AND REQUEST FOR VARIANCES TO THE MINIMUM LOT WIDTH, LOT DEPTH, AND LOT SIZE OF THE A-4 ZONE ON ONE SITE APPROXIMATELY 0.16 ACRES IN SIZE.

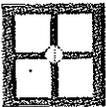


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Comprehensive Plan Designations

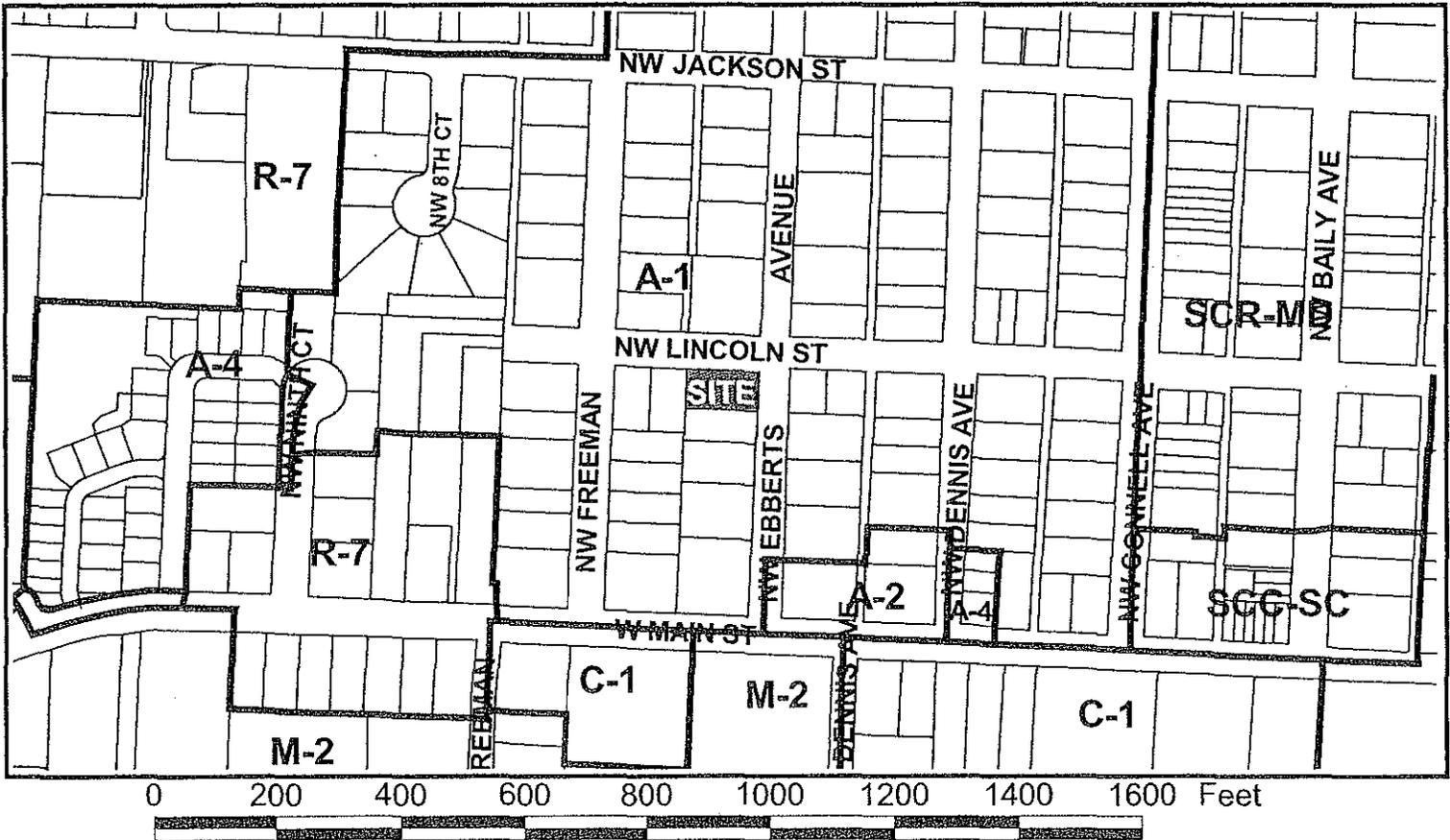
RL - Low Density Residential (3-7 units per acre)	C - Commercial	MU - Mixed Use
RM - Medium Density Residential (8-16 units per acre)	IN - Industrial	CO - County
RH - High Density Residential (17-23 units per acre)	PF - Public Facility	
RMR - Mid-Rise Residential (24 - 30 units per acre)	OS - Open Space	
SCPA - Station Community Planning Area	FP - Floodplain	



VAR 9-07 & ZC 10-07: EBBERTS AVENUE



REQUEST FOR ZONE CHANGE FROM A-1 DUPLEX RESIDENTIAL TO A-4 MULTI-FAMILY RESIDENTIAL AND REQUEST FOR VARIANCES TO THE MINIMUM LOT WIDTH, LOT DEPTH, AND LOT SIZE OF THE A-4 ZONE ON ONE SITE APPROXIMATELY 0.16 ACRES IN SIZE.



R-6	Single Family Residential	R-8.5	Single Family Residential	A-1	Duplex Residential
R-7	Single Family Residential	R-10	Single Family Residential	A-2	Multi-Family Residential
SCC-SC	Station Community Commercial - Station Commercial			A-3	Multi-Family Residential
SCC-MM	Station Community Commercial - Multi-Modal			A-4	Multi-Family Residential
SCC-CBD	Station Community Commercial - Central Business District			C-1	General Commercial
SCC-HOD	Station Community Commercial - Highway Oriented District			C-4	Neighborhood Commercial
SCBP	Station Community Business Park			PUD	Planned Unit Development
SCRP	Station Community Research Park			M-2	Industrial
SCI	Station Community Industrial			M-P	Industrial Park
SCR-HD	Station Community Residential - High Density			SID	Special Industrial District
SCR-MD	Station Community Residential - Medium Density			SSID	Shute Special Industrial District
SCR-LD	Station Community Residential - Low Density			CO	Unincorporated County
SCR-V	Station Community Residential - Village			ANX	Recent Annexation
SCFI	Station Community Fair Complex Institutional			MU-N	Mixed Use - Neighborhood
SCR-OTC	Station Community Residential - Orenco Townsite Conservation Overlay			MU-C	Mixed Use - Commercial
SCR-DNC	Station Community Residential - Downtown Neighborhood Conservation				

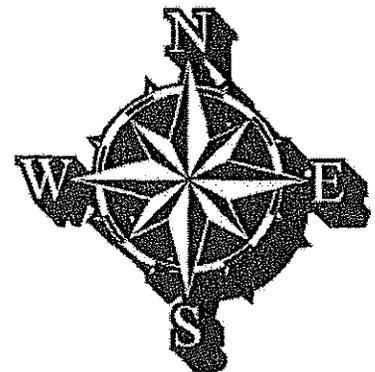
VAR 9-07 & ZC 10-07: EBBERTS AVENUE

Clean Water Services Sensitive Area Pre-Screen Map



Legend

-  GIS.WasCo_taxlots
-  p_stm
-  Streams2002
-  STM_LINE
-  Buffer_of_STM_LINE
-  GIS.CWSB
-  QTR_SEC
-  Hfisboro



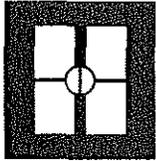


VAR 9-07 & ZC 10-07: EBBERTS AVENUE



2006 AERIAL PHOTOGRAPHY





September 26, 2007

STAFF REPORT

TO: City Council
FROM: Planning Department

RE: Proposed Text Amendments to the Comprehensive Plan and Zoning Ordinance regarding Cultural Resources and Historic Landmarks Advisory Committee - Casefiles No. HCP 2-07 and ZOA 1-07

REQUEST

Attached are materials related to proposed text amendments to the Comprehensive Plan and Zoning Ordinance, to update language related to Cultural Resource management and to establish a foundation for creation of a Historic Landmarks Advisory Committee and future City participation in the State Certified Local Government program for historic preservation.

Pursuant to Comprehensive Plan Section 1 Planning and Citizen Involvement, subsection (IV) (A) and Zoning Ordinance Section 112 Authorization to Initiate Amendments, the Planning Commission initiated the proposed amendments on June 27, 2007. Public hearings were held on July 25th and August 22nd and the Commission adopted Resolutions recommending approval of the amendments (No. 1622-P (for the Comprehensive Plan) and 1623-P for the Zoning Ordinance) on September 8th.

Draft ordinances adopting the proposed Plan and Zoning Ordinance text amendments are attached for the Councilors' review. The draft ordinances include the findings adopted by the Planning Commission, which are identical for both ordinances. Also attached are the July 18th and August 8th staff reports, and a July 24th memorandum from City Attorney Pamela Beery, all of which are cited by reference as findings.

BACKGROUND

In 1999, as a part of the Hillsboro 2020 Vision process, a citizen task force guided by extensive community input prepared a Vision Statement. The Statement provides a picture of Hillsboro in the year 2020 through the eyes of citizens from a variety of backgrounds. The Vision Statement is divided into six focus areas intended to guide future community planning efforts. One focus area, Enhancing Neighborhoods and Districts, specifically referenced preserving the City's landmarks.

In 2000, the Vision Task Force prepared an Action Plan with Strategies and Actions to implement the Hillsboro 2020 Vision Statement. The Vision Action Plan (VAP) was updated in 2005. Both the 2000 and the 2005 VAPs included, within the Enhancing Neighborhoods and

Districts focus area, Strategies which call for the protection and enhancement of landmarks. Strategy 15, and its associated Actions, read as follows:

15. Historical and Cultural Sites

Protect and enhance historical and cultural sites and other resources.

- *Establish a Hillsboro Landmarks Commission.*
- *Create a volunteer membership Historical Society for Hillsboro*
- *Provide educational materials for property owners on protection of historic and cultural sites, including qualifications, resources, how to establish and other information; build connections with other regional and state historical societies.*
- *Identify Hillsboro's historic sites and obtain grants for designation.*
- *Develop tax and other incentives to restore and update historic structures*

Local citizens have already organized the Hillsboro Historical Society (HHS), whose mission is to protect and preserve local cultural resources through education of historic property owners, appointed and elected officials, and the general public. HHS has established several programs with the cooperation of other local preservation organizations, including the popular "Cemetery Dramas".

The Planning Department's work on these Strategies is referred to as the Landmarks Commission Project.

LANDMARKS COMMISSION PROJECT PHASE 1

The scope of the project is to create a Hillsboro Landmarks Commission, with duties tailored to the needs and desires of the Hillsboro community. In general, landmarks commissions function in one or more of the following roles:

- Educate property owners and the public on preservation issues;
- Inventory and designate local landmarks;
- Review requests for alterations to landmarks;
- Review nominations to the National Register of Historic Places;

In most of these roles a landmarks commission could function in a regulatory capacity, an advisory capacity, or a combination of both.

In mid-2006, the City retained Ms. Kimberli Fitzgerald, a qualified preservation planner and former Planning Commissioner, to work on the Landmarks Commission Project. The Scope of Work for Phase 1 of the Project is shown below:

Step One: Evaluate Existing Conditions (June 2006):

- Consultant verified current number and type of historic resources within the City limits, previously inventoried to comply with Goal 5 requirements.
- Consultant compiled statistics regarding the number and type of applications related to these properties by year.

- Consultant prepared grant application for State Historic Preservation Office (SHPO) Certified Local Government (CLG) grant.
- Planning staff received Council approval for grant application.
The SHPO CLG grant application cited in Step One refers to the State Historic Preservation Office Certified Local Government program. Under this program, if the City's historic preservation program meets certain requirements, the City becomes eligible for state grants for projects to inventory resources, provide public education, and possibly administer grants or loans to resource owners for rehabilitation of historic structures.

Step Two: Determine Needs Assessment (July 2006):

- Consultant and Planning staff developed two questionnaires for stakeholders (City Council, Planning Commission, Hillsboro Historical Society, and identified neighborhood groups).
- Questionnaires were designed to identify two factors: "user" satisfaction with existing historic preservation programs; and stakeholder desires for specific preservation programs (i.e., education, funding etc.).
- City staff distributed questionnaires.
- Consultant compiled and analyzed results of questionnaires and presented results to Planning staff.

Step Three: Develop Alternatives (August 2006):

- Based upon the existing conditions and needs assessment, provide summaries of alternative preservation programs for the City of Hillsboro.
- Alternatives included estimated costs and benefits as well as proposed timelines for implementation.
- Consultant compiled statistics for preferred alternative and drafted a final recommendation.
- Final recommendation included a recommended list of members for the new Landmarks Commission.

Step Four: Recommendation (September 2006):

- Consultant and Planning staff presented questionnaire results and recommendations to the City Council at the September 19th work session.

City Council reviewed the alternative preservation programs and selected the option of an advisory Historic Landmarks Advisory Committee (HLAC). As directed by the Council, the functions, duties, and composition of the HLAC will be:

- *Advisory Review.* Conduct advisory review of all development proposals related to identified cultural resources. Visit sites when applications are submitted. Make recommendation to Planning Commission. Continue current practice of quasi-judicial review at Planning Commission with appeal to City Council.
- *Neighborhood Outreach.* Initiate contact with identified neighborhoods; coordinate with City and local historic non-profits to identify programs for annual work plan. Proactively educate the community regarding preservation.
- *Annual Work Plan.* Develop priorities for the community; pursue grant funding for

identified projects such as walking tour brochures or historic plaques. Annually re-evaluate the need for traditional Landmarks Commission with quasi-judicial decision making powers.

- *Regular meetings.* Meet monthly
- *Composition.* Three members representing historic Orenco, Main Street, and Heart of Hillsboro neighborhoods; with remaining four members to be either preservation professionals; experienced in land use; or having a demonstrated interest in preservation in Hillsboro. All members to be appointed by the Mayor and confirmed by the Council.

The City Council also directed the Planning staff and the Consultant to pursue the possibility of Hillsboro becoming a Certified Local Government under the State Historic Preservation Office program, in order to qualify for technical and financial support to encourage historic preservation efforts.

LANDMARKS COMMISSION PROJECT PHASE 2

In January 2007, Ms. Fitzgerald (the Consultant) was again retained for the second phase of the Landmarks Commission Project. Work by the Consultant and Planning staff is anticipated to proceed through the following four steps:

Step 1: Preparing to Create the Historic Landmarks Advisory Committee:

- Draft a City Council Resolution to establish the Hillsboro HLAC
- Review prospective members to be appointed to the HLAC

Step 2: Revising Current Land Use Codes concerning Historic Preservation:

- Review Comprehensive Plan policies, goals, and implementation measures and Zoning Ordinance requirements related to cultural resource inventories and historic preservation and recommending amendments
- Evaluate recommended amendments with City Administration, City Council, and Planning Commission, along with the Ordinance establishing the HLAC
- Initiate recommended amendments and hold public hearings before the Planning Commission
- Revise the amendments as directed by the Planning Commission
- Forward Planning Commission recommendations on the amendments, and the enabling Ordinance establishing the HLAC, to City Council for adoption.

Step 3: Preparing the Certified Local Government (CLG) grant application:

- Prepare the necessary documentation for Hillsboro to become a CLG, including the enabling Ordinance, prospective HLAC members' resumes, and minutes of Planning Commission and Council meetings adopting the Code amendments and establishing the HLAC.
- Draft supporting findings addressing the five National Parks Service and SHPO criteria and demonstrating how Hillsboro will meet the criteria to become a CLG
- Establish and implement staffing requirements for the HLAC.

Step 4: Submitting the Certified Local Government (CLG) grant application:

- Coordinate final application review through City Administration and Planning staff
- Submit the CLG application to SHPO and resolving any outstanding issues with the SHPO staff
- Draft the Intergovernmental Agreement (IGA) between the City and SHPO, revising the draft IGA as necessary, and providing the IGA to the Mayor and City Council for approval and signature
- Submit the final CLG application and report to SHPO; monitor its progress through review at the NPS; and address issues as necessary.

PLANNING COMMISSION HEARINGS

The Planning Commission opened the public hearings on the amendments on July 25, 2007 and heard testimony from the City's historic preservation consultant and three interested parties. The Commission also discussed concerns related to preservation of landscaping, energy conservation vs. historic integrity in resource alterations, and notification of previous property owners. The Commission also received a memorandum from City Attorney Pamela Beery regarding DLCD comments on the proposed amendments.

At the continued hearing on August 8th, the Commission considered some changes in the language of the amendments proposed by Planning staff in response to the comments received in July. Discussion focused on historic landscaping and on the requirements of the State's Certified Local Government program. Following discussion, President Coulter closed the public hearing. The Commissioners then voted to recommend approval of the proposed amendments as revised, and directed the Planning staff to prepare resolutions and supporting findings. The Resolutions and findings were adopted by the Commission on September 8th.

RECOMMENDATION

In order to continue with the policy direction established by Hillsboro Vision 2020 and by the City Council in 2006, Planning staff requests that the Council approve the attached draft ordinances. Planning staff are currently coordinating with the Consultant and SHPO regarding submittal of the CLG application, and will return to the Council in November with the next steps in the Project: establishment of the HLAC by ordinance, and appointment of the HLAC members.

Respectfully submitted,

CITY OF HILLSBORO PLANNING DEPARTMENT



Deborah A. Raber AICP
Planning Project Manager

Attachments: draft ordinances and supporting findings

ORDINANCE NO. _____

**HCP 2-07: CULTURAL RESOURCES MANAGEMENT AND
HISTORIC LANDMARKS ADVISORY COMMITTEE (HLAC)**

AN ORDINANCE APPROVING AMENDMENTS TO HILLSBORO COMPREHENSIVE PLAN ORDINANCE NO. 2793 AS AMENDED, REGARDING CULTURAL RESOURCE MANAGEMENT AND THE PROPOSED HISTORIC LANDMARKS ADVISORY COMMITTEE

WHEREAS, Strategy 15 of the Hillsboro 2020 Vision and Action Plan calls for the protection and enhancement of historical and cultural sites, and includes Action Items supporting creation of a Landmarks Commission, provision of educational materials on historic preservation to property owners, and development of incentives to restore and update historic structures; and

WHEREAS, in September 2006, the City Council directed Planning staff to proceed with creation of a Historic Landmarks Advisory Committee (HLAC) and to work toward participation in the State Historic Preservation Office's Certified Local Government (CLG) program, in order to implement the Strategy and Actions listed in Hillsboro 2020; and

WHEREAS, establishment of the HLAC and participation in the CLG program require revisions in the language of Comprehensive Plan Section 6 Natural Resources, Open Space, Scenic and Historical Sites; and

WHEREAS, the Hillsboro Planning Commission, as authorized by Comprehensive Plan Section 1 (IV) A, initiated amendments to Section 6 through adoption of Resolution No. 1622-P on June 27, 2007; and

WHEREAS, the Planning Commission held public hearings on the proposed amendments on July 25 and August 8, 2007, receiving testimony in support and requests for minor changes in the amendment language; and

WHEREAS, the Planning Commission adopted Resolution No. 1626-P on September 12, 2007, recommending to the City Council approval of the proposed amendments with the supporting findings attached hereto as Attachment A, and also adopted by reference as supporting findings the Planning Department staff reports dated July 18 and August 8, 2007, and the memorandum from City Attorney Pamela Beery dated July 24, 2007, contained in Planning Department Casefile HCP No. 2-07; and

WHEREAS, the City Council considered the Planning Commission's recommendation on October 2, 2007, and voted to adopt the Planning Commission's findings as its own in regard to the proposed amendments.

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

Section 1. Comprehensive Plan Ordinance No. 2793 as amended, Section 6 Natural Resources, Open Space, Scenic and Historical Sites, Subsection (II) Definitions, is hereby amended with the addition of two new definitions (H) and (I) to read as follows:

- (H) Cultural Resource. Any building, structure, site, or object included in the Cultural Resource Inventory and therefore subject to the provisions of this Ordinance.
- (I) Cultural Resource Inventory. A listing of sites within the City recognized by City Council resolution as being culturally significant.

Section 2. Comprehensive Plan Ordinance No. 2793 as amended, Section 6 Natural Resources, Open Space, Scenic and Historical Sites, Subsection (III) Policies, section (C) is hereby amended to read as follows:

- (C) Cultural Resource(s) Identification and management of cultural resources promotes public awareness and appreciation of the community's history; advances community pride and identity; contributes to the community's economy; enhances local property values, identifies conflicts that can arise between preservation of cultural resources and alternative land uses, and provides means through which such conflicts can be mitigated.
 - (1) The City shall work closely with the State Historic Preservation Office, the Washington County Museum, Hillsboro Historical Society, property owners and all interested parties to encourage the preservation of cultural resources within the planning area by educating property owners and the public about the appropriate methods of restoration, rehabilitation and reuse of cultural resource sites.
 - (2) Station Community Planning Areas shall include policies and design and development standards to preserve and enhance the character of historic neighborhoods such as downtown and the original Orenco community.
 - (3) The City shall maintain and update as appropriate its inventory of cultural resource sites and its zoning regulations regarding the management of such sites, including adding new sites deemed significant and revising data on existing sites.
 - (4) The City shall establish a Landmarks Advisory Committee for the purposes of advising the City Council and the Planning Commission on policies and programs pertaining to historic preservation within the City of Hillsboro.
 - (5) The City shall endeavor to develop financial and other incentives to encourage property owners to restore, maintain, or adaptively reuse their cultural resource sites.

Section 3. Comprehensive Plan Ordinance No. 2793 as amended, Section 6 Natural Resources, Open Space, Scenic and Historical Sites, Subsection (IV) Implementation Measures, subsections (4) and (5) are amended to read as follows:

- (4) The City shall establish and maintain a Cultural Resource Inventory in order to identify the cultural resources within the planning area. This Inventory shall be updated as determined appropriate and as required, including adding new sites deemed significant and revising data on existing sites.

- (5) As a section of the Zoning Ordinance, the City shall adopt a Cultural Resource Management Ordinance which contains procedures to: 1) maintain the Cultural Resource Inventory; through additions or removals as necessary; and 2) review applications for alteration, demolition, or relocation of a Cultural Resource.

Section 4. Comprehensive Plan Ordinance No. 2793 as amended, Section 6 Natural Resources, Open Space, Scenic and Historical Sites, Subsection (IV) Implementation Measures, is recommended to be amended with the addition of two new subsections (6) and (7) to read as follows, and with the renumbering of existing subsections 6, 7, and 8 as subsections 8, 9, and 10:

- (6) The Landmarks Advisory Committee shall be authorized to initiate and review applications for nominations to or deletions from the Inventory; to review applications for alteration, demolition, or relocation of a cultural resource; and to make findings and recommendations to the Planning Commission.
- (7) The Landmarks Advisory Committee may also formulate annual work plans, based on neighborhood outreach, to encourage on-going historic preservation efforts within Hillsboro. Such plans may include, but are not limited to: initiating and completing projects and activities related to obtaining and maintaining grants or creating other financial incentives for historic preservation; providing technical or economic information on preservation of historic and cultural landmarks; and performing public outreach and education to the public and to owners of cultural resource sites.

Section 5. Except as therein amended, Comprehensive Plan Ordinance No. 2793, as amended, shall remain in full force and effect.

Passed by the Council this 2nd day of October, 2007.

Approved by the Mayor this 2nd day of October, 2007.

Mayor

ATTEST: _____
City Recorder

ORDINANCE NO. _____

**ZOA 1-07: CULTURAL RESOURCES MANAGEMENT AND
HISTORIC LANDMARKS ADVISORY COMMITTEE (HLAC)**

AN ORDINANCE APPROVING AMENDMENTS TO HILLSBORO ZONING ORDINANCE NO. 1945 AS AMENDED, REGARDING CULTURAL RESOURCE MANAGEMENT AND THE PROPOSED HISTORIC LANDMARKS ADVISORY COMMITTEE

WHEREAS, Strategy 15 of the Hillsboro 2020 Vision and Action Plan calls for the protection and enhancement of historical and cultural sites, and includes Action Items supporting creation of a Landmarks Commission, provision of educational materials on historic preservation to property owners, and development of incentives to restore and update historic structures; and

WHEREAS, in September 2006, the City Council directed Planning staff to proceed with creation of a Historic Landmarks Advisory Committee (HLAC) and to work toward participation in the State Historic Preservation Office's Certified Local Government (CLG) program, in order to implement the Actions listed in Hillsboro 2020; and

WHEREAS, establishment of the HLAC and participation in the CLG program require revisions in the language of Zoning Ordinance Section 132 Cultural Resource Management; and

WHEREAS, the Hillsboro Planning Commission, as authorized by Zoning Ordinance Section 112, initiated amendments to Section 132 through adoption of Resolution No. 1623-P on June 27, 2007; and

WHEREAS, the Planning Commission held public hearings on the proposed amendments on July 25 and August 8, 2007, receiving testimony in support and requests for minor changes in the amendment language; and

WHEREAS, the Planning Commission adopted Resolution No. 1627-P on September 12, 2007, recommending to the City Council approval of the proposed amendments with the supporting findings attached hereto as Attachment A, and also adopted by reference as supporting findings the Planning Department staff reports dated July 18 and August 8, 2007, and the memorandum from City Attorney Pamela Beery dated July 24, 2007, contained in Planning Department Casefile HCP No. 2-07; and

WHEREAS, the City Council considered the Planning Commission's recommendation on October 2, 2007, and voted to adopt the Planning Commission's findings as its own in regard to the proposed amendments.

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

Section 1. Zoning Ordinance Section 132 Cultural Resource Management is hereby amended to read as follows:

Section 132. Cultural Resource Management Ordinance.

- (1) Purpose: The purpose of the Cultural Resource Management Ordinance is to further the public welfare through identification and management of cultural resources, in order to:
 - (a) promote public awareness and appreciation of the City's social, political, economic, architectural, and archaeological history;
 - (b) advance civic pride and identity;
 - (c) contribute to the City's economy;
 - (d) enhance local property values; and
 - (e) identify and resolve conflicts between preservation of cultural resources and alternative land uses.

- (2) Definitions. These definitions apply only to Section 132 of this Ordinance.
 - (a) Alteration - any addition to, removal from, and/or change in the external appearance of any portion of a cultural resource. This definition include changes in site landscaping if the landscaping is comparable in age to the resource structure, but excludes changes in newer landscaping or the addition of landscaping if there was none originally. This definition also excludes ordinary maintenance or repair of an exterior feature which does not affect the feature's appearance, if such repair has been certified by the City Building Official as necessary for safe occupancy.
 - (b) Cultural Resource - any building, structure, site, or object included in the Cultural Resource Inventory and therefore subject to the provisions of this Ordinance.
 - (c) Cultural Resource Inventory - a listing of sites within the City recognized by City Council resolution as being culturally significant.
 - (d) Demolition - any intentional defacement, destruction, and/or other action which would cause partial or total ruin of a cultural resource.

- (3) Administering Boards
 - (a) The Planning Commission shall be the administrative body for the Cultural Resource Ordinance. The Planning Commission shall make findings and recommendations to the City Council regarding any cultural resource applications, or policies and programs pertaining to historic preservation within the City of Hillsboro.
 - (b) The Historic Landmarks Advisory Committee is authorized to initiate and review applications for nominations to or deletions from the Inventory; to review applications for alteration, demolition, or relocation of a cultural resource; and to make findings and recommendations to the Planning Commission.

- (4) Nomination to the Cultural Resource Inventory. The City of Hillsboro shall maintain a Cultural Resource Inventory which shall be updated as determined appropriate and as required.
- (a) The Historic Landmarks Advisory Committee shall nominate to the Cultural Resource Inventory sites within the City which are determined to have potential cultural significance. The determination of potential cultural significance shall be based on the following criteria:
1. capability to be categorized as a building, structure, site, or object, as defined by the National Park Service;
 2. association with significant historical or cultural events or persons important on a city, county, state, or national level; the site must have as an identifiable theme one of the 10 themes recognized by the National Park Service;
 3. demonstration of architectural integrity in workmanship, design, type of construction, regional style, or individual uniqueness;
 4. potential to provide archaeological information;
 5. inclusion in the National Register of Historic Places or the State Archaeological site file; and
 6. age of the building, structure, site, or object of at least 50 years, unless determined to be of exceptional significance.
- (b) Any property owner who wishes his or her property included in the Inventory shall apply to the Historic Landmarks Advisory Committee, and shall supply such information on the site as the Committee shall require. The Historic Landmarks Advisory Committee shall then review the application and adopt findings and a recommendation to the Planning Commission.
- (c) Following the nomination and determination of potential cultural significance, or consideration of an owner-initiated application as described in subsection (b), the Historic Landmarks Advisory Committee shall forward its findings and recommendation to the Planning Commission. The Planning Commission shall consider the recommendation, and shall authorize notice of the nomination to be sent by registered mail to the owner or owners of the affected property. Notice of the nomination shall include the following:
1. findings of potential cultural significance, as adopted by either the Historic Landmarks Advisory Committee or the Planning Commission;
 2. the provisions of this Section which may become applicable to the property upon its possible inclusion in the Cultural Resource Inventory,
 3. an explanation of the property owner's rights to refuse to consent to the listing of the property on the Inventory; and

4. the date, time and place of the Planning Commission public hearing as described in subsection (d).
- (d) At least 30 days after the notice described in subsection (c) has been sent to the property owner, the Planning Commission shall hold a public hearing on the nomination. Notice of the hearing shall be mailed to owners of property within a 200-foot radius of the affected property, to recognized local and County historical societies, and to the State Historic Preservation Office. At the public hearing, the Planning Commission shall receive the findings and recommendation of the Historic Landmarks Advisory Committee, and shall review the nomination based on the criteria listed in subsection (a).
- (e) Following the public hearing, the Planning Commission shall ~~then~~ make findings and recommendations to the City Council on the nomination. The Council shall add, by resolution, those sites it considers culturally significant to the Inventory. At any time prior to Council action on the nomination, the affected property owner or owners of record may refuse to consent to the addition of the site to the Inventory. This refusal to consent shall be in writing and filed with the Planning Director. The receipt of a refusal to consent shall remove the property from any continued consideration for nomination or listing on the Cultural Resources Inventory. If the City Council approves a resolution placing a site on the Inventory, the Planning Department shall prepare and record a document in the Deed Records of Washington County indicating the placement of the site on the Cultural Resource Inventory.

(5) Removal from the Cultural Resource Inventory

- (a) The property owner or owners of record of a site listed on the Cultural Resources Inventory prior to September 1, 2000, may request removal of the site from the Inventory by submitting a written request to the Planning Director. The request shall describe the site and its location with particularity, and shall include evidence documenting the formal objection of the property owner of record at the time the property was listed on the Cultural Resource Inventory. The Planning Director shall submit the request to the Planning Commission for adoption of a resolution acknowledging the request and forwarding the request to the City Council for approval. Upon receipt of the resolution of the Planning Commission, the City Council shall adopt a resolution removing the site from the Cultural Resources Inventory. The Planning Commission shall not conduct a public hearing on the request, but may recommend that the City Council conduct a hearing. The City Council may, but need not, conduct a public hearing on the request. The City Council may require that the site be documented in a manner consistent with accepted historic site documentation practices. The City shall not issue a permit for demolition or modification of a site subject to this subsection for at least 120 days from the date of the resolution removing the site from the Cultural Resources Inventory.
- (b) In the absence of an objection to the initial listing, the property owner or owners of record of a site listed on the Cultural Resources Inventory may also request removal of the site from the Inventory by submitting a written request to the Historic Landmarks Advisory Committee. The request shall cite the reasons why the property owner believes the site no longer qualifies as a designated cultural

resource, based on the criteria listed in section 4 (a). The Committee shall consider the request, and shall forward its findings and recommendation to the Planning Commission.

- (c) The Planning Commission shall hold a public hearing on the request. Notice of the hearing shall be mailed to owners of property within a 200-foot radius of the affected property, to recognized local and County historical societies, and to the State Historic Preservation Office. At the public hearing, the Planning Commission shall receive the findings and recommendation of the Historic Landmarks Advisory Committee, and shall receive any testimony submitted by interested parties.

Following receipt of testimony, the Planning Commission shall deliberate and analyze the significance of the resource site and the environmental, social, economic and energy consequences of allowing, limiting, or prohibiting uses which would conflict with the Cultural Resource designation. Based on that analysis, the Planning Commission shall make a determination whether to approve or deny the request. A decision to approve the request shall be made as a recommendation to the City Council. A decision to deny the request shall be final unless appealed.

- (d) The City Council shall receive and consider a recommendation from the Planning Commission to remove a site from the Cultural Resource Inventory, and may delete the site from the Inventory by resolution. The Council may also choose to conduct its own public hearing on the recommendation.
- (e) The City shall not issue a permit for demolition or modification of a site subject to this subsection for at least 120 days from the date of a resolution removing the site from the Cultural Resources Inventory.
- (f) Following approval or issuance of an alteration, relocation or demolition permit on a designated cultural resource, according to the requirements of Sections 6 and 7, the Historic Landmarks Advisory Committee may re-evaluate the site's conformance with the criteria in Section 4(a) of this Ordinance, and may forward findings and a recommendation to the Planning Commission. If the Commission finds that the site no longer exhibits the characteristics which justified its inclusion in the Inventory, the Commission shall forward a resolution to the City Council recommending deletion of the site from the Inventory. City Council shall then consider the matter and may delete the site from the Inventory by resolution.

(6) Application for Alteration of a Designated Cultural Resource.

- (a) No designated cultural resource shall be altered without prior review by the Historic Landmarks Advisory Committee and approval of the Planning Commission.
- (b) Cultural resource owners desiring to alter a cultural resource shall submit an application to the Historic Landmarks Advisory Committee. The application shall include site plans, exterior building elevations, and materials specifications on any proposed alteration. The Historic Landmarks Advisory Committee shall review the application with respect to the criteria listed in subsection (d) and shall make

findings and a recommendation to the Planning Commission regarding the proposal.

- (c) The Planning Commission shall hold a public hearing on the request. Notice of the hearing shall be mailed to owners of property within a 200-foot radius of the affected property, to recognized local and County historical societies, and to the State Historic Preservation Office. At the public hearing, the Planning Commission shall receive the findings and recommendation of the Historic Landmarks Advisory Committee, and shall receive any testimony submitted by interested parties.
- (d) The Historic Landmarks Advisory Committee and the Planning Commission shall evaluate a proposed alteration based on the degree to which the alteration would meet the following standards:
 1. The alteration would enable the resource to be used as it was historically or to be given a new use requiring the least practicable change to its distinctive materials, features, spaces, and spatial relationships.
 2. The historic character of the resource property would be retained and preserved, and the relocation of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
 3. The alteration would recognize a physical record of the resource's time, place, and use, and changes that create a false sense of historical development (such as adding features from other historic properties) are not proposed.
 4. The proposed alteration would retain and preserve changes to the resource that have attained historic significance in their own right.
 5. The alteration would preserve distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the resource.
 6. Deteriorated historic features would be repaired rather than replaced. If severe deterioration requires replacement of a distinctive feature, the new feature would match the old in design, color, texture, and, where possible, materials. Replacement of missing features would be documented by historical evidence. Replacement of original features, such as wooden window, doors, or siding, with features made from modern materials such as vinyl, metal, or fiberglass, would be discouraged.
 7. Any proposed chemical and physical treatments would be undertaken using the gentlest means possible. Treatments that cause damage to historic materials would be avoided.
 8. Any archeological resources would be protected and preserved in place. If archeological disturbance can not be avoided, appropriate mitigation measures would be included as part of the alteration.

9. New additions, exterior alterations, or related new construction would not destroy historic materials, features, and spatial relationships that characterize the resource. To protect the integrity of the resource, new work would be differentiated from the old and would be compatible with the historic materials, features, size, scale and proportion, and massing
10. Any new additions and adjacent or related new construction proposed in the alteration would be constructed in a manner to allow their removal in the future without impairing the essential form and integrity of the resource and its surroundings. .

For the review of exterior alterations of historic resources, the Historic Landmarks Advisory Committee and the Planning Commission may use, as supplemental information for clarification, the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, published by the U.S. Department of the Interior, National Park Service and codified in 36 CFR 67 for use in the Federal Historic Preservation Tax Incentives Program.

- (e) The Planning Commission shall work with the applicant, interested citizens and technical staff to minimize the negative impact of the proposed action, wherever possible.
 - (f) Following receipt of testimony, the Planning Commission shall deliberate and analyze the proposed alteration. Based on that analysis, the Planning Commission shall make a determination whether to approve or deny the request. The Planning Commission's decision shall be final unless appealed.
 - (g) No provision of this ordinance shall be construed to prevent the ordinary repair or maintenance of a designated Cultural Resource, where such action does not involve a change in design, materials, or appearance.
- (7) Application for Demolition or Relocation of a Designated Cultural Resource.
- (a) No designated cultural resource shall be demolished or relocated without prior review by the Historic Landmarks Advisory Committee and approval of the Planning Commission.
 - (b) Cultural resource owners desiring to demolish or relocate a cultural resource shall submit an application to the Historic Landmarks Advisory Committee. The Historic Landmarks Advisory Committee shall review the application with respect to the following standards:
 1. The designated property has deteriorated beyond repair, and relocation or demolition is structurally necessary;
 2. No prudent and feasible alternative exists to repair or use the structure in its present location; and
 3. The relocation or demolition is economically necessary. To prove economic necessity, the applicant must demonstrate through

presentation of at least one rehabilitation option that the resource cannot be reasonably rehabilitated in its present location, and that the condition of the cultural resource prevents any substantial beneficial use of the property; and

4. The proposed use of the property has been found to be in compliance with all applicable city, state and federal requirements including zoning and building codes; and
5. The value to the community of the proposed use of the property outweighs the value of retaining the designated Cultural Resource on its present site.

The Committee shall consider shall consider the request, and shall forward its findings and recommendation to the Planning Commission.

- (c) The Planning Commission shall hold a public hearing on the request. Notice of the hearing shall be mailed to owners of property within a 200-foot radius of the affected property, to recognized local and County historical societies, and to the State Historic Preservation Office. At the public hearing, the Planning Commission shall receive the findings and recommendation of the Historic Landmarks Advisory Committee, and shall receive any testimony submitted by interested parties.
- (d) Following receipt of testimony, the Planning Commission shall deliberate and analyze the proposed relocation or demolition, based on the standards in subsection (b). Based on that analysis, the Planning Commission shall make a determination whether to approve or deny the request.
- (e) Approval of an application for relocation or demolition may be delayed up to 60 days by the Planning Commission. The Planning Commission may place any of the following conditions on approval of a demolition application:
 - (1) interior and/or exterior documentation of the site prior to the proposed demolition;
 - (2) preservation of selected architectural features and site landscaping; and
 - (3) a good faith effort by the applicant to sell the structure for relocation.

The Planning Commission may, however, approve a demolition permit at any time within the 60 day period if it feels the applicant has made an effort in good faith to retain, document, and/or preserve the culturally significant characteristics of the resource.

- (f) The City Council may extend a demolition delay by an additional 60 days at the request of the Historic Landmarks Advisory Committee, the Planning Commission or an interested party.

(8) Annexation of County-designated Cultural Resources.

Any site designated a cultural resource by Washington County shall be placed on the Cultural Resource Inventory upon annexation and shall be subject to the provisions of this Ordinance.

(9) Preservation of Cultural Resources in Additional Open Space.

Upon redevelopment of a Cultural Resource site, additional open space area around significant structures, set aside at the option of the developer, may be subtracted from the net residential area of the development for density calculation. Additional open space so set aside shall be identified on the final plat (or final development plan if no land division is involved) as a conservation easement or a separate permanent open space tract. Responsibility for maintenance and preservation of such tracts or easements shall be specified in covenants, conditions, and restrictions or other legal instrument subject to approval by the Planning Director and recorded prior to approval of a final development plan.

Section 5. Except as therein amended, Zoning Ordinance No. 1945, as amended, shall remain in full force and effect.

Passed by the Council this 2nd day of October, 2007.

Approved by the Mayor this 2nd day of October, 2007.

Mayor

ATTEST: _____
City Recorder

FINDINGS AND CONCLUSIONS

Minor Amendments to Comprehensive Plan Ordinance No. 2793 and
Zoning Ordinance No. 1945

Case File Numbers HCP 2-07 and ZOA 1-07
Historic Landmarks Advisory Committee Amendments

BACKGROUND

In 1999, as a part of the Hillsboro 2020 Vision process, a citizen task force guided by extensive community input prepared a Vision Statement. That Statement provides a picture of Hillsboro in the year 2020 through the eyes of citizens from a variety of backgrounds. The Vision Statement is divided into six focus areas intended to guide future community planning efforts. One focus area, Enhancing Neighborhoods and Districts, specifically referenced preserving the City's landmarks.

In 2000, the Vision Task Force prepared an Action Plan with Strategies and Actions to implement the Hillsboro 2020 Vision Statement. The Vision Action Plan (VAP) was updated in 2005. Both the 2000 and the 2005 VAPs included, within the Enhancing Neighborhoods and Districts focus area, Strategies which call for the protection and enhancement of landmarks. Strategy 15, and its associated Actions, read as follows:

15. Historical and Cultural Sites

Protect and enhance historical and cultural sites and other resources.

- *Establish a Hillsboro Landmarks Commission.*
- *Create a volunteer membership Historical Society for Hillsboro*
- *Provide educational materials for property owners on protection of historic and cultural sites, including qualifications, resources, how to establish and other information; build connections with other regional and state historical societies.*
- *Identify Hillsboro's historic sites and obtain grants for designation.*
- *Develop tax and other incentives to restore and update historic structures.*

Local citizens have already organized the Hillsboro Historical Society (HHS), whose mission is to protect and preserve local cultural resources through education of historic property owners, appointed and elected officials, and the general public. HHS has established several programs with the cooperation of other local preservation organizations, including the popular "Cemetery Dramas".

The Planning Department's work on these Strategies is referred to as the Landmarks Commission Project.

Landmarks Commission Project Phase 1

The scope of the project is to create a Hillsboro Landmarks Commission, with duties tailored to the needs and desires of the Hillsboro community. In general, landmarks commissions function in one or more of the following roles:

- Educate property owners and the public on preservation issues
- Inventory and designate local landmarks
- Review requests for alterations to landmarks
- Review nominations to the National Register of Historic Places

In most of these roles a landmarks commission could function in a regulatory capacity, an advisory capacity, or a combination of both.

In mid-2006, the City retained Ms. Kimberli Fitzgerald, a qualified preservation planner and former Planning Commissioner, to work on the Landmarks Commission Project. The Scope of Work for Phase 1 of the Project is shown below:

Step One: Evaluate Existing Conditions (June 2006):

- Consultant verified current number and type of historic resources within the City limits, previously inventoried to comply with Goal 5 requirements.
- Consultant compiled statistics regarding the number and type of applications related to these properties by year.
- Consultant prepared grant application for State Historic Preservation Office (SHPO) Certified Local Government (CLG) grant.
- Planning staff received Council approval for grant application.

The SHPO CLG grant application cited in Step One refers to the State Historic Preservation Office Certified Local Government program. Under this program, if the City's historic preservation program meets certain requirements, the City becomes eligible for state grants for projects to inventory resources, provide public education, and possibly administer grants or loans to resource owners for rehabilitation of historic structures.

Step Two: Determine Needs Assessment (July 2006):

- Consultant and Planning staff developed two questionnaires for stakeholders (City Council, Planning Commission, Hillsboro Historical Society, and identified neighborhood groups).
- Questionnaires were designed to identify two factors: "user" satisfaction with existing historic preservation programs; and stakeholder desires for specific preservation programs (i.e., education, funding etc.).
- City staff distributed questionnaires.
- Consultant compiled and analyzed results of questionnaires and presented results to Planning staff.

Step Three: Develop Alternatives (August 2006):

- Based upon the existing conditions and needs assessment, provide summaries of alternative preservation programs for the City of Hillsboro.
- Alternatives included estimated costs and benefits as well as proposed timelines for implementation.
- Consultant compiled statistics for preferred alternative and drafted a final recommendation.
- Final recommendation included a recommended list of members for the new Landmarks Commission.

Step Four: Recommendation (September 2006):

- Consultant and Planning staff presented questionnaire results and recommendations to the City Council at the September 19th work session.

City Council reviewed the alternative preservation programs and selected the option of an advisory Historic Landmarks Advisory Committee (HLAC). As directed by the Council, the functions, duties, and composition of the HLAC will be:

- *Advisory Review.* Conduct advisory review of all development proposals related to identified cultural resources. Visit sites when applications are submitted. Make recommendation to Planning Commission. Continue current practice of quasi-judicial review at Planning Commission with appeal to City Council.
- *Neighborhood Outreach.* Initiate contact with identified neighborhoods; coordinate with City and local historic non-profits to identify programs for annual work plan. Proactively educate the community regarding preservation.
- *Annual Work Plan.* Develop priorities for the community; pursue grant funding for identified projects such as walking tour brochures or historic plaques. Annually re-evaluate the need for traditional Landmarks Commission with quasi-judicial decision making powers.
- *Regular meetings.* Meet monthly.
- *Composition.* Three members representing historic Orenco, Main Street, and Heart of Hillsboro neighborhoods; with remaining four members to be either preservation professionals; experienced in land use; or having a demonstrated interest in preservation in Hillsboro. All members to be appointed by the Mayor and confirmed by the Council.

The City Council also directed the Planning staff and the Consultant to pursue the possibility of Hillsboro becoming a Certified Local Government under the State Historic Preservation Office program in order to qualify for technical and financial support to encourage historic preservation efforts.

Landmarks Commission Project Phase 2

In January 2007, Ms. Fitzgerald (the Consultant) was again retained for the second phase of the Landmarks Commission Project. Work by the Consultant and Planning staff is anticipated to proceed through the following four steps:

Step 1: Preparing to Create the Historic Landmarks Advisory Committee:

- Draft a City Council Resolution to establish the Hillsboro HLAC
- Review prospective members to be appointed to the HLAC

Step 2: Revising Current Land Use Codes concerning Historic Preservation:

- Review Comprehensive Plan policies, goals, and implementation measures and Zoning Ordinance requirements related to cultural resource inventories and historic preservation and recommending amendments
- Evaluate recommended amendments with City Administration, City Council, and Planning Commission, along with the Ordinance establishing the HLAC
- Initiate recommended amendments and hold public hearings before the Planning Commission
- Revise the amendments as directed by the Planning Commission
- Forward Planning Commission recommendations on the amendments, and the enabling Ordinance establishing the HLAC, to City Council for adoption

Step 3: Preparing the Certified Local Government (CLG) grant application:

- Prepare the necessary documentation for Hillsboro to become a CLG, including the enabling Ordinance, prospective HLAC members' resumes, and minutes of Planning Commission and Council meetings adopting the Code amendments and establishing the HLAC
- Draft supporting findings addressing the five National Parks Service and SHPO criteria and demonstrating how Hillsboro will meet the criteria to become a CLG
- Establish and implement staffing requirements for the HLAC

Step 4: Submitting the Certified Local Government (CLG) grant application:

- Coordinate final application review through City Administration and Planning staff
- Submit the CLG application to SHPO and resolving any outstanding issues with the SHPO staff
- Draft the Intergovernmental Agreement (IGA) between the City and SHPO, revising the draft IGA as necessary, and providing the IGA to the Mayor and City Council for approval and signature
- Submit the final CLG application and report to SHPO; monitor its progress through review at the NPS; and address issues as necessary

Pursuant to Step 2 of the Landmarks Commission Project, the proposed Comprehensive Plan and Zoning Ordinance amendments were prepared by staff and the consultant, reviewed by the City Attorney, and forwarded to the Planning Commission for review in June 2007. Pursuant to Comprehensive Plan Section 1 Planning and Citizen

Involvement, subsection (IV) (A) and Zoning Ordinance Section 112 Authorization to Initiate Amendments, the Planning Commission initiated the proposed amendments through adoption of Resolutions No. 1622-P (for the Comprehensive Plan) and 1623-P for the Zoning Ordinance. Both Resolutions were adopted on June 27, 2007.

OVERVIEW OF PROPOSED AMENDMENTS

The proposed Comprehensive Plan amendments would affect Section 6 Natural Resources, Open Space, Scenic and Historical Sites, as summarized below:

- Add two new definitions: “Cultural Resource;” and “Cultural Resource Inventory”
- Update existing policies to include conflict mitigation and property owner education
- Add new policies to authorize establishment of the Historic Landmarks Advisory Committee (HLAC); and to commit the City to seek incentives for restoration maintenance and adaptive reuse of cultural resource sites
- Update implementation measures to reflect current practices and procedures
- Add new implementation measures establishing duties and responsibilities of the HLAC

The proposed Zoning Ordinance amendments would affect Section 132 Cultural Resource Management Ordinance, as summarized below:

- Add references to the role of the Historic Landmarks Advisory Committee in the nomination, alteration, demolition and relocation processes
- Replace outdated language related to establishment of an Inventory with provisions for nominations to and removals from the existing Inventory
- Add clear and objective standards, consistent with State and Federal preservation guidelines, for review of cultural resource alterations, demolitions, and relocations

COMPLIANCE WITH THE HILLSBORO COMPREHENSIVE PLAN

Identification of the Plan Amendments as “Minor Amendments”

The City followed the process established at Section 1(III) of the HCP for review of proposed minor amendments to the Comprehensive Plan. A “Minor Plan Amendment” is defined as “any change to the Comprehensive Plan which is not a major plan amendment.” A “Major Plan Amendment,” in turn, is defined as follows in Section 1(II) (G):

“Major Plan Amendment” includes any significant change to the Comprehensive Plan text or map initiated by the City Council of Planning Commission. A “significant change” is one that amends or refines both the Plan text and map, has operative effect over a large geographic area and is likely to have significant environmental, energy, economic and social consequences.

Finding: The proposed amendments do not amend both the Plan text and map. All three elements of the definition of “major plan amendment” must be met in order for an amendment to meet the definition. In addition, the amendments will not have significant

environmental, energy, economic and social consequences as they are modifications designed to update existing language and to enhance the City's historic preservation program through more active encouragement of preservation, restoration, and adaptive reuse.

Conclusion: The City followed the appropriate process for a minor plan amendment as required by the Plan. Further, as required by state law, the City provided the required notice to the state Department of Land Conservation and Development prior to the first public hearing on the proposed amendments as required by ORS 197.610. Therefore, the applicable requirements for classifying and processing the proposed amendments are met.

Minor Amendment Criteria

Minor Amendments to the Comprehensive Plan may be made if a need for revision is documented pursuant to Section 1 (IV) (A). The proposed amendments meet this criterion based on the Planning Commission staff reports dated July 18 and August 8, 2007, identifying specific action items in the Hillsboro 2020 Vision Statement and Action Plan, and internal deficiencies in the current regulations and proposing solutions with new language.

In addition, the Plan requires that amendments can be submitted by the City, government agencies and property owners. These amendments were initiated by the Planning Commission for Hillsboro by Resolutions 1622-P and 1623-P on June 27, 2007.

Goals and policies of the Comprehensive Plan

Section 1. Planning and Citizen Involvement.

The Plan establishes processes that are designed to facilitate public involvement in revisions to the Plan and implementing regulations. Specifically, at Section 1(IV), a process is established for consideration of minor amendments such as this one. Newspaper notice was provided as required by Section IV (A) (1).

Finding: The Planning Commission initiated these amendments and conducted two public hearings over the course of its review of these revisions. Notice of the hearings was mailed to all owners of designated cultural resource sites and to interested parties such as the Hillsboro Historic Society, Washington County Historical Society and State Historic Preservation Office. Direct response to public input at these meetings is evidenced in the August 8, 2007 staff report.

Conclusion: The process requirements of the Comprehensive Plan have been met.

Section 2. Urbanization.

The Urbanization element of the Comprehensive Plan seeks to provide for orderly and efficient transition from rural to urban uses through the identification and establishment of areas designed to accommodate the full range of urban uses within the Hillsboro Planning Area.

Finding: This section of the Plan is not impacted by these amendments.

Section 3. *Housing.*

The goal of the housing chapter of the Plan is to provide for the housing needs of the citizens of Hillsboro and the surrounding community by encouraging the construction, maintenance, development and availability of a variety of housing types, in sufficient numbers and at price ranges and rent levels which are commensurate with the financial capabilities of the community's residents.

Finding: By strengthening existing policies supporting historic preservation, the proposed amendments encourage greater variety of housing types in the City.

Conclusion: The applicable policy of the Housing section of the Plan is met.

Section 4. *Agricultural Lands.*

The goal of the Agricultural Lands section of the Plan is to utilize farms as open space and provide a method for maintaining agricultural lands outside the urban growth boundary for farm use.

Finding: This section is not applicable to the proposed amendments as Statewide Goal 3 does not apply within urban growth boundaries.

Section 5. *Forest Lands.*

The goal of the Forest Lands section of the Plan is to conserve forested lands and significant trees in the planning area.

Findings: This section of the Plan is not impacted by these amendments. However, preservation of historic structures may facilitate preservation of significant trees located on many of these sites.

Section 6. *Natural Resources, Open Space, Scenic and Historical Sites.*

One of the goals of this Section is to preserve, protect and maintain, for present and future residents of Hillsboro and the surrounding community, historic sites and structures.

Finding: The proposed amendments specifically implement this goal by strengthening the City's Cultural Resource Management program and by facilitating the City's designation as a Certified Local Government, enabling receipt of financial assistance for resource preservation efforts and for future historic preservation programs.

Conclusion: The goal and applicable policies of the Natural Resources, Open Space Scenic and Historical Sites section of the Plan are met.

Section 7. *Air, Water and Land Resource Quality.*

The goal of this Section of the Plan is to maintain and improve the quality of the air, water and land resources of the city and prevent waste discharges from developments from degrading or threatening those resources.

Finding: These amendments do not affect this Section of the Plan. All developments must comply with adopted City standards for air, water and land resource quality. However, the proposed amendments will facilitate preservation of existing historic structures, thereby reducing solid waste space.

Section 8. Natural Disasters and Hazards.

The goal of this section of the Plan is to protect life and property within the planning area from natural disasters and hazards.

Finding: The proposed amendments do not affect this Section of the Plan. .

Section 9. Recreation.

The goal of this Section of the Plan is to provide a parks and recreation facilities plan and program including a variety of open spaces, parks and recreation facilities.

Finding: The proposed amendments do not affect this section of the Plan.

Section 10. Economy.

The goals of this Section of the Plan are to expand, improve and diversify the economy of the planning area, provide local employment opportunities, conserve energy by reducing commuting distances, and expand the tax base and economic independence of the area.

Finding: The proposed amendments do not affect this section of the Plan.

Section 11. Energy.

The goal of this Section of the Plan is to conserve energy through the design and location of land use activities in the City.

Finding: The proposed amendments do not affect this section of the Plan.

Section 12. Public Facilities and Services.

The goal of this Section of the Plan is to implement Statewide Planning Goal 11. The Plan envisions the provision of public facilities and services in an orderly and efficient manner and utilizing the provision of those services as a method for guiding urbanization within the Hillsboro Planning Area.

Finding: The proposed amendments do not affect this section of the Plan.

Section 13. Transportation.

The goal of this Section of the Plan is to implement Statewide Planning Goal 12 by ensuring provision of a safe, convenient, efficient and economic transportation system based on the City's Transportation System Plan.

Finding: The proposed amendments do not affect this section of the Plan.

The remaining Sections of the Plan do not apply to the proposed amendments. They include community plans, a Severability provision, and the City's Transportation System Plan.

COMPLIANCE WITH STATEWIDE PLANNING GOALS

As noted above, the goals and policies contained in the City's Comprehensive Plan reflect and are intended to implement requirements of the Statewide Planning Goals. Because the findings addressing applicable Plan policies are relevant to compliance of these amendments with the Statewide Planning Goals, those earlier findings are incorporated herein by this reference in additional support of the determination of goal compliance.

Following are findings concerning compliance of the amendments with applicable statewide Goals:

1. Goal 1: Citizen Involvement. The adoption of the comprehensive plan amendments has been the subject of significant public review, including mailings to all affected property owners. Ample opportunities for public input have been provided. As such, the amendments comply with Goal 1.

The Planning Commission held two public hearings on the amendments in June, July, and August 2007.

The City's process complied fully with its Plan requirements for citizen involvement. The amendments in their final form reflect responsiveness to public input during the process.

2. Goal 2: Land Use Planning. Goal 2 requires legislative decisions to be based on an adequate information base, consider alternatives, and implement policies that are consistent with the Goals. Additionally, Goal 2 requires coordination with affected governmental units prior to the adoption of such amendments. Goal 2 is met in several ways by the adopted amendments.
 - i) The amendments update the City's regulations consistent with state law and current practices, and were informed by targeted surveyed of interested parties. As the record reveals, information offered by City Staff, SHPO personnel, and Hillsboro residents, was considered and helped shape the amendments.
 - ii) Prior to adopting the amendment, the City considered alternative historic preservation programs, elected to pursue Certified Local

- Government status, and believes that the policies of the Plan are met by the amendments.
- iii) As these findings demonstrate, the amendments are consistent with the Goals.
 - iv) Prior to adopting the amendments, the City coordinated with potentially affected governmental units, including DLCD and SHPO.
3. Goal 3: Agricultural Lands. This goal is not applicable to land inside urban growth boundaries.
 4. Goal 4: Forest Lands. This goal is not applicable to land inside urban growth boundaries.
 5. Goal 5: Natural, Scenic and Historical Resources. Goal 5 requires local governments to adopt programs that will protect historic resources. Goal 5 is met in by the amendments as follows:
 - i) The amendments strengthen the City's historic preservation program by creating a new Historic Landmark Advisory Committee, as an advocacy and advisory committee for historic preservation.
 - ii) The amendments will also qualify the City to receive Certified Local Government status, allowing receipt of grant funds to further encourage historic preservation by individual property owners and to update the City's Cultural Resource Inventory.
 6. Goal 6: Air, Land and Water Resources Quality. This goal is not applicable to the adoption of the amendments, as land, air or water resources are not directly affected by the amendments.
 7. Goal 7: Natural Disasters and Hazards. This goal is not applicable to the adoption of the amendments, as the amendments do not address hazard areas or areas prone to natural disasters. Other regulations and standards specifically exist to satisfy the City's duties under Goal 7.
 8. Goal 8: Recreation. This goal is not applicable, as the amendments do not relate to citizens' and visitors' recreational needs or the siting of destination resorts.
 9. Goal 9: Economy of the State. This goal is not applicable, as the amendments do not directly impact economic interests related to commercial and industrial lands.
 10. Goal 10: Housing. This goal is not directly applicable, as the proposed amendments do not affect buildable land supply or the provision of needed housing types. However, to the extent that improved historic preservation programs will encourage retention of historic homes and structures, thereby providing additional options for housing locations, types, and density, the intent of this goal is met.
 11. Goal 11: Public Facilities and Services. This goal is not applicable to the adoption of the amendments, as they do not address public facilities and

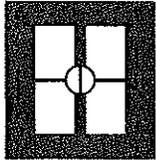
services, and no evidence suggests that the amendment will have a deleterious effect on public facilities and services.

12. Goal 12: Transportation. This goal is not applicable to the adoption of the amendments, as they do not implicate the City's Transportation System Plan, its transportation networks, nor do they rezone any property.
13. Goal 13: Energy Conservation. This goal is not applicable to the adoption of the amendments, as the amendments are unlikely to improve or degrade the City's efforts to conserve energy.
14. Goal 14: Urbanization. This goal is not applicable to the adoption of the amendments, as they do not affect to City's ability to provide for an orderly transition from rural to urban land uses. However, to the extent that historic preservation and retention of cultural resources enhances livability in the City, the intent of this goal is met.

The remaining Statewide Planning Goals do not apply to these amendments.

CONCLUSION

The proposed amendments comply with applicable provisions of the Hillsboro Comprehensive Plan and the Statewide Goals.



September 27, 2007

STAFF REPORT

TO: City Council

FROM: Planning Department

RE: Receipt of appeal of the Planning and Zoning Hearings Board decision regarding approval for expansion of a Nonconforming Use, Case File No. NCU 1-07 Secure Storage

BACKGROUND

At their August 15, 2007 regular meeting, the Planning and Zoning Hearings Board (PZHB) adopted Opinion No. 1662 which approved expansion of the existing Secure Storage mini-storage business. The site in question is at 4800 NE Cornell Road, on the south side of Cornell Road between NE Brookwood Parkway and NE Elam Young Parkway, and is more specifically identified as tax lot 1500 of Washington County Assessor's Map 1N2 33AA. The applicant for the expansion was MDK Investments. The opinion approved the request as an expansion of a nonconforming use, as the mini-storage business was first established at the site in 1995-96, prior to the adoption of the Station Community Planning Area (SCPA) standards which now prohibit mini-storage as a new use. The opinion granted approval for a 20 percent expansion of the existing mini-storage business, pursuant to Section 136.VI.C of the Hillsboro Zoning Ordinance.

RECEIPT OF APPEAL

The City has received an appeal of the PZHB's approval of the mini-storage expansion. The appeal form from the appellant is attached to this staff report. Staff notes that an on the record hearing has been requested, on the basis that the applicant has submitted insufficient evidence to demonstrate compliance with the approval criteria for expansion of a nonconforming use as set forth in Sections 136.VI(C) and 99 of the Zoning Ordinance.

COUNCIL PROCEDURES FOR PUBLIC HEARINGS ON APPEAL

Hillsboro Zoning Ordinance Volume I Section 118 states:

Section 118. Appeal to the City Council. Any action or ruling of the City Planning Commission or Planning and Zoning Hearings Board may be appealed to the City Council within 15 days after the City Planning Commission or Planning and Zoning Hearings Board has rendered its decision, by filing written notice with the City Recorder. All appeals filed shall be accompanied by payment of a fee equal to one-half the fee paid for the original application.

Council Resolution No. 1620, which establishes the rules of procedure for the conduct of land use hearings, provides as follows:

- (1) As a matter of policy, the evidence to be considered by the City Council in appeals from decisions of the Planning Commission or Planning and Zoning Hearings Board shall be limited to that evidence made a matter of record during the public hearing before the Planning Commission or Planning and Zoning Hearings Board.
- (2) Prior to considering the evidence on appeal, the Council shall first receive the appeal at a regularly scheduled Council meeting and shall set a time certain for a hearing on the merits of the appeal. At the time of receiving the appeal, a Councilor, staff representative or any party who appeared below may request that the hearing on the merits before the Council be de novo. The Council, in its discretion, may also permit a partial de novo hearing on the merits. The Council in its discretion, may also permit a partial de novo hearing, in which evidence and testimony shall be limited to one or more specific issues defined by the Council. The Council, in its discretion, may also remand the matter back to the Planning Commission or Planning and Zoning Hearings Board to receive further evidence. In its decision findings, the Council shall explain its reasons for allowing a de novo hearing on the merits or a partial de novo hearing.
- (3) In the event the Council limits an appeal of a decision of the Planning Commission or Planning and Zoning Hearings Board to evidence made a matter of record during the hearing before the Planning Commission or Planning and Zoning Hearings Board, no testimony or evidence shall be received by the Council, and the decision shall be based solely on the evidence made a matter of record before the Planning Commission or Planning and Zoning Hearings Board.
- (4) In the event the Council allows a partial de novo hearing, the Council through the Presiding Officer, shall accept only that testimony and evidence directly related to the specific issues defined by the Council.

RECOMMENDATION

At the October 2, 2007 City Council meeting, staff recommends that the Council receive the appeal for the Secure Storage expansion approval and subsequently set the appeal hearing date and type of appeal hearing. The earliest City Council meeting which an appeal hearing could be held would be November 6, 2007 in order to meet statutory notice requirements.

The Council may choose to direct questions to the appellant and/or applicant should there need to be further discussion regarding the type of appeal hearing and/or appeal hearing date.

Once the appeal hearing date is set, Planning staff will immediately begin preparation of the Record on this case, with the intention of completing its preparation and distribution to the Council members as quickly as possible.

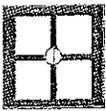
Respectfully submitted,

CITY OF HILLSBORO PLANNING DEPARTMENT



Genny Bond
Urban Planner II

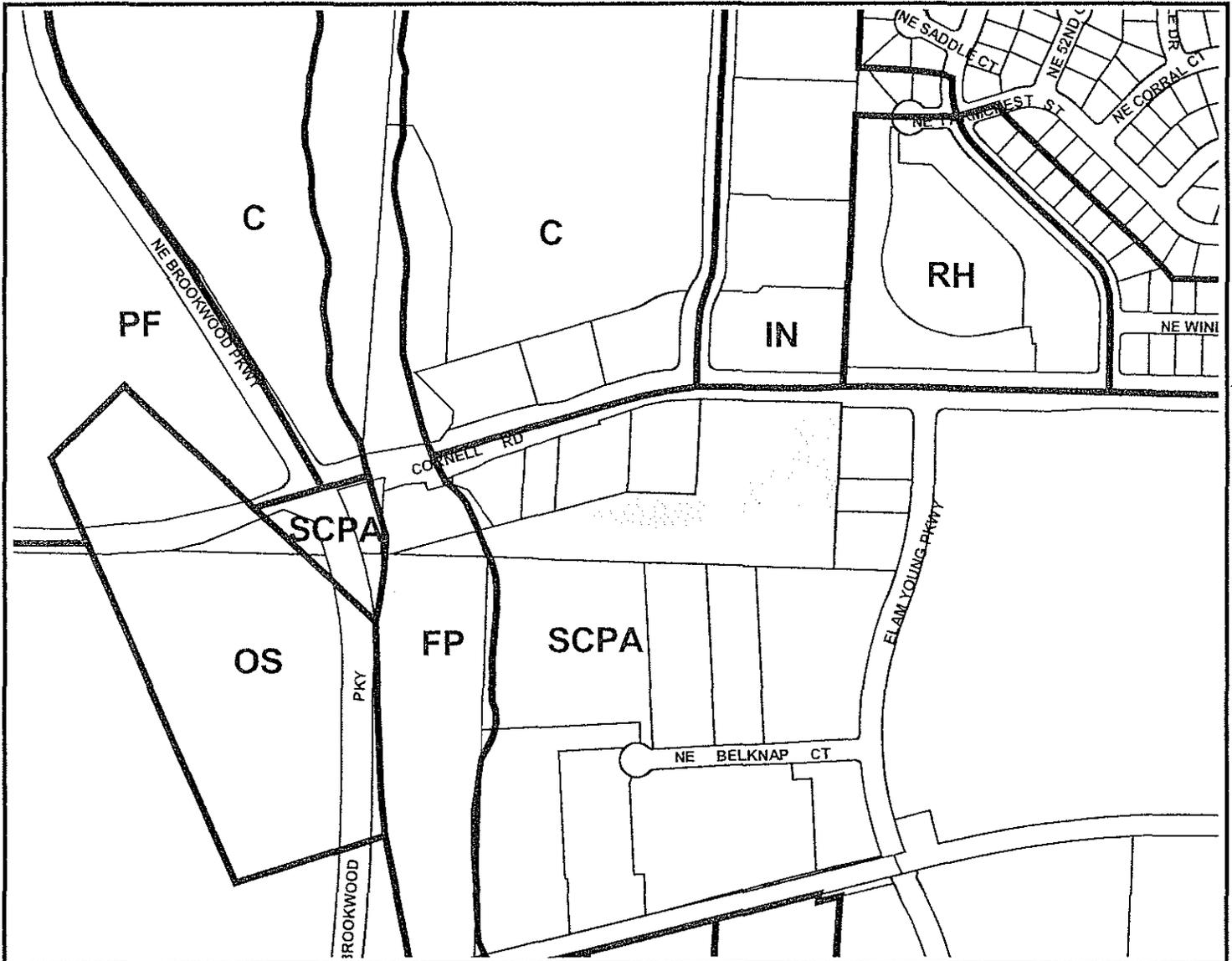
- Attachments:
- Comprehensive Plan Map
 - Zoning Map
 - Appeal form and supplemental materials
 - City Council Resolution No. 1620
 - Planning and Zoning Hearings Board Opinion No. 1662



NCU 1-07: SECURE STORAGE PHASE II



REQUEST FOR NON-CONFORMING USE APPROVAL FOR EXPANSION OF AN EXISTING STORAGE FACILITY ON ONE PROPERTY APPROXIMATELY 7 ACRES IN SIZE IN THE SCBP STATION COMMUNITY BUSINESS PARK ZONE.

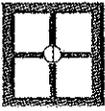


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Comprehensive Plan Designations

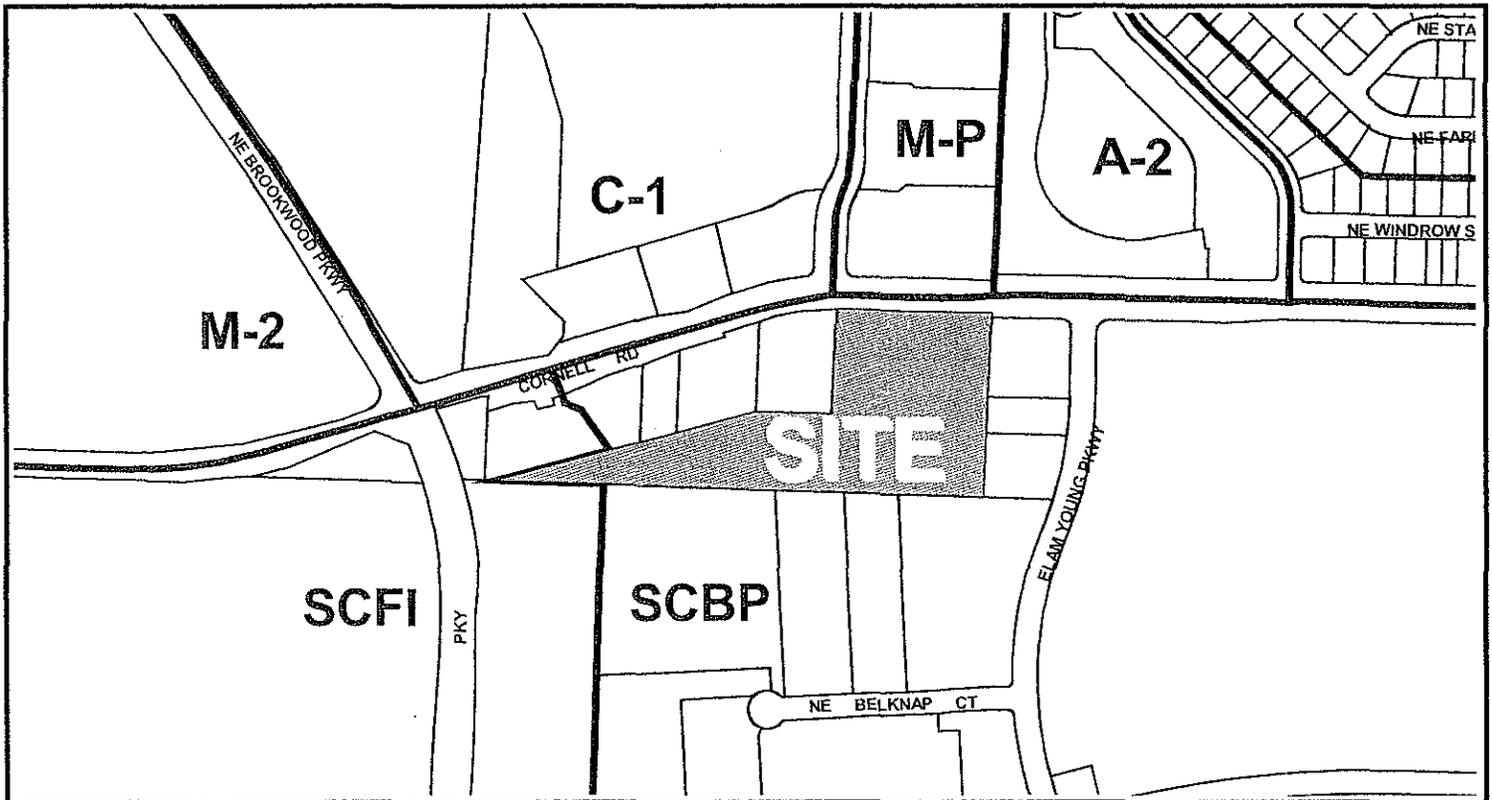
RL - Low Density Residential (3-7 units per acre)	C - Commercial	MU - Mixed Use
RM - Medium Density Residential (8-16 units per acre)	IN - Industrial	CO - County
RH - High Density Residential (17-23 units per acre)	PF - Public Facility	
RMR - Mid-Rise Residential (24 - 30 units per acre)	OS - Open Space	
SCPA - Station Community Planning Area	FP - Floodplain	



NCU 1-07: SECURE STORAGE PHASE II



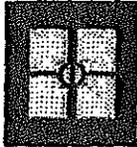
REQUEST FOR NON-CONFORMING USE APPROVAL FOR EXPANSION OF AN EXISTING STORAGE FACILITY ON ONE PROPERTY APPROXIMATELY 7 ACRES IN SIZE IN THE SCBP STATION COMMUNITY BUSINESS PARK ZONE.



0 400 800 1200 1600 2000 2400 2800 Feet

City of Hillsboro Zoning Designations

R-6	Single Family Residential	R-8.5	Single Family Residential	A-1	Duplex Residential
R-7	Single Family Residential	R-10	Single Family Residential	A-2	Multi-Family Residential
SCC-SC	Station Community Commercial - Station Commercial			A-3	Multi-Family Residential
SCC-MM	Station Community Commercial - Multi-Modal			A-4	Multi-Family Residential
SCC-CBD	Station Community Commercial - Central Business District			C-1	General Commercial
SCC-HOD	Station Community Commercial - Highway Oriented District			C-4	Neighborhood Commercial
SCBP	Station Community Business Park			PUD	Planned Unit Development
SCR-P	Station Community Research Park			M-2	Industrial
SCI	Station Community Industrial			M-P	Industrial Park
SCR-HD	Station Community Residential - High Density			SID	Special Industrial District
SCR-MD	Station Community Residential - Medium Density			SSID	Shute Special Industrial District
SCR-LD	Station Community Residential - Low Density			CO	Unincorporated County
SCR-V	Station Community Residential - Village			ANX	Recent Annexation
SCFI	Station Community Fair Complex Institutional			MU-N	Mixed Use - Neighborhood
SCR-OTC	Station Community Residential - Orenco Townsite Conservation Overlay			MU-C	Mixed Use - Commercial
SCR-DNC	Station Community Residential - Downtown Neighborhood Conservation				



150 East Main Street, Hillsboro, OR 97123
4th Floor • 503/681-6153
FAX 503/681-6245
www.ci.hillsboro.or.us

LAND USE APPEAL APPLICATION

Please print legibly using black/dark blue ink or type. Appellants are encouraged to review the submittal criteria and requirements on the following page prior to completing this application.

APPEAL OF CASE FILE NO.: (i.e.: PUD 1-05) NCU 1-07

Date of Decision: 9/5/07 Decision-making Body: Planning & Zoning Hearings Board

APPELLANT(S) if more than one appellant, attach names with signatures and addresses on a separate sheet of paper.

Appellant(s) Name/Contact: Azore Enterprises, LLC / Bradley M. Ganz (Contact)

Business Name: _____ Phone Number: (503) 844-9009

Mailing Address: P. O. Box 2200 City/State/Zip: Hillsboro, OR 97123

Appellant's Signature: *Bradley M. Ganz* / member Date: 9/20/07

APPELLANT'S REPRESENTATIVE (if applicable)

Representative's Name/Contact: Steven L. Pfeiffer

Business Name: Perkins Coie LLP Phone Number: (503) 727-2261

Mailing Address: 1120 NW Couch, Tenth Floor City/State/Zip: Portland, OR 97209

Representative's Signature: *Steven L. Pfeiffer* Date: 9/20/07

SITE DESCRIPTION

Tax Map #(s) 1N2 33AA Tax Lot #(s) 1500

Frontage Street or Address NE Cornell

APPEAL HEARING REQUESTED Please check one of the following:

- On the Record (No new testimony admissible.)
- De Novo (New testimony admissible on all issues.)
- Limited De Novo (New testimony limited to specified issues.)

REASON FOR REQUEST

Please attach a written statement responding to the applicable statements below:

- The reason I wish to appeal is...
- The decision is in error because...
- The following provisions of the Hillsboro Comprehensive Plan goals or policies were/were not considered or were in error...
- The following provisions of the Hillsboro Zoning and/or Subdivision Ordinance were/were not considered or were in error...

(For Office Use Only)

Appeal Accepted by _____ Date _____

Fee(s) Paid _____ Receipt # _____



1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
PHONE: 503.727.2000
FAX: 503.727.2222
www.perkinscoie.com

Steven L. Pfeiffer
PHONE: (503) 727-2261
FAX: (503) 346-2261
EMAIL: SPfeiffer@perkinscoie.com

September 20, 2007

VIA MESSENGER

Mayor Tom Hughes
City of Hillsboro
Attn: City Recorder
150 E. Main Street, Fifth Floor
Hillsboro, OR 97123

Re: Case File No. NCU 1-07, Appeal of Decision by the Planning and Zoning Hearings Board.

Dear Mayor Hughes and Members of City Council:

This office represents Azore Enterprises, LLC, which is the owner of real property in close proximity to the property which is the subject of the above-referenced application. The Planning and Zoning Hearings Board ("Board") approved with conditions the application for substantial expansion of the existing non-conforming use of mini-storage units. As expressed in our testimony to the Board, we believe that its interpretation and application of the key criterion of "practical difficulty and unnecessary hardship" is contrary to the clear intent and purpose of the City's regulation of enlargement or expansion of non-conforming uses, and, accordingly, is in violation of applicable law and unsupported by substantial evidence in the record. A copy of our written testimony to the Board dated August 15, 2007 is attached for reference.

Accordingly, we are filing this appeal of the decision pursuant to Hillsboro Zoning Ordinance ("HZO") Section 118.

1. Decision Appealed.

Appellant appeals the Planning and Zoning Hearings Board's decision approving with conditions Case File No. NCU 1-07. The Board made its decision on September 5, 2007 and mailed notice of the decision to parties with standing on September 6, 2007.

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2. Appellant's Standing.

Pursuant to HZO Section 118, Azore Enterprises, LLC has standing to appeal the decision because it is an affected party who participated in the August 15, 2007 hearing. Further, the issues upon which this appeal is based were raised during the review proceedings before the Board. Azore Enterprises, LLC has filed this written appeal explaining the basis for its appeal within the time required by the HZO, accompanied by the appeal application form and appropriate filing fee.

3. Specific Grounds for Appeal.

Secure Storage seeks expansion of its existing mini-storage units to allow a 20% increase, or 15,500 square feet, above the existing 77,607 square feet of floor area on the site developed for such non-conforming use. Section 136V1(C) of Zoning Ordinance No. 1945, among other provisions, governs expansion of restricted uses and provides as follows:

. . . a restricted use lawfully in existence as of the effective date of this Ordinance shall be allowed to increase its size through contiguous expansion up to a maximum of 20 percent (20%) of the gross floor area existing as of the effective date of this ordinance provided the requirements of Section 99 Enlargement or Expansion of Non-Conforming Uses, the requirements of Section 133 Development Review/Approval of Plans, and the standards of Sections 137 through 142 are met. (Emphasis added).

Section 99 provides that the Hearings Board may authorize enlargement or expansion of a non-conforming use up to 20 percent (20%) in floor area, but only upon a demonstration of "practical difficulty or unnecessary hardship." "Practical difficulty or unnecessary hardship" is a traditional variance standard, about which the Land Use Board of Appeals (LUBA) has stated,

Practical difficult[y] or unnecessary hardship is a demanding standard, requiring proof that the benefits of property ownership would be prevented by strict enforcement of zoning regulations. While no precise definition of the terms is available to guide decision makers, judicial precedent makes it clear that the difficulties must be more than an obstruction of the personal desires of the landowner."

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Corbett/Terwilliger Neigh. Assoc. v. City of Portland, 16 Or LUBA 49, 60-61 (1987) (citing *Erickson v. City of Portland*, 9 Or App 256, 496 P2d 726 (1972)).

The Board approved applicant's request under the above criteria; however, the Board's approval of an expansion of the non-conforming use is not supported by any substantial evidence in the application and is contrary to law. First, non-conforming uses are not favored in Oregon because, by definition, they detract from the effectiveness of comprehensive plan regulation. *Fraley v. Deschutes County*, 32 Or LUBA 27 (1996) (citing *Clackamas Co. v. Portland City Temple*, 13 Or App 459, 511 P2d 412 (1973)). To this end, the Land Use Board of Appeals has held:

"Accordingly, provisions for the continuation of nonconforming uses are strictly construed against continuation of the use, and, conversely, provisions for limiting nonconforming uses are liberally construed to prevent continuation or expansion of nonconforming uses as much as possible."

Portland City Temple, Inc. v. Clackamas County, 11 Or LUBA 70 (1984) (citing *Parks v. Tillamook Co. Comm./Spliid*, 11 Or App 177, 501 P2d 85 (1972)).

It is clear that, when interpretation and application is required, the criteria set forth in Section 99 regarding expansion of a non-conforming use are to be construed so as to prevent continuation, let alone the expansion of a non-conforming use. In furtherance of this objective, by the terms of the City's own code, an expansion of a non-conforming use may only be approved in the case of "practical difficulty or unnecessary hardship." While no precise definition of these terms is available to guide decision-makers, other cases make clear that this traditional variance standard is not properly construed to allow approval of variances so that applicants for land use approval can "maximize" allowable uses or simply to accommodate a landowner's particular developmental desires. See *Wentland v. City of Portland*, 22 Or LUBA 15 (1991) (citing *Corbett/Terwilliger Neigh. Assoc. v. City of Portland*, 19 Or LUBA 1 (1990) and *Lovell v. Independence Planning Comm.*, 37 Or App 3, 586 P2d 99 (1978)); see also *Roberts v. City of Lake Oswego*, 23 Or LUBA 302 (1992) (stating that the mere fact that the current requirements of the Code prevent the applicant from obtaining the maximum density otherwise allowable under the zone is not an "unnecessary" hardship).

Furthermore, LUBA has found that a property right does not necessarily include a right to expand a present use, contrary to the Board's findings in this matter. *Northeast Neighborhood Assoc. v. City of Salem*, 4 Or LUBA 221 (1981). In *Northeast Neighborhood Assoc.*, LUBA held that a church was not entitled to a variance allowing it to expand since a property right does not

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include a right to expand the present use and because LUBA found the church already enjoyed a substantial property right in that it existed and was allowed to continue to exist.

For reasons similar to those above, Secure Storage's application for expansion of a non-conforming use fails to demonstrate compliance with the "practical difficulty or unnecessary hardship" criteria. Simply stated, Secure Storage argues that the best use by its measure for the remaining undeveloped portion of its property with no direct frontage on a public roadway and less than optimal alternate access is for expansion of an existing non-conforming use. However, this argument fails to explain what practical difficulty or unnecessary hardship to its property interests requires the need for expansion of a non-conforming use in the first instance, and particularly with regard to a site which currently supports 77,607 of non-conforming development. The applicant currently enjoys substantial economic albeit non-conforming use of its property, and there is no substantial evidence to support a claim that such continued use requires this proposed expansion. Moreover, the applicant offers no analysis of other allowed alternate conforming uses of this remaining portion of the parcel and instead merely offers the personal desire of Secure Storage to expand its current albeit non-conforming use of mini-storage units.

Finally, the Board's findings are inadequate to demonstrate that the "practical difficulty or unnecessary hardship" criteria are met. The Board makes the conclusory statement,

"Applicant has demonstrated there is little practical use for the site except an expansion of the existing use on the site or to sell the property to adjacent landowners. Since applicant has a right to develop its property and not to sell and since the development of the property is restricted as noted above, it would constitute a practical difficulty or unnecessary hardship to deny the Applicant the opportunity to expand the existing use"

Board's Opinion, p. 8.

However, the Board's analysis is flawed in that the property is already developed and being put to productive use. As mentioned above, the applicant's property rights do not necessarily include the right to expand an existing use. Under the Board's theory, the "hardship" that gives rise to the expansion of the non-conforming use is simply the applicant's inability to construct as much non-conforming storage as it would like to have on its property. This interpretation of the "unnecessary hardship" criterion is faulty and unsound, even under the deferential standard of review under *Clark v. Jackson County*, 313 Or 508, 836 P2d 710 (1992). See *Roberts v. City of Gearhart*, 38 Or LUBA 407 (2000).

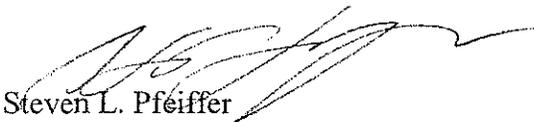
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Finally, it appears that any "practical difficulty or unnecessary hardship" in developing the property was self-imposed. As the Board's Opinion and the Staff Report point out, the applicant previously applied for, and received approval of, expansion of the current non-conforming mini-storage use, but allowed the approvals to lapse. In addition, as recited in the applicant's application narrative, dated May 24, 2007, the applicant requested, and was granted, consolidation of the tax lot containing frontage and the rear tax lot that had no frontage or access. The consolidation of the tax lots had the effect of stripping away the applicant's right to a way of necessity to gain access to what originally appears to have been a land-locked site. Had the tax lots remained separate, the rear lot could have been eligible for independent access. However, due to the actions of the applicant in consolidating the lots, the rear part of the site now has no frontage and limited access. The hardship that was brought upon the applicant by himself cannot constitute an appropriate reason under this criterion to allow the requested expansion. *See Boldt v. Clackamas County*, 21 Or LUBA 40 (1991) (stating that the traditional hardship standard is an exacting one which requires, among other things, that the hardship must be inherent in the land and must not be self-induced.).

4. Conclusion.

For the reasons set forth above, Secure Storage failed to meet the mandatory test required for expansion of a non-conforming use, and the Board's findings are, therefore, inadequate to demonstrate compliance with the test. Accordingly, the application should be denied.

Very truly yours,


Steven L. Pfeiffer

SLP:crl

Attachment

Cc: Deborah A. Raber (w/attach.)(via email)
Genny Bond (w/attach.)(via email)
Client (w/attach.)(via mail)

Steven Pfeiffer
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August 15, 2007

VIA EMAIL

Planning and Zoning Hearings Board
City of Hillsboro
150 E. Main Street
Hillsboro, OR 97123

Re: NCU 1-07: Secure Storage

Dear Board Members:

This office represents Azore Enterprises, LLC and Ganz Law, PC, which both own and occupy real property in close proximity to the property which is the subject of the above-referenced application. For the reasons set forth below, we oppose this proposal for substantial expansion of the existing non-conforming use of mini-storage units. Please include this letter in the record of the Board's review proceedings.

As the Board well knows, the placement of the subject property in the Station Community Planning Area (SCPA) was the result of a policy decision made long ago that involved the need and desire for pedestrian-friendly mixed-use developments near light rail transit stations to provide an attractive place to live, work, shop, and recreate. By the express terms of this adopted policy and implementing ordinances, the use of the property as a mini-storage facility is non-conforming and disfavored in the SCPA. This established policy is based, in part, on the conclusion that mini-storage units fail to provide the appropriate level of employee density for property near light rail transit stations and aesthetics desired in pedestrian-sensitive areas.

The subject property is located in the Station Community Planning Area (SPCA) zone, and, more specifically, is located in the Station Community Business Park (SCBP) District. In general, the purpose of the SCPA zone is to promote transit-supportive and pedestrian sensitive mixed use developments in areas near light-rail transit stations. In the SCBP District, retail and service commercial uses are permitted, *but are limited in size and scope to those primarily serving the permitted uses of the District* and the community so these activities do not become a dominant use in the business park. Section 136II(L) (emphasis added).

Secure Storage seeks expansion of its existing mini-storage units to allow a 20% increase, or 15,500 square feet, above the existing 77,607 square feet of floor area on the site

developed for such non-conforming use. Section 136V1(C) of Zoning Ordinance No. 1945, among other provisions, governs expansion of restricted uses and provides as follows:

... a restricted use lawfully in existence as of the effective date of this Ordinance shall be allowed to increase its size through contiguous expansion *up to a maximum of 20 percent (20%)* of the gross floor area existing as of the effective date of this ordinance *provided the requirements of Section 99 Enlargement or Expansion of Non-Conforming Uses, the requirements of Section 133 Development Review/Approval of Plans, and the standards of Sections 137 through 142 are met.* (Emphasis added).

More importantly, Section 99 provides that the Hearings Board may authorize enlargement or expansion of a non-conforming use up to 20 percent (20 %) in floor area, but only upon a demonstration of "practical difficulty or unnecessary hardship." "Practical difficulty or unnecessary hardship" is a traditional variance standard, about which the Land Use Board of Appeals (LUBA) has stated,

Practical difficult[y] or unnecessary hardship is a demanding standard, requiring proof that the benefits of property ownership would be prevented by strict enforcement of zoning regulations. While no precise definition of the terms is available to guide decision makers, judicial precedent makes it clear that the difficulties must be more than an obstruction of the personal desires of the landowner."

Corbett/Terwilliger Neigh. Assoc. v. City of Portland, 16 Or LUBA 49, 60-61 (1987) (citing *Erickson v. City of Portland*, 9 Or App 256, 496 P2d 726 (1972)).

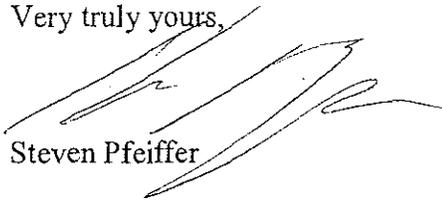
Secure Storage's application for expansion of a non-conforming use fails to demonstrate compliance with the "practical difficulty or unnecessary hardship" criteria. Simply stated, Secure Storage argues that the best use by its measure for the remaining undeveloped portion of its property with no direct frontage on a public roadway and less than optimal alternate access is for expansion of an existing non-conforming use. However, this argument fails to explain what practical difficulty or unnecessary hardship to its property interests requires the need for expansion of a non-conforming use in the first instance, and particularly with regard to a site which currently supports 77,607 of non-conforming development. The applicant currently enjoys substantial economic use of the property, and there is no substantial evidence to support a claim that such continued use requires this proposed expansion. Moreover, the applicant offers no analysis of other allowed alternate uses of this remaining portion of the parcel and instead merely offers the personal desire of Secure Storage to expand its current albeit non-conforming use of mini-storage units. In other words, nothing in the record supports the requisite conclusion

of a practical difficulty or unnecessary hardship which, absent such expansion, precludes the reasonable economic use of the property as a whole or serves as a bar to development of any other type of use allowed under the Ordinance.

Secure Storage fails to meet the mandatory test required for expansion of a non-conforming use, and, accordingly, the application should be denied.

Thank you for the opportunity to present these comments, and we look forward to the Board's decision on this application.

Very truly yours,



Steven Pfeiffer

SLP:crl

Cc: Client (via email)
Genny Bond (via email)

RESOLUTION NO. 1620

A RESOLUTION ADOPTING RULES OF PROCEDURE FOR THE CONDUCT OF HEARINGS RELATING TO LAND USE MATTERS AND RESCINDING RESOLUTION NO. 841-12-74.

WHEREAS, the City Council desires to adopt a uniform procedure to be applicable to all land use decisions before the Council, and which, at the discretion of the Council, may be made applicable to determinations of contested cases before the Council, and

WHEREAS, the City Council of the City of Hillsboro has previously conducted Public Hearings under rules of procedure adopted through Resolution No. 841-12-74, and

WHEREAS, the Council deems it desirable and in the public interest to modify the rules contained in Resolution No. 841-12-74:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HILLSBORO, OREGON: That the Council hereby adopts the rules attached hereto as Exhibit "A" which are thereby made a part of this Resolution.

BE IT FURTHER RESOLVED that Resolution No. 841-12-74 is hereby rescinded.

Introduced and passed this 16th day of April, 1991.

Dwight Huffman
Mayor

ATTEST:

Paul Waike
City Recorder

EXHIBIT "A"

RULES FOR CONDUCT OF LAND USE HEARINGS

Rule 1. Scope of Rules. These rules shall govern the conduct of hearings held by the Council which lead to or result in any form of land use decision as that term is defined by ORS Chapter 197, as it may be amended from time to time. Any other matters coming before the Council for hearing may be governed by any or all of these rules at the discretion of the Council.

Rule 2. Nature and General Conduct of Hearing.

(1) A hearing which will result in any form of land use decision related to a determination of the permissible use of specific property, is an administrative, quasi-judicial hearing and shall be conducted accordingly. Interested parties are, therefore, entitled to notice of hearing, as required by charter, ordinance or statute, and opportunity to be heard, to present and rebut evidence to a tribunal which is impartial, to have the proceedings recorded, to have a decision based on evidence received by the hearing body, and a decision supported by findings of fact based on the record.

(2) No person shall be disorderly, abusive or disruptive of the orderly conduct of the hearing.

(3) Each person wishing to testify shall first receive recognition from the Presiding Officer and shall state his or her full name and address for the record.

(4) No person shall present irrelevant, immaterial or unduly repetitious testimony or evidence; provided, however, that reports and documents prepared by City of Hillsboro personnel shall be deemed relevant, material and competent unless objected to by any interested party with good cause and at the first available opportunity.

(5) There shall be no audience demonstrations, such as cheering, display of signs or other conduct disruptive of the hearing.

(6) The Mayor or Presiding Officer shall have the authority to enforce the provisions of Rule 2 as provided in Rule 3 below.

Rule 3. Presiding Officer.

(1) The Mayor shall be the Presiding Officer at all hearings before the City Council. In the absence of the Mayor or

with the Mayor's consent, the Council President shall preside. In the absence of, or with the consent of the Mayor and in the absence of the Council President, the Council may designate one of its members, or any other officer or employee of the City to act as Presiding Officer at a hearing. A Presiding Officer who is neither the Mayor nor a Councilor, shall have no vote in the determination of the matter.

- (2) The Presiding Officer shall have authority to:
 - (a) Regulate the course and decorum of the hearing in accordance with these rules;
 - (b) Dispose of procedural requests or similar matters;
 - (c) Rule on offers of proof and relevance of evidence and testimony;
 - (d) Impose limitations on the number of witnesses heard and set time limits for the presentation of evidence; and
 - (e) Take such other action authorized by the Council appropriate for conduct of the hearing.

Rule 4. Burden and Nature of Proof.

- (1) The burden of proof is upon the applicant.

(2) If the applicant's request is for an amendment to the City's comprehensive plan, comprehensive plan map, zoning ordinance, subdivision ordinance or zoning map, the request must be supported by evidence that addresses applicable comprehensive plan, zoning or subdivision ordinance criteria. Any other request by an applicant must be supported by evidence that addresses all approval criteria contained in the zoning ordinance, subdivision ordinance or such other approval criteria that are identified in the procedure set out in Rule 6, Section 1.

Rule 5. Appeals From the Planning Commission or Planning and Zoning Hearings Board.

(1) As a matter of policy, the evidence to be considered by the City Council in appeals from decisions of the Planning Commission or Planning and Zoning Hearings Board shall be limited to that evidence made a matter of record during the

public hearing before the Planning Commission or Planning and Zoning Hearings Board.

(2) Prior to considering the evidence on appeal, the Council shall first receive the appeal at a regularly scheduled Council meeting and shall set a time certain for a hearing on the merits of the appeal. At the time of receiving the appeal, a Councilor, staff representative or any party who appeared below may request that the hearing on the merits before the Council be de novo. The Council, in its discretion, may permit a de novo hearing on the merits. The Council in its discretion, may also permit a partial de novo hearing, in which evidence and testimony shall be limited to one or more specific issues defined by the Council. The Council, in its discretion, may also remand the matter back to the Planning Commission or Planning and Zoning Hearings Board to receive further evidence. In its decision findings, the Council shall explain its reasons for allowing a de novo hearing on the merits or a partial de novo hearing.

(3) In the event the Council limits an appeal of a decision of the Planning Commission or Planning and Zoning Hearings Board to evidence made a matter of record during the hearing before the Planning Commission or Planning and Zoning Hearings Board, no testimony or evidence shall be received by the Council, and the decision shall be based solely on the evidence made a matter of record before the Planning Commission or Planning and Zoning Hearings Board.

(4) In the event the Council allows a partial de novo hearing, the Council through the Presiding Officer, shall accept only that testimony and evidence directly related to the specific issues defined by the Council.

Rule 6. Order of Testimony and Procedure.

(1) Introductory Statements. At the commencement of the hearing, the Presiding Officer shall make a statement to those in attendance that:

- (a) Describes the nature and purpose of the hearing;
- (b) Lists the applicable substantive criteria and states that such criteria are available in printed form in the hearing room;
- (c) Testimony and evidence must be directed toward the criteria listed pursuant to

Rule 6(1)(b) above or other criteria in the City's plan or land use regulations which the person believes applies to the decision;

- (d) Failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue preclude appeal to the Land Use Board of Appeals based on that issue.
- (e) Makes such other statements that are required by ORS Chapter 197, as amended from time to time; and
- (f) Summarizes the rules for the conduct of the hearing.

(2). Call for Abstentions.

- (a) Following the introductory statements in Section 1 above, the Presiding Officer shall inquire of the Council whether any member thereof wishes to abstain from participation in the hearing. The general public has a right to have councilors free from prehearing or ex-parte contacts on matters heard by them. It is recognized that a countervailing public right is free access to public officials on any matter. Therefore, Councilors shall reveal prehearing or ex-parte contacts with regard to any matter at the commencement of the public hearing on the matter. If such contacts have impaired the Councilor's impartiality or ability to vote on the matter, the Councilor shall so state and shall abstain. Any Councilor then abstaining, shall identify the reasons for abstaining, shall step down from the Council area and shall not participate in discussion of the proposal or vote on the proposal;
- (b) Any Councilor whose participation has been challenged by allegation of bias, prejudice, personal interest or partiality or who has been subject to ex-parte or prehearing contact with proponents or opponents may make a statement in response or in explanation for the record, and announce a decision to participate in the hearing. The

proponent or opponent, as appropriate, may offer a rebuttal statement;

- (c) No Councilor shall participate in discussion of the proposal or vote on the proposal when:
 - (i) any of the following has a direct or substantial financial interest in the proposal: The Councilor, or the Councilor's spouse, domestic partner, brother, sister, child, parent, father-in-law, mother-in-law, or any business in which the Councilor is then serving or has served within the previous two years or any business with which the Councilor is negotiating for or has an arrangement or understanding concerning prospective employment or a business relationship;
 - (ii) The Councilor owns property within the area entitled to receive notice of the public hearing; or
 - (iii) The Councilor has a direct personal interest in the proposal.
- (d) After discussion, the Council may determine that one of its members should abstain because of one or more of the factors listed above. The Presiding Officer shall inquire whether the Councilor will voluntarily abstain. If the Councilor does not voluntarily abstain, the Council may remove the Councilor upon a two thirds vote of the remaining Councilors.
- (e) No other officer or employee of the City who has a financial or other private interest shall participate in the discussion with or give an official opinion to the Council on the proposal without first declaring for the record the nature and extent of such interest.
- (f) Notwithstanding any provision of this or any other rule:

- (1) an abstaining or disqualified Councilor may be counted for purposes of forming a quorum; and
- (2) a Councilor may represent his or her own interest at a hearing provided that the Councilor:
 - (i) abstains from the vote on the proposal;
 - (ii) steps down from the Council area; and
 - (iii) makes full disclosure of the Councilor's status and position at the time of addressing the Council.

(3) Objections to Jurisdiction. Following the call for abstentions, the Presiding Officer shall inquire of the audience whether there are any objections to the jurisdiction of the Council to hear the matter, and, if such objections are received, conduct such further inquiry as necessary to determine the question. The Presiding Officer, upon motion and vote of the council, shall terminate the hearing if this inquiry results in substantial evidence that the Council lacks jurisdiction or the procedural requirements of the ordinance were not met. Any matter thus terminated shall, if the defect can be remedied, be rescheduled by the Council.

(4) Staff Report; Planning Commission or Planning and Zoning Hearings Board Recommendation. Following the Council procedures established in Rule 6 above, the appropriate staff representative shall summarize the nature and history of the proposal, the contents of the record and the findings and decision of the Planning Commission or other appropriate board or agency. The Presiding Officer may request a representative of the Planning Department or any other City Officer or employee to perform this duty.

(5) If any form of de novo hearing is granted, procedures outlined in Subsections (a) through (e) below shall follow after the staff report. If no de novo hearing is allowed, the Council shall proceed to deliberate as set forth in Section (e) below.

- (a) Proponent's Case. The applicant shall be heard first. After the applicant's presentation, any persons or groups who

support the application shall be heard. The Presiding Officer shall provide an opportunity for any Councilor to directly question, or staff to question through the Presiding Officer, the applicant or persons or groups who support the application;

- (b) Opponent's Case. Opponents shall next be heard. The Presiding Officer shall provide an opportunity for any Councilor to directly question, or staff to question through the Presiding Officer, any person or group opposed to the application;
- (c) The Applicant shall be allowed an opportunity to offer rebuttal evidence and testimony;
- (d) Continuation of Hearing. At the conclusion of testimony, the Council, in its discretion, may decide that additional testimony is needed, and may continue the hearing to a time certain. In the event of a continuance, the testimony shall not be repetitive of that previously given;
- (e) Close of Hearing and Deliberation by Council. The Presiding Officer shall, or the Council may, by vote, close the Public Hearing and deliberate the proposal. The Council shall either make its decision and state its findings, or direct the parties or staff to prepare findings for the Council's consideration and continue its deliberations to a subsequent meeting at a time certain. The subsequent meeting shall be for the purpose of continued deliberation and shall not allow for submission of any testimony or evidence.

Rule 7. Official Notice.

(1) The Council may take official notice of, and consider the following without the need to formally establish them through the introduction of evidence:

- (a) All facts which are judicially noticeable;
and

- (b) The Charter, ordinances, resolutions, rules, regulations and written official policies of the City of Hillsboro.

Rule 8. Record of Proceedings.

(1) The City Recorder or a designee of the Presiding Officer, shall be present at each hearing and shall cause the proceedings to be stenographically or electronically recorded. It shall not be necessary to transcribe testimony unless required for judicial review or unless ordered by the Council.

(2) The City Recorder shall receive all physical and documentary evidence presented which shall be marked to show the identity of the person offering the same and given an exhibit number for easy identification. Unless evidence is capable of being offered and incorporated in the record of the case, it shall not be received. All exhibits received into evidence shall be retained by the Council until after any applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon upon written demand by said person.

(3) Any member of the public shall have access to the record of the proceedings at reasonable times, places and circumstances. Any member of the public shall be entitled to copies of the record upon payment of a reasonable fee to the City.

Rule 9. Publication of Rules.

(1) These rules shall be:

- (a) Placed of record with the City Recorder; and
- (b) Posted within or near the entrance to the Council hearing room. Reference to these rules shall be made in all required notices relating to public hearings.

(2) These rules replace rules of procedure previously adopted by the Council, either by ordinance or resolution, for the conduct of Council meetings.

Rule 10. Departures from the Procedures established by these and other rules relating to land use matters shall not cause the proceedings or any ruling, ordinance or resolution made or passed pursuant to such procedures to be void or ineffective unless such departure shall adversely affect the substantial rights of interested persons. Departure from procedural rules shall not render the proceedings or any ruling, ordinance or resolution void or ineffective unless proper objections pointing out the defect or departure is made during the public hearing.

3603517

BEFORE THE CITY OF HILLSBORO
PLANNING AND ZONING HEARINGS BOARD

File No. NCU 1-07
Opinion No. 1662

APPLICANT:

MDK Investments.

APPLICATION:

The applicant, MDK Investments, requests Hearings Board approval for expansion of a nonconforming use, specifically, the expansion of a mini-storage business. The request is submitted in accordance with Section 136.VI.C of the Hillsboro Zoning Ordinance. The property owner is MDK Investments. The subject parcel is designated Station Community Planning Area on the Hillsboro Comprehensive Plan, and is zoned SCBP (Station Community Business Park).

The subject parcel is the existing location of Secure Storage, a mini-storage facility consisting of 14 storage buildings, an office, and a caretaker's apartment. Pursuant to Section 136.VI.A.20, mini-storage units are restricted uses which are not allowed as new uses within 2,600 feet of a light rail station site; the subject parcel is within approximately 1,500 feet of the Hawthorne Farm station. However, the Secure Storage mini-storage was legally established on the site in 1994-95, prior to adoption of the light rail station area zoning and restrictions; thus, the mini-storage is a legally nonconforming use. The applicant requests approval for expansion of the nonconforming use to add three buildings to the Secure Storage parcel, adding a total of 15,500 square feet of mini-storage space to achieve a 20 percent expansion of the existing floor area. The applicant requests the expansion

pursuant to Section 136.VI.C. The applicant requests the maximum expansion allowed under that section of the Zoning Ordinance.

This application marks the third request for expansion of the mini-storage on this site. In 2001 the applicant received Hearings Board approval for two applications: 1) to expand the mini-storage (NCU 1-01/VAR 12-01); and 2) for a variance to expand the mini-storage beyond the 20 percent limit which applies to expansion of nonconforming uses (VAR 12-01). That proposed expansion would have added four new buildings to the site. Both applications were approved. Applicant states that the expansion was not completed for personal and financial reasons, and the approvals expired.

Two applications which mirrored the requests approved via NCU 1-01 and VAR 12-01 were submitted in late 2006 and were heard by the Hearings Board earlier this year. Both applications, however, were withdrawn prior to issuance of a decision, due in part to a determination that the variance standards could not be applied to allow expansion beyond the 20 percent maximum. In addition, the proposals included a request to add RV and boat storage to the site; during the review of the files, it was determined that RV and boat storage would constitute new uses on the site, and because these are listed as restricted uses in the Zoning Ordinance, they could not be permitted via expansion of the mini-storage.

The current request is for expansion to add three storage buildings, with the total expansion to comply with the 20 percent limit. The current proposal does not include RV or boat storage.

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PROPERTY:

The subject property is generally located south of NE Cornell Road, west of its intersection with NE Elam Young Parkway. The approximately 6.96-acre site is specifically identified as Tax Lot 1500 on Washington County Tax Map 1N2 33AA. A cell tower is located in the southern portion of the site, between the existing developed area and the proposed expansion area.

The subject parcel is irregular in shape. The existing developed portion of the Secure Storage business is connected to the rectangular easterly portion of the parcel, and the expansion is proposed within the roughly triangular westerly portion. Until 2001 the site consisted of two discrete parcels, which were consolidated by the property owner.

The existing developed portion of the site has frontage on NE Cornell Road, which is designated as a City arterial on the City of Hillsboro Transportation System Plan. Access will continue to be from the existing gated driveway onto Cornell Road.

The western portion of the site is within the 100-year flood plain of Dawson Creek. This area is traversed by Reach 5 of Dawson Creek along with its riparian zone and associated wetlands. The City of Hillsboro Significant Natural Resource overlay specifies a 25-foot impact buffer at the outer edge of the resource. According to the Clean Water Services Service Provider Letter (CWS File Number 06-003453), the proposed expansion will not extend into the wetland or riparian area, nor will it extend into the 50-foot vegetated corridor. Pursuant to the CWS letter, a recommended condition of approval of this application requires the applicant to upgrade the vegetated corridor from marginal to good condition as part

of the site development. Site topography ranges from gentle, west-facing slopes (3 to 5% gradient) in the proposed expansion area, extending to more severe slopes (approximately 15% gradient) in the natural resource area extending down to the creek.

A more complete description of the property including the surrounding area, public utilities and streets is contained in the staff report dated August 9, 2007 which is adopted and incorporated herein by reference.

HEARING DATE:

August 15, 2007.

BOARD MEMBERS:

Robert D. Greaves, Chair and Hearings Officer, Walter Hellman and George Fetzer.

SUMMARY OF HEARING:

A statement was made by the Hearings Officer to those in attendance, that testimony must be directed to the applicable criteria or such other criteria in the City's land use regulations, which a person testifying believes should be applied to the decision and, further, that failure to raise an issue with statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue, may preclude an appeal based on that issue. A further statement was made that failure to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government to

respond to the issue precludes an action by applicant for damages in Circuit Court. No ex parte contacts, bias or conflicts of interest were identified.

City staff summarized the Staff Report, including the applicable criteria and explained the recommended conditions if approval were granted.

Gary Moss appeared and testified on behalf of the application. He testified that the undeveloped portion of the subject site had a unique shape. He also said there was limited access because there was no frontage except through the developed portion of the site and that approximately one-third to one-half of the site was too steep or contained wetland which prevented development. He stated that these conditions constituted a practical difficulty. He also noted that Applicant was in agreement with the conditions of approval contained in the Staff Report.

Staff submitted a letter in opposition from Steven Pfeiffer, Esq. dated August 15, 2007. Mr. Pfeiffer's letter indicates that he represents Azore Enterprises, LLC., and Ganz Law, PC, both of which own and occupy real property in close proximity to the subject property. Mr. Moss stated that he had reviewed the letter and that Applicant had addressed the issue of practical difficulty in its written and oral testimony.

No other testimony or evidence was received prior to or at the hearing. The Board closed the hearing for deliberation.

APPROVAL CRITERIA:

Zoning Ordinance No. 1945, Section 136.VI specifies the approval criteria for a proposed non-conforming use as follows:

A. Within 2,600 feet of a light rail station site, except as otherwise provided below, the following uses are not transit-supportive and shall not be established as new uses, nor may existing uses or structures be converted to the following uses:

20. Mini-warehouses and/or mini-storage units.

Pursuant to the above subsection, mini-storage units could not be established as new uses. However, subsection C. of the same Zoning Ordinance section states that restricted uses (which have been legally established) may continue to exist and may be expanded:

C. Expansion of Restricted Uses

1. Except for drive-through facilities within 400 feet of a light rail station site and surface parking lots adjacent to light rail transit station sites, a restricted land use lawfully in existence as of the effective date of this Ordinance shall be allowed to increase its size through contiguous expansion up to a maximum of 20 percent (20%) of the gross floor area existing as of the effective date of this ordinance provided the requirements of Section 99, Enlargement or Expansion of Non-Conforming Uses, the requirements Section 133, Development Review/Approval of Plans, and the standards of Sections 137 through 142 are met.

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Section 99 reads as follows:

Section 99. Enlargement or Expansion of Nonconforming Use.
In case of practical difficulty or unnecessary hardship, the Hearings Board may authorize enlargement or expansion of a nonconforming use up to 20 percent in floor area or, in those cases not involving structures, up to 10 percent in land area, as existing on the effective date of this Ordinance. In no case, however, shall such enlargement or expansion result in an increase in the number of dwelling units in excess of the number permitted for the lot in the zone in which it is located.

FINDINGS OF FACT:

The factual information contained in the Staff Report dated August 9, 2007, and in the applicant's written application dated May 24, 2007 and accompanying materials are each adopted and incorporated herein by this reference.

In addition, the Board made the following additional findings with regard to this application:

1. Applicant has provided substantial, persuasive evidence in response to each of the above approval criteria. These responses are found in Applicant's written land use application for non-conforming use expansion and a letter dated May 24, 2007 attached to the non-conforming use application. The Board has reviewed the proposed findings contained therein, concurs with them and adopts them by

reference herein. Accordingly, Applicant has met its burden of proof.

2. Applicant's application demonstrates compliance with the "practical difficulty or unnecessary hardship" criteria in Section 99. The undeveloped portion of the subject site has an odd triangular configuration and no frontage except through the developed portion of the subject site. Also, a significant portion of the subject site is too steep for development and/or contains wetland which limits development options. Applicant has demonstrated there is little practical use for the site except an expansion of the existing use on the site or to sell the property to adjacent landowners. Since Applicant has a right to develop its property and not to sell and since the development of the property is restricted as noted above, it would constitute a practical difficulty or unnecessary hardship to deny Applicant the opportunity to expand the existing use within the parameters set forth in Zoning Ordinance No. 1945, Section 136.IV.A and Section 99.
3. Opponent's letter argues that there is no substantial evidence or analysis to demonstrate that the remaining portion of the parcel could not be utilized for something other than an extension of the non-conforming use. Opponent is mistaken. Applicant's written narrative specifically addresses how the

limited access to the undeveloped portion of the site essentially prohibits any other reasonable and allowable development of the site.

4. For example, Applicant's written narrative demonstrates that adequate frontage is essential to do business in a commercially zoned district, especially in an SCPA zone where customers not using automobiles must be able to see a business, identify the goods and services offered there, and obtain access. Without such frontage, as in this case, the uses that are viable are severely limited.
5. This Phase II parcel is located in the rear of all adjacent properties, making it difficult to gain access for a new use under the SCPA zone. In addition there are additional safety limitations by the Airport FARs which limit development by capping the floor area ratio. This is in direct contrast to the SCPA zone which promotes density, thereby creating a unique land use challenge for this parcel. Applicant has demonstrated that the best use of this parcel is to expand the existing self-storage facility. In expanding this property into additional self-storage units the Applicant will provide access to the parcel as well as meet all criteria set forth in Zoning Ordinance No. 1945 and the FAR's.
6. In addition, during the hearing Mr. Moss testified that he had been in negotiations with Mr. Ganz, one of Mr. Pfeiffer's

clients, regarding sale of the property and that those negotiations were not successful. Accordingly, although not required to do so, Applicant did explore selling the property to adjacent land owners as an alternative use, but was unsuccessful.

7. The standards of Section 133, and 137-142 will be addressed through the development review application which will be required prior to construction of this project.
8. Section 137.IV.B.7 provides that the Phase II portion of the subject site is subject to a 0.3 floor area ratio (FAR) cap. According to the information in plans submitted by the Applicant the proposed 15,500 square foot expansion on the Phase II portion will have an FAR of 0.3, which complies with the cap mandated by this standard.
9. Applicant has indicated that the perimeter treatment for the site will include solid wood fencing and landscaping to screen the site. This will be important along the north and south edges of the property to screen the appearance of the expansion area from the properties to the north and south.
10. Comments were received from the City's building department and fire department. Those comments are summarized in the Staff Report and will be addressed during development review as a condition of approval.

DECISION:

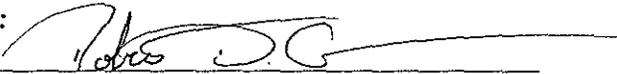
The applicant has met the criteria for expansion of a legally nonconforming use, subject to the following conditions of approval :

1. Prior to applying for building permits, the applicant shall apply for and receive Development Review approval as governed by Section 133 of the City of Hillsboro Zoning Ordinance. At a minimum, plans submitted for development review shall include perimeter treatment to include solid fencing along the north and south edges of the expansion area, accompanied by landscaping which includes taller species to soften the appearance of the upper portions of each building as viewed from the north, northwest, and south.
2. Uses on this site shall be limited to mini-storage. Uses such as storage of recreational vehicles and/or boats are not approved through this land use decision.

DATE OF DECISION:

September 5, 2007.

PLANNING AND ZONING HEARINGS BOARD

By: 

Robert D. Greaves, Chair

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Board Member Action:

Signature

Agree/Object

Date

Walter Hellman
Walter Hellman

Agree

9/5/07

George Fetzer
George Fetzer

Agree

9/5/07

RESOLUTION NO. ~~2225~~

LOE
(REVISED)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HILLSBORO, OREGON
DECLARING THE NEED TO ACQUIRE CERTAIN PROPERTY FOR THE PURPOSE OF
MAKING STREET AND RIGHT-OF-WAY IMPROVEMENTS TO SE 10TH AVENUE.**

WHEREAS, the Hillsboro City Charter grants the City authority to acquire land for public purposes;
and

WHEREAS, the City of Hillsboro is additionally authorized and empowered by the terms of ORS
223.005 to appropriate real property within or without its corporate limits for street and other public
purposes; and

WHEREAS, the City Council has deemed necessary and in the public interest to acquire certain
property for the purpose of improving streets within the City so as to promote the health, safety and
general welfare of the public.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HILLSBORO
THAT:

Section 1. The Hillsboro City Council hereby finds and declares that there is needed and required
for the citizens of Hillsboro the construction, operation, maintenance, repair and improvement of the
certain streets and other public rights-of-way located on property both within and without the City limits
in Washington County, Oregon described in Exhibits "1" through "8" attached hereto and incorporated
herein by this reference; and

Section 2. The real property described herein is required and necessary and is being taken by the
City of Hillsboro in the public interest for the construction of certain streets to enhance the movement of
pedestrian and vehicular traffic in and around the City and the improvement to said property will be
planned, designed, located and constructed in a manner that will be most compatible with the greatest
public benefit and the least private injury or damage; and

Section 3. The Hillsboro City Manager and the City's attorneys or their designees are authorized
to attempt to agree with the owners and other persons with interest in the real property described in
Exhibits "1" through "8" as to the compensation to be paid for the appropriation of the property and in the
event that no satisfactory agreement can be reached, then the attorneys for the City are directed and
authorized to commence and prosecute to final determination such proceedings as may be necessary to
acquire the real property and interest therein and that upon the filing of such proceeding, possession of the
real property and interest therein may be taken immediately to the extent provided by law.

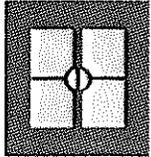
Section 4. This resolution is effective immediately following adoption by the City Council and
signature by the Mayor.

Approved and adopted by the Hillsboro City Council at a regular meeting held on the 2nd of October,
2007.

Mayor Tom Hughes

ATTEST: _____
City Recorder

}
Signature block
has been
slightly revised.
AD



Public Works Department, Engineering Division

Date: October 2, 2007
To: Mayor and City Council
From: Tom Arnold, Project Manager
Subject: Authorization of eminent domain proceedings to acquire property for the widening of SE 10th Avenue between E. Main Street and SE Baseline Road.

As you may be aware, the City of Hillsboro has entered into an agreement with the Oregon Department of Transportation for the widening of SE 10th Avenue between E. Main Street and SE Baselines Street. The project encompasses the addition of a second southbound right turn lane which will alleviate vehicular congestion caused by conflicts with vehicles traveling southbound and those traveling westbound at the intersection of SE Baseline Road which results in excessive delays and a potential safety hazard due to intermittent queuing across the light rail tracks.

Preliminary design of the improvements is complete and federal funding can now be obligated to start the property acquisition phase of the project. However, a declaration of necessity from the local agency is required prior to the start of the acquisition phase. A resolution declaring the necessity to acquire property from eight (8) parcels is attached for your review and consideration. This Resolution gives the property owners formal notice that there is a public need for the property and that the City intends to continue efforts to negotiate the acquisition of their property. In the event the City is unable to reach agreement on an equitable transaction, the Resolution further authorizes the City to undertake action to acquire the necessary property under the power of eminent domain and to take possession of the property in a timely fashion to meet the project schedule.

If agreeable, it is hereby requested that City Council authorize the execution of this Resolution by signature of the Mayor and City Recorder. Transportation Committee recommendation forwarded on September 25, 2007.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HILLSBORO, OREGON
DECLARING THE NEED TO ACQUIRE CERTAIN PROPERTY FOR THE PURPOSE OF
MAKING STREET AND RIGHT-OF-WAY IMPROVEMENTS TO SE 10TH AVENUE.**

WHEREAS, the Hillsboro City Charter grants the City authority to acquire land for public purposes; and

WHEREAS, the City of Hillsboro is additionally authorized and empowered by the terms of ORS 223.005 to appropriate real property within or without its corporate limits for street and other public purposes; and

WHEREAS, the City Council has deemed necessary and in the public interest to acquire certain property for the purpose of improving streets within the City so as to promote the health, safety and general welfare of the public.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HILLSBORO THAT:

Section 1. The Hillsboro City Council hereby finds and declares that there is needed and required for the citizens of Hillsboro the construction, operation, maintenance, repair and improvement of the certain streets and other public rights-of-way located on property both within and without the City limits in Washington County, Oregon described in Exhibits "1" through "8" attached hereto and incorporated herein by this reference; and

Section 2. The real property described herein is required and necessary and is being taken by the City of Hillsboro in the public interest for the construction of certain streets to enhance the movement of pedestrian and vehicular traffic in and around the City and the improvement to said property will be planned, designed, located and constructed in a manner that will be most compatible with the greatest public benefit and the least private injury or damage; and

Section 3. The Hillsboro City Manager and the City's attorneys or their designees are authorized to attempt to agree with the owners and other persons with interest in the real property described in Exhibits "1" through "8" as to the compensation to be paid for the appropriation of the property and in the event that no satisfactory agreement can be reached, then the attorneys for the City are directed and authorized to commence and prosecute to final determination such proceedings as may be necessary to acquire the real property and interest therein and that upon the filing of such proceeding, possession of the real property and interest therein may be taken immediately to the extent provided by law.

Section 4. This resolution shall be and is deemed to be effective as of the date of its adoption by the Council.

Introduced and adopted by the City Council of the City of Hillsboro, Oregon on this second day of October, 2007.

Mayor Tom Hughes

ATTEST: _____
City Recorder

FILE ADDENDUM

(NOT to be included with Exhibit A)

File 001

Drawing Sketch Map
D. Gary Hutcheson, DEA – 08/28/07

S.E. 10th Avenue: E Main Street – S.E. Baseline Street Section
Washington County

Robert A. Baker
Parcels 1, 2, 3 and 4

Parcel 1 access language: None.

Parcel 2 access language: None.

Parcel 3 access language: None.

Parcel 4 access language: None.

These parcels lie within the SE¼ of Section 31, T 1 N, R 2 W, W.M.

These parcels lie within Tax Lots 1-2W-31DD-8500 and 8501 of Washington County.

Remainder: 6581 square feet, more or less.

Prior files, recorded documents, and access control:

Parcel 1:	2958 square feet, more or less.
Parcel 2:	1421 square feet, more or less.
Parcel 3:	2242 square feet, more or less.
Parcel 4:	317 square feet, more or less.
Remainder:	6581 square feet, more or less.

(EXHIBIT A - NEXT PAGE)

Parcel 1 – Fee

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lots 7 and 8, Block 8, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Deed of Personal Representative to Robert A. Baker, recorded March 23, 2006 as Document Number 2006-033468, Washington County Book of Records; the said parcel being that portion of said property included in a strip of land variable in width lying on the Westerly side of the center line of S.E. 10th Avenue, which center line is described as follows:

Beginning at a point at said S.E. 10th Avenue Engineer's center line Station 444+04.50, said station being 1615.13 feet South and 41.05 feet West of the North Quarter Corner of Section 31 and Section 6, Township 1 South, Range 2 West, W.M.; thence North 02° 25' 05" East 795.50 feet to Engineer's center line Station 452+00.00.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
444+66.00		444+96.65	90.05 in a straight line to 70.70
444+96.65		445+32.53	70.70 in a straight line to 67.80
445+32.53		446+29.00	67.80

Bearings are based on Oregon Coordinate System of 1983(98), north zone.

This parcel of land contains 2958 square feet, more or less.

Parcel 2 – Fee

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 8, Block 8, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Deed of Personal Representative to Robert A. Baker, recorded March 23, 2006 as Document Number 2006-033468, Washington County Book of Records; the said parcel being that portion of said property included in a strip of land variable in width lying on the Westerly side of the center line of S.E. 10th Avenue, which center line is described in Parcel 1.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
444+33.80		444+40.85	144.00
444+40.85		444+47.40	144.00 in a straight line to 114.20
444+47.40		444+66.00	114.20 in a straight line to 90.05

This parcel of land contains 1421 square feet, more or less.

Parcel 3 – Temporary Easement For Work Area (3 Years or Duration of Project, Whichever is Sooner)

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lots 7 and 8, Block 8, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Deed of Personal Representative to Robert A. Baker, recorded March 23, 2006 as Document Number 2006-033468, Washington County Book of Records; the said parcel being that portion of said property in a strip of land 10.00 feet in width, lying Southerly of and adjoining the Northerly line of said property.

TOGETHER with a strip of land variable in width lying on the Westerly side of the center line of S.E. 10th Avenue, which center line is described in Parcel 1.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
444+66.00		444+72.84	106.44 in a straight line to 97.56
444+72.84		444+99.93	97.56 in a straight line to 80.47
444+99.93		445+32.53	80.47 in a straight line to 77.80
445+32.53		446+00.40	77.80
446+00.40		446+15.75	77.80 in a straight line to 90.45

EXCEPT therefrom Parcel 1.

This parcel of land contains 2242 square feet, more or less.

Parcel 4 – Temporary Easement For Work Area (3 Years or Duration of Project, Whichever is Sooner)

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 8, Block 8, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Deed of Personal Representative to Robert A. Baker, recorded March 23, 2006 as Document Number 2006-033468, Washington County Book of Records; the said parcel being that portion of said property included in a strip of land variable in width lying on the Westerly side of the center line of S.E. 10th Avenue, which center line is described in Parcel 1.

The width in feet of said strip of land is as follows:

<u>Station</u>	<u>to</u>	<u>Station</u>	<u>Width on Westerly Side of Center Line</u>
444+50.43		444+56.69	147.00 in a straight line to 118.53
444+56.69		444+66.00	118.53 in a straight line to 106.44

EXCEPT therefrom Parcel 2.

This parcel of land contains 317 square feet, more or less.

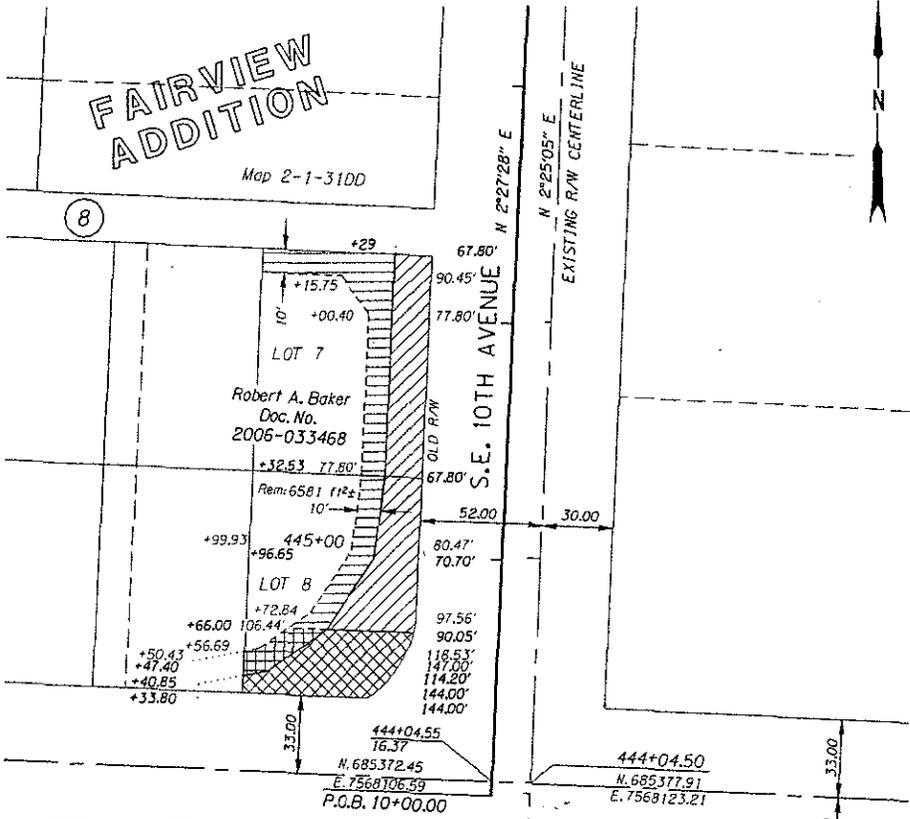
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SEC. 31, T. 1 N., R. 2 W., W.M.

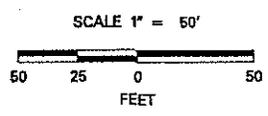
**FAIRVIEW
ADDITION**

Map 2-1-3100

(8)



LEGEND	
	FEE ACQUISITION (WASH. CO.) 2958± SQ. FT.
	FEE ACQUISITION (ODOT) 1421± SQ. FT.
	TEMPORARY EASEMENT FOR WORK AREA (WASH. CO.) 2242± SQ. FT.
	TEMPORARY EASEMENT FOR WORK AREA (ODOT) 317± SQ. FT.



OREGON DEPARTMENT OF TRANSPORTATION RIGHT OF WAY ENGINEERING SKETCH MAP	Section	East Main Street - S.E. Baseline Street		
	Highway	S.E. 10th Avenue		
	County	Washington	Scale	1" = 50'
	Purpose	Fee Acquisition	Date	Aug. 28, 2007
	File	001		

FILE ADDENDUM

(NOT to be included with Exhibit A)

File 002

Drawing Sketch Map

D. Gary Hutcheson, DEA – 08/28/07

S.E. 10th Avenue: E Main Street – S.E. Baseline Street Section
Washington County

Eloise J. Green and Ellen P. Bump
Parcels 1, 2, 3 and 4

Parcel 1 access language: None.

Parcel 2 access language: None.

Parcel 3 access language: None.

Parcel 4 access language: None.

These parcels lie within the SE¼ of Section 31, T 1 N, R 2 W, W.M.

These parcels lie within Tax Lot 1-2W-31DD-8100, 8200, 8300 and 8400 of Washington County.

Remainder: 31898 square feet, more or less.

Prior files, recorded documents, and access control:

Parcel 1: 96 square feet, more or less.
Parcel 2: 489 square feet, more or less.
Parcel 3: 540 square feet, more or less.
Parcel 4: 1845 square feet, more or less.
Remainder: 31898 square feet, more or less.

(EXHIBIT A - NEXT PAGE)

Parcel 1 – Fee

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 8, Block 8, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Bargain and Sale Deed to Eloise J. Green, recorded June 27, 2003 as Document Numbers 2003-104618, 2003-104620 and 2003-104622, and also described in that Statutory Warranty Deed to Ellen P. Bump, recorded August 5, 1991 as Document Numbers 91042216 and 9104225, all Washington County Book of Records; the said parcel being that portion of said property included in a strip of land variable in width lying on the Westerly side of the center line of S.E. 10th Avenue, which center line is described as follows:

Beginning at a point at said S.E. 10th Avenue Engineer's center line Station 444+04.50, said station being 1615.13 feet South and 41.05 feet West of the North Quarter Corner of Section 31 and Section 6, Township 1 South, Range 2 West, W.M.; thence North 02° 25' 05" East 795.50 feet to Engineer's center line Station 452+00.00.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
444+33.80		444+40.85	144.00
444+40.85		444+47.40	144.00 in a straight line to 114.20

Bearings are based on Oregon Coordinate System of 1983(98), north zone.

This parcel of land contains 96 square feet, more or less.

Parcel 2 – Temporary Easement For Work Area (3 Years or Duration of Project, Whichever is Sooner)

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 8, Block 8, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Bargain and Sale Deed to Eloise J. Green, recorded June 27, 2003 as Document Numbers 2003-104618, 2003-104620 and 2003-104622, and also described in that Statutory Warranty Deed to Ellen P. Bump, recorded August 5, 1991 as Document Numbers 91042216 and 9104225, all Washington County Book of Records; the said parcel being that portion of said property in a strip of land 10.00 feet in width, lying Northerly of and adjoining Parcel 1.

TOGETHER with a strip of land 8.90 feet in width, lying Northerly of and adjoining the Southerly line of said property.

EXCEPT therefrom Parcel 1 and the west 15.50 feet of said property.

This parcel of land contains 489 square feet, more or less.

Parcel 3 – Temporary Easement For Work Area (3 Years or Duration of Project, Whichever is Sooner)

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 1, Block 8, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Bargain and Sale Deed to Eloise J. Green, recorded June 27, 2003 as Document Numbers 2003-104618, 2003-104620 and 2003-104622, and also described in that Statutory Warranty Deed to Ellen P. Bump, recorded August 5, 1991 as Document Numbers 91042216 and 9104225, all Washington County Book of Records; the said parcel being that portion of said property in a strip of land 10.00 feet in width, lying Northerly of and adjoining the Southerly line of said property.

EXCEPT therefrom the easterly 23.00 feet and westerly 44.50 feet of said property.

This parcel of land contains 540 square feet, more or less.

Parcel 4 – Temporary Easement For Work Area (3 Years or Duration of Project, Whichever is Sooner)

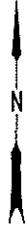
A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lots 2 and 7, Block 8, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Bargain and Sale Deed to Eloise J. Green, recorded June 27, 2003 as Document Numbers 2003-104618, 2003-104620 and 2003-104622, and also described in that Statutory Warranty Deed to Ellen P. Bump, recorded August 5, 1991 as Document Numbers 91042216 and 9104225, all Washington County Book of Records; the said parcel being that portion of said property in a strip of land 10.00 feet in width, lying Southerly of and adjoining the Northerly line of said property.

This parcel of land contains 1845 square feet, more or less.

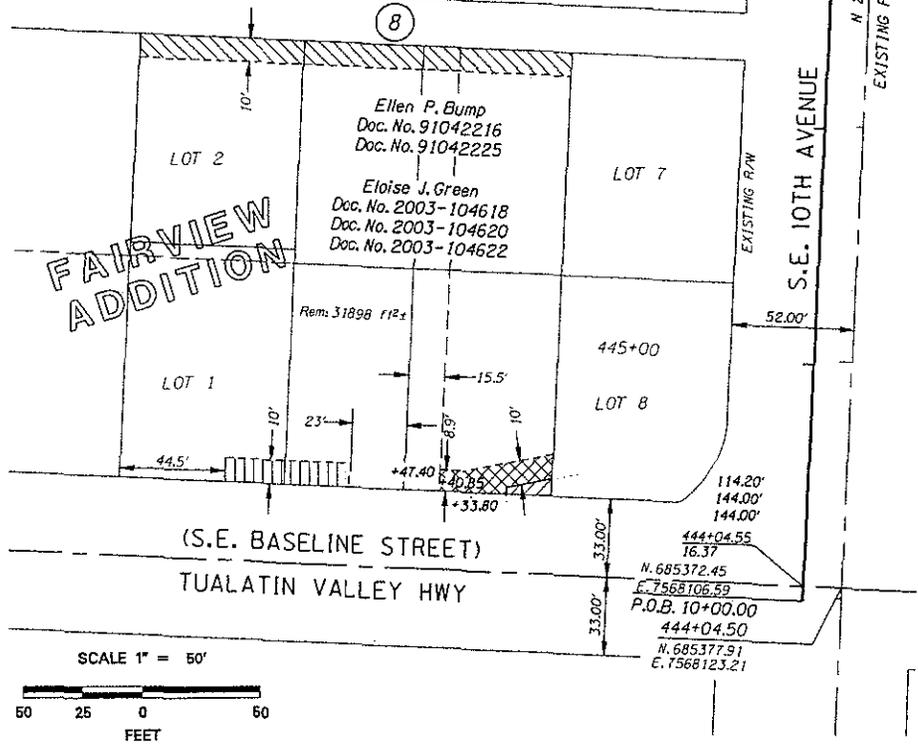
-End-

SEC. 31, T. 1 N., R. 2 W., W.M.

LEGEND	
	FEE ACQUISITION 96± SQ. FT.
	TEMPORARY EASEMENT 489± SQ. FT. FOR WORK AREA
	TEMPORARY EASEMENT 540± SQ. FT. FOR WORK AREA
	TEMPORARY EASEMENT 1845± SQ. FT. FOR WORK AREA



Map 2-1-3100



OREGON DEPARTMENT OF TRANSPORTATION
 RIGHT OF WAY
 ENGINEERING
 SKETCH MAP

Section	East Main Street - S.E. Baseline Street		
Highway	S.E. 10th Avenue		
County	Washington	Scale	1" = 50'
Purpose	Fee Acquisition	Date	Aug. 28, 2007
File	002		

FILE ADDENDUM

(NOT to be included with Exhibit A)

File 003

Drawing Sketch Map

D. Gary Hutcheson, DEA – 08/28/07

S.E. 10th Avenue: E Main Street – S.E. Baseline Street Section
Washington County

Leonard and Jean M. Gratteri
Parcels 1 and 2

Parcel 1 access language: None.

Parcel 2 access language: None.

These parcels lie within the SE¼ of Section 31, T 1 N, R 2 W, W.M.

These parcels lie within Tax Lot 1-2W-31DD-7300 of Washington County.

Remainder: 14543 square feet, more or less.

Prior files, recorded documents, and access control:

Parcel 1:	1275 square feet, more or less.
Parcel 2:	4278 square feet, more or less.
Remainder:	14543 square feet, more or less.

(EXHIBIT A - NEXT PAGE)

Parcel 1 – Fee

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 6, Block 8, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Warranty Deed to Leonard Gratteri and Jean M. Gratteri, recorded September 4, 1963 in Book 494, Page 485, Deed Records of Washington County, and in that Quitclaim Deed-Statutory Form to Leonard Gratteri and Jean M. Gratteri, recorded January 5, 1993 as Microfilm Document Number 93000528, Washington County Book of Records; the said parcel being that portion of said property included in a strip of land variable in width lying on the Westerly side of the center line of S.E. 10th Avenue, which center line is described as follows:

Beginning at a point at said S.E. 10th Avenue Engineer's center line Station 444+04.50, said station being 1615.13 feet South and 41.05 feet West of the North Quarter Corner of Section 31 and Section 6, Township 1 South, Range 2 West, W.M.; thence North 02° 25' 05" East 795.50 feet to Engineer's center line Station 452+00.00.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
446+40.00		446+47.75	86.70
446+47.75		446+53.75	67.70
446+53.75		446+58.75	67.70 in a straight line to 61.20
446+58.75		447+28.30	61.20 in a straight line to 61.15
447+28.30		447+38.30	61.15 in a straight line to 63.60
447+38.30		447+80.00	63.60

Bearings are based on Oregon Coordinate System of 1983(98), north zone.

This parcel of land contains 1275 square feet, more or less.

Parcel 2 – Temporary Easement For Work Area (3 Years or Duration of Project, Whichever is Sooner)

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 6, Block 8, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Warranty Deed to Leonard Gratteri and Jean M. Gratteri, recorded September 4, 1963 in Book 494, Page 485, Deed Records of Washington County, and in that Quitclaim Deed-Statutory Form to Leonard Gratteri and Jean M. Gratteri, recorded January 5, 1993 as Microfilm Document Number 93000528, Washington County Book of Records; the said parcel being that portion of said property in a strip of land 10.00 feet in width, lying Northerly of and adjoining the Southerly line of said property.

TOGETHER with a strip of land variable in width lying on the Westerly side of the center line of S.E. 10th Avenue, which center line is described in Parcel 1.

The width in feet of said strip of land is as follows:

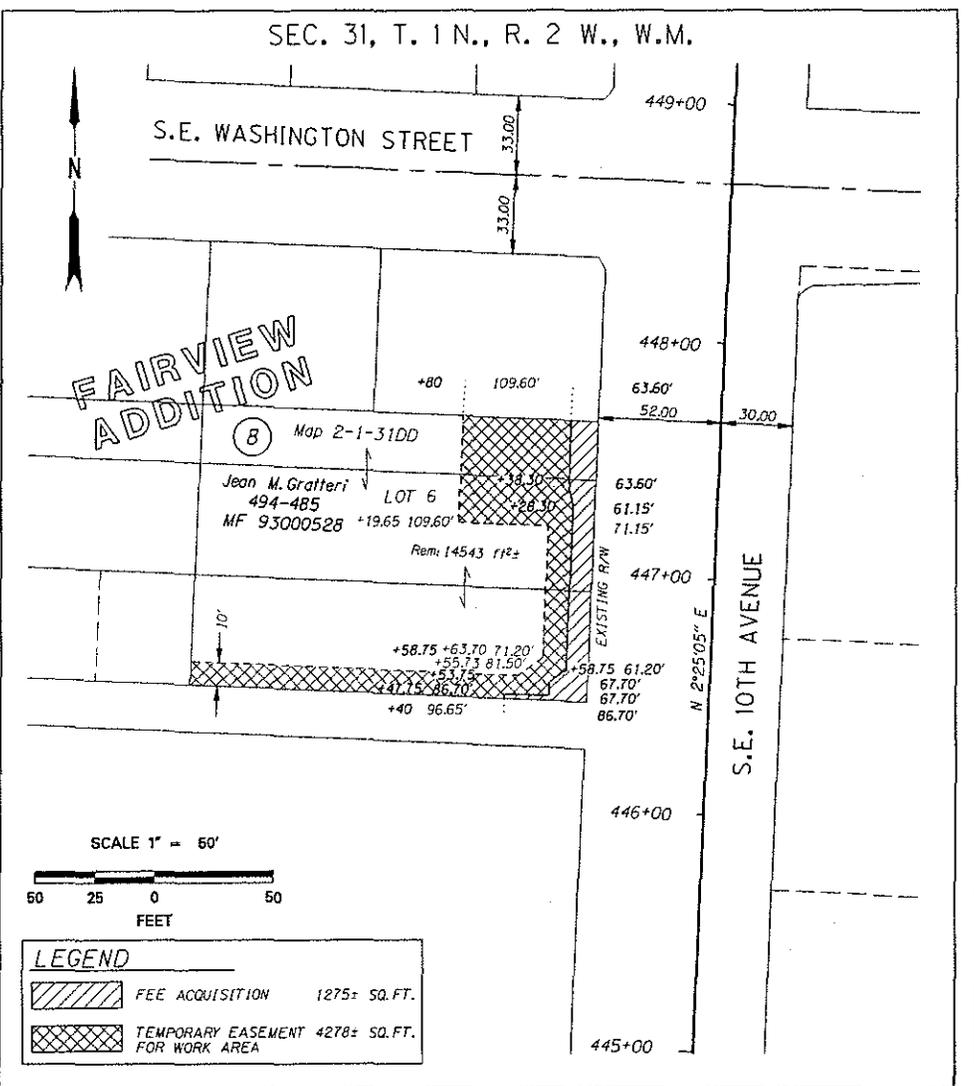
Station	to	Station	Width on Westerly Side of Center Line
446+55.73		446+63.70	81.50 in a straight line to 71.20
446+63.70		447+19.65	71.20 in a straight line to 71.15
447+19.65		447+80.00	109.60

EXCEPT therefrom Parcel 1.

This parcel of land contains 4278 square feet, more or less.

-End-

SEC. 31, T. 1 N., R. 2 W., W.M.



LEGEND	
	FEE ACQUISITION 1275± SQ. FT.
	TEMPORARY EASEMENT 4278± SQ. FT. FOR WORK AREA

OREGON DEPARTMENT OF TRANSPORTATION
 RIGHT OF WAY
 ENGINEERING
 SKETCH MAP

Section	East Main Street - S.E. Baseline Street		
Highway	S.E. 10th Avenue		
County	Washington	Scale	1" = 50'
Purpose	Fee Acquisition	Date	Aug. 28, 2007
File	003		

FILE ADDENDUM

(NOT to be included with Exhibit A)

File 004

Drawing Sketch Map

D. Gary Hutcheson, DEA – 08/28/07

S.E. 10th Avenue: E Main Street – S.E. Baseline Street Section
Washington County

Tri-County Metropolitan Transportation District of Oregon
Parcels 1 and 2

Parcel 1 access language: None.

Parcel 2 access language: None.

These parcels lie within the SE¼ of Section 31, T 1 N, R 2 W, W.M.

These parcels lie within Tax Lot 1-2W-31DD-7200 of Washington County.

Remainder: 5339 square feet, more or less.

Prior files, recorded documents, and access control:

Parcel 1: 983 square feet, more or less.
Parcel 2: 300 square feet, more or less.
Remainder: 5339 square feet, more or less.

(EXHIBIT A - NEXT PAGE)

Parcel 1 – Fee

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 5, Block 8, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Warranty Deed to Tri-County Metropolitan Transportation District of Oregon, recorded August 8, 1997 as Microfilm Document Number 97073317, Washington County Book of Records; the said parcel being that portion of said property included in a strip of land variable in width lying on the Westerly side of the center line of S.E. 10th Avenue, which center line is described as follows:

Beginning at a point at said S.E. 10th Avenue Engineer's center line Station 444+04.50, said station being 1615.13 feet South and 41.05 feet West of the North Quarter Corner of Section 31 and Section 6, Township 1 South, Range 2 West, W.M.; thence North 02° 25' 05" East 795.50 feet to Engineer's center line Station 452+00.00.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
447+57.00		447+88.15	63.60
447+88.15		447+96.65	63.60 in a straight line to 68.10
447+96.65		448+42.85	68.10

Bearings are based on Oregon Coordinate System of 1983(98), north zone.

This parcel of land contains 983 square feet, more or less.

**Parcel 2 – Temporary Easement For Work Area (3 Years or Duration of Project,
Whichever is Sooner)**

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 5, Block 8, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Warranty Deed to Tri-County Metropolitan Transportation District of Oregon, recorded August 8, 1997 as Microfilm Document Number 97073317, Washington County Book of Records; the said parcel being that portion of said property lying between lines at right angles to the center line of S.E. 10th Avenue at Engineer's Stations 447+57.00 and 447+96.65 and included in a strip of land 73.60 feet in width, lying on the Westerly side of said center line, which center line is described in Parcel 1.

EXCEPT therefrom Parcel 1.

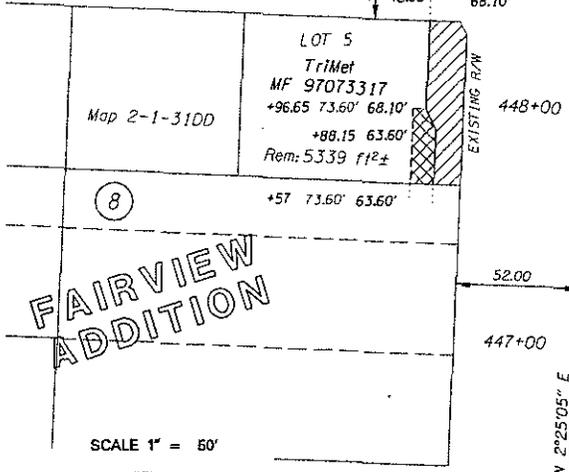
This parcel of land contains 300 square feet, more or less.

-End-

SEC. 31, T. 1 N., R. 2 W., W.M.



S.E. WASHINGTON STREET



Map 2-1-310D

LOT 5
TriMet
MF 97073317
+96.65 73.60' 68.10'
+88.15 63.60'
Rem: 5339 f1±

(8)

FAIRVIEW
ADDITION

SCALE 1" = 50'



LEGEND	
	FEE ACQUISITION 98.3± SQ.FT.
	TEMPORARY EASEMENT 300± SQ.FT. FOR WORK AREA

OREGON DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY
ENGINEERING
SKETCH MAP

Section	East Main Street - S.E. Baseline Street		
Highway	S.E. 10th Avenue		
County	Washington	Scale	1" = 50'
Purpose	Fee Acquisition	Date	Aug. 28, 2007
File	004		

FILE ADDENDUM

(NOT to be included with Exhibit A)

File 005

Drawing Sketch Map

D. Gary Hutcheson, DEA – 08/28/07

S.E. 10th Avenue: E Main Street – S.E. Baseline Street Section
Washington County

Tri-County Metropolitan Transportation District of Oregon
Parcels 1 and 2

Parcel 1 access language: None.

Parcel 2 access language: None.

These parcels lie within the SE¼ of Section 31, T 1 N, R 2 W, W.M.

These parcels lie within Tax Lot 1-2W-31DD-4900 of Washington County.

Remainder: 1982 square feet, more or less.

Prior files, recorded documents, and access control:

Parcel 1:	925 square feet, more or less.
Parcel 2:	599 square feet, more or less.
Remainder:	1982 square feet, more or less.

(EXHIBIT A - NEXT PAGE)

Parcel 1 – Fee

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 6, Block 9, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Warranty Deed to Tri-County Metropolitan Transportation District of Oregon, recorded August 8, 1997 as Microfilm Document Number 97073316, Washington County Book of Records; the said parcel being that portion of said property included in a strip of land variable in width lying on the Westerly side of the center line of S.E. 10th Avenue, which center line is described as follows:

Beginning at a point at said S.E. 10th Avenue Engineer's center line Station 444+04.50, said station being 1615.13 feet South and 41.05 feet West of the North Quarter Corner of Section 31 and Section 6, Township 1 South, Range 2 West, W.M.; thence North 02° 25' 05" East 795.50 feet to Engineer's center line Station 452+00.00.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
448+98.00		449+89.00	67.55 in a straight line to 67.50

Bearings are based on Oregon Coordinate System of 1983(98), north zone.

This parcel of land contains 925 square feet, more or less.

**Parcel 2 – Temporary Easement For Work Area (3 Years or Duration of Project,
Whichever is Sooner)**

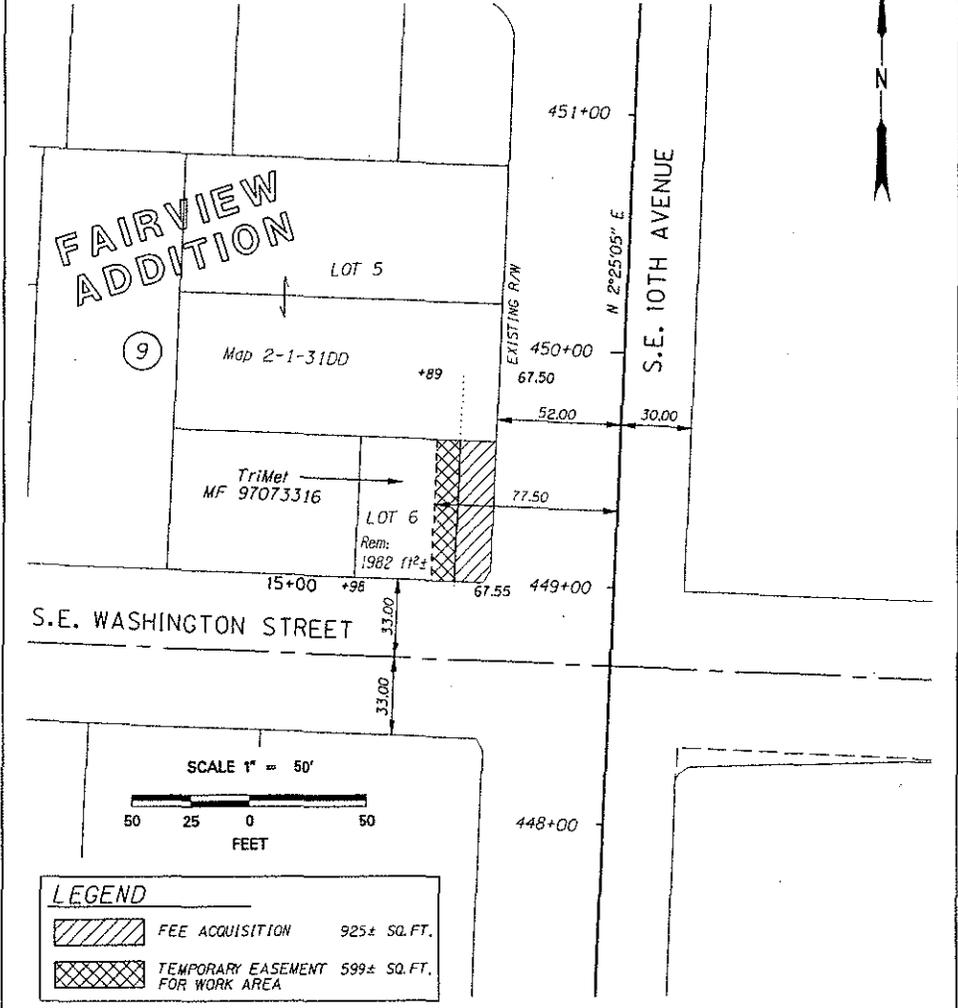
A strip of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 6, Block 9, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Warranty Deed to Tri-County Metropolitan Transportation District of Oregon, recorded August 8, 1997 as Microfilm Document Number 97073316, Washington County Book of Records; said strip being 77.50 feet in width, lying on the Westerly side of the center line of S.E. 10th Avenue, which center line is described in Parcel 1.

EXCEPT therefrom Parcel 1.

This parcel of land contains 599 square feet, more or less.

-End-

SEC. 31, T. 1 N., R. 2 W., W.M.



LEGEND

	FEE ACQUISITION	925± SQ. FT.
	TEMPORARY EASEMENT FOR WORK AREA	599± SQ. FT.

OREGON DEPARTMENT OF TRANSPORTATION  RIGHT OF WAY ENGINEERING SKETCH MAP	Section	East Main Street - S.E. Baseline Street		
	Highway	S.E. 10th Avenue		
	County	Washington	Scale	1" = 50'
	Purpose	Fee Acquisition	Date	Aug. 28, 2007
	File	005		

FILE ADDENDUM

(NOT to be included with Exhibit A)

File 006

Drawing Sketch Map

D. Gary Hutcheson, DEA – 08/28/07

S.E. 10th Avenue: E Main Street – S.E. Baseline Street Section
Washington County

Miguel, Trinidad and Patricia Robleto
Parcels 1 and 2

Parcel 1 access language: None.

Parcel 2 access language: None.

These parcels lie within the SE $\frac{1}{4}$ of Section 31, T 1 N, R 2 W, W.M.

These parcels lie within Tax Lot 1-2W-31DD-5000 and 5100 of Washington County.

Remainder: 12713 square feet, more or less.

Prior files, recorded documents, and access control:

Parcel 1:	1800 square feet, more or less.
Parcel 2:	1561 square feet, more or less.
Remainder:	12713 square feet, more or less.

(EXHIBIT A - NEXT PAGE)

Parcel 1 – Fee

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 5, Block 9, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Statutory Warranty Deed to Miguel Robleto, Trinidad Robleto, and Patricia Robleto, recorded December 3, 2001 as Document Number 2001-125258, and in that Statutory Warranty Deed to Miguel Robleto and Trinidad Robleto and Patricia Robleto, recorded December 4, 2001 as Document Number 2001-125507, both in Washington County Book of Records; the said parcel being that portion of said property included in a strip of land variable in width lying on the Westerly side of the center line of S.E. 10th Avenue, which center line is described as follows:

Beginning at a point at said S.E. 10th Avenue Engineer's center line Station 444+04.50, said station being 1615.13 feet South and 41.05 feet West of the North Quarter Corner of Section 31 and Section 6, Township 1 South, Range 2 West, W.M.; thence North 02° 25' 05" East 795.50 feet to Engineer's center line Station 452+00.00.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
449+50.00		450+80.00	67.52 in a straight line to 67.45

Bearings are based on Oregon Coordinate System of 1983(98), north zone.

This parcel of land contains 1800 square feet, more or less.

Parcel 2 – Temporary Easement For Work Area (3 Years or Duration of Project, Whichever is Sooner)

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 5, Block 9, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Statutory Warranty Deed to Miguel Robleto, Trinidad Robleto, and Patricia Robleto, recorded December 3, 2001 as Document Number 2001-125258, and in that Statutory Warranty Deed to Miguel Robleto and Trinidad Robleto and Patricia Robleto, recorded December 4, 2001 as Document Number 2001-125507, both in Washington County Book of Records; the said parcel being that portion of said property included in a strip of land variable in width lying on the Westerly side of the center line of S.E. 10th Avenue, which center line is described in Parcel 1.

The width in feet of said strip of land is as follows:

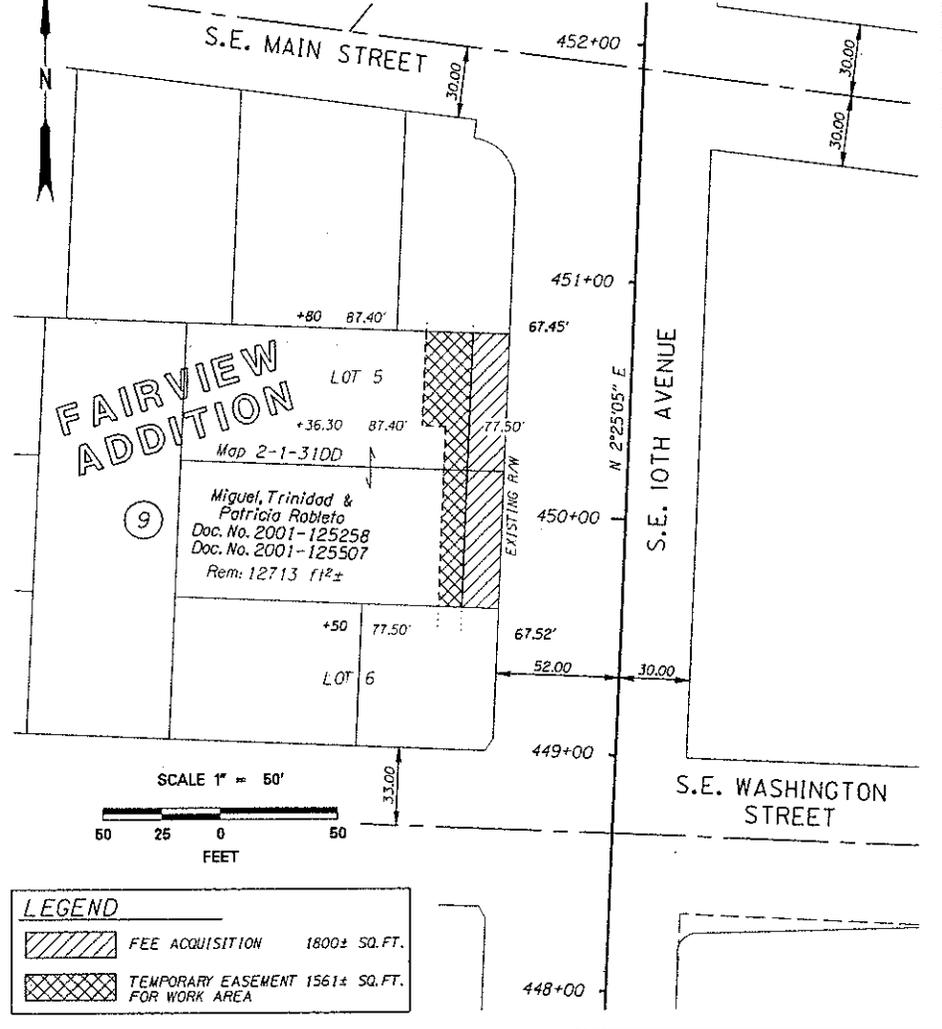
Station	to	Station	Width on Westerly Side of Center Line
449+50.00		450+36.30	77.50
450+36.30		450+80.00	77.50 in a straight line to 87.40

EXCEPT therefrom Parcel 1.

This parcel of land contains 1561 square feet, more or less.

-End-

SEC. 31, T. 1 N., R. 2 W., W.M.



LEGEND

	FEE ACQUISITION	1800± SQ. FT.
	TEMPORARY EASEMENT	1561± SQ. FT. FOR WORK AREA

OREGON DEPARTMENT OF TRANSPORTATION
 RIGHT OF WAY
 ENGINEERING
 SKETCH MAP

Section	East Main Street - S.E. Baseline Street		
Highway	S.E. 10th Avenue		
County	Washington	Scale	1" = 50'
Purpose	Fee Acquisition	Date	Aug. 28, 2007
File	006		

FILE ADDENDUM

(NOT to be included with Exhibit A)

File 007

Drawing Sketch Map

D. Gary Hutcheson, DEA – 08/28/07

S.E. 10th Avenue: E Main Street – S.E. Baseline Street Section
Washington County

Verizon Northwest Inc.

Parcel access language: None.

This parcel lies within the SE¼ of Section 31, T 1 N, R 2 W, W.M.

This parcel lies within Tax Lot 1-2W-31DD-8000 of Washington County.

Remainder: 18402 square feet, more or less.

Prior files, recorded documents, and access control:

Parcel: 711 square feet, more or less.

Remainder: 18402 square feet, more or less.

(EXHIBIT A - NEXT PAGE)

Temporary Easement for Work Area (3 Years or Duration Project, Whichever is Sooner)

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 2, Block 8, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Warranty Deed to Verizon Northwest Inc., formerly known as West Coast Telephone Company, recorded December 5, 1955 in Book 376, Page 278, Washington County Book of Records; the said parcel being that portion of said property included in a strip of land 7.00 feet in width, lying Southerly of and adjoining the Northerly line of said property.

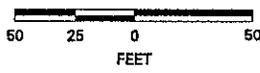
This parcel of land contains 711 square feet, more or less.

-End-

SEC. 31, T. 1 N., R. 2 W., W.M.



SCALE 1" = 50'



LEGEND

 TEMPORARY EASEMENT 711± SQ. FT. FOR WORK AREA

OREGON DEPARTMENT OF TRANSPORTATION  RIGHT OF WAY ENGINEERING SKETCH MAP	Section	East Main Street - S.E. Baseline Street		
	Highway	S.E. 10th Avenue		
	County	Washington	Scale	1" = 50'
	Purpose	Temp. Const. Esmt	Date	Aug. 28, 2007
	File	007		

FILE ADDENDUM

(NOT to be included with Exhibit A)

File 008

Drawing Sketch Map

D. Gary Hutcheson, DEA – 08/28/07

S.E. 10th Avenue: E Main Street – S.E. Baseline Street Section
Washington County

Germantown Properties, LLC

Parcel access language: None.

This parcel lies within the SE¼ of Section 31, T 1 N, R 2 W, W.M.

This parcel lies within Tax Lot 1-2W-31DD-7900 of Washington County.

Remainder: 7030 square feet, more or less.

Prior files, recorded documents, and access control:

Parcel: 1900 square feet, more or less.

Remainder: 7030 square feet, more or less.

(EXHIBIT A - NEXT PAGE)

Temporary Easement For Work Area (3 Years or Duration of Project, Whichever is Sooner)

A parcel of land lying in the SE¼ of Section 31, Township 1 North, Range 2 West, W.M., Washington County, Oregon and being a portion of Lot 3, Block 8, FAIRVIEW ADDITION to the City of Hillsboro, a duly recorded plat in Washington County and also being a portion of that property described in that Bargain and Sale Deed to Germantown Properties, LLC, recorded December 12, 2003 as Document Number 2003-205089, Washington County Book of Records; the said parcel being that portion of said property in a strip of land 10.00 feet in width, lying Northerly of and adjoining the Southerly line of said property.

Bearings are based on Oregon Coordinate System of 1983(98), north zone.

This parcel of land contains 1900 square feet, more or less.

-End-

SEC. 31, T. 1 N., R. 2 W., W.M.

S.E. WASHINGTON STREET

N.E. NINTH AVE.

FAIRVIEW
ADDITION

Map 2-1-31DD

LOT 3

Germtown Properties, LLC
Doc. No. 2003-205089
Rem: 7030 ff \pm

10'

8

SCALE 1" = 50'



LEGEND	
	TEMPORARY EASEMENT 1900 \pm SQ.FT. FOR WORK AREA

OREGON DEPARTMENT OF TRANSPORTATION

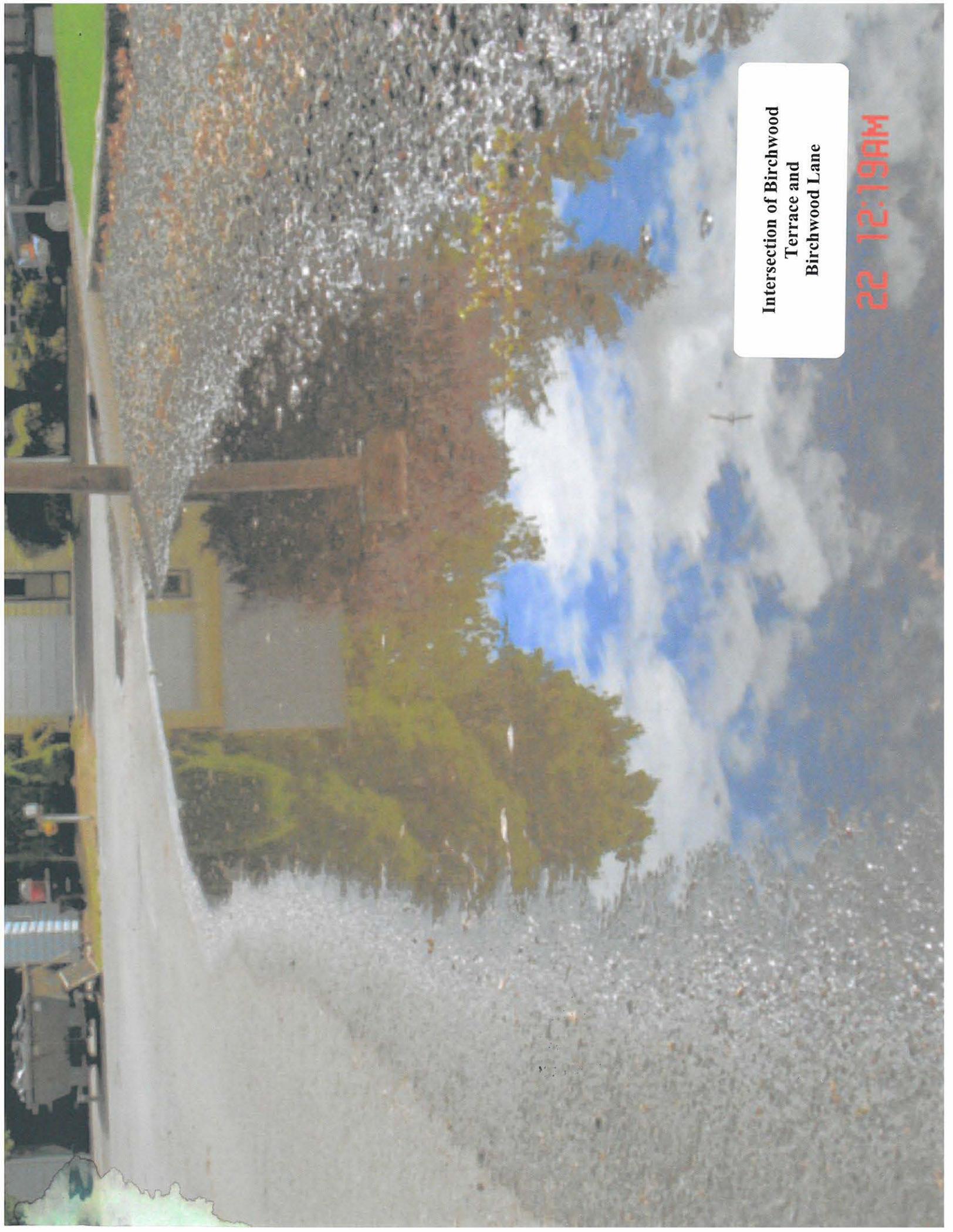
RIGHT OF WAY
ENGINEERING
SKETCH MAP

Section	East Main Street - S.E. Baseline Street		
Highway	S.E. 10th Avenue		
County	Washington	Scale	1" = 50'
Purpose	Temp. Const. Esmt	Date	Aug. 28, 2007
File	008		

Intersection of Birchwood
Terrace and
Birchwood Lane

22 12:20AM

Item #: 7A
Offered By: Darrell Hedin
Date: 10/2/07
Exhibit #: 1



**Intersection of Birchwood
Terrace and
Birchwood Lane**

22 12:19AM

West Nile infects 2 people in Oregon

Virus | The cases in Malheur and Union counties are the year's first involving humans

By **RICHARD L. HILL**
THE OREGONIAN

Health officials have identified the first two human cases of West Nile virus this year in Oregon.

Emilio DeBess, a veterinarian and epidemiologist with the Oregon State Public Health Division, said tests have confirmed that a Malheur County man contracted the virus in late July and a woman in Union County became infected earlier this

month.

Neither of the eastern Oregon cases was fatal.

Last year, 73 people were infected in Oregon, with two dying from complications related to the virus.

"It's still difficult to tell, but it doesn't appear that we will have as many human cases this year," DeBess said. "But we've been proven wrong before. It's important that people protect themselves."

Multnomah County officials also announced Monday that lab tests have confirmed that a robin found in the Kenton neighborhood of Portland has died of the West Nile virus.

The robin is the second known bird to die of the mosquito-borne infection in the county this summer. In late June, a crow found in the Roseway neighborhood died of the virus.

Both birds were tested by the Veterinary Diagnostic Laboratory at Oregon State University. Last year, 25 birds and 35 horses tested positive for the West Nile virus.

West Nile virus is primarily a bird infection that is transmitted to mosquitoes that feed on an infected bird. The mosquito can then transmit the disease to humans.

Health experts say that most

infected people will not notice symptoms or might have a mild flulike illness. The infection is more serious to older people and those with suppressed immune systems.

People can protect themselves from mosquito bites by wearing long-sleeved shirts and long pants; using mosquito repellent, preferably one that contains DEET; and avoiding working or playing outside at dawn or dusk when mosquitoes are most active.

Homeowners also should eliminate sources of standing water, such as in flowerpots or buckets. Birdbath water should be changed at least weekly.



PUBLIC WORKS - Operations

Engineering

[Home](#)
[Permits](#)
[Transportation](#)
[System Fees](#)
[Standard
Details](#)
[Traffic
Information](#)

West Nile Virus Information

West Nile basics:

West Nile Virus is an illness that causes inflammation of the brain (encephalitis) resulting in flu-like symptoms, which in some cases may be deadly.

Birds in the Corvid family (crows, ravens, magpies, jays) are often carriers of the virus. Mosquitoes transmit the virus from these birds, and in turn transmit the virus to humans and horses when biting to transmit the virus. There have been no reported cases of transmission from human to human, or from animals to humans.

The first case diagnosed in the U.S. was in 1999 in New York. The virus has since spread across the Nation. The first case of West Nile Virus, in Oregon, was diagnosed in 2004. A total of five human cases were diagnosed in 2004. There are concerns of further spread throughout Oregon this year. There is no way to predict the spread of the virus. Therefore it is important to be educated and take necessary precautions to protect ourselves.

There are approximately 70 species of mosquitoes in the Pacific Northwest. Of these, only a few are known to transmit West Nile Virus.

What can you do?

You can help reduce the spread of West Nile Virus by eliminating areas of standing water (mosquito breeding sights) around your home.

- remove any old tires, buckets & other debris that may collect water.
- change water in bird baths, pet dishes & wading pools at least once a week.
- maintain & treat swimming pools, decorative ponds etc.
- repair leaky faucets, clean gutters & drains.
- remove yard debris

The best line of defense is to try to avoid mosquitoes as much as possible.

- try to remain indoors during early morning and evening hours.
- if you must be outdoors during these times, wear long sleeves and long pants.
- apply insect repellent carefully following the manufacturer's directions on the label.
- use mosquito netting over baby carriers.
- install and/or repair your home's window and door screens.
- report die-offs of birds in the Corvid family, that do not appear to be caused by pets, or v

What is the City doing? The City of Hillsboro has entered into a co-operative agreement with Wa County regarding the rising concern of West Nile Virus. This includes, but is not limited to:

Operations & Maint.

[Home](#)
[Leaf Pick-up](#)
[West Nile Virus](#)

[Services](#)
[Site Map](#)



Media Release

For Immediate Release

State of Oregon Department of Human Services

Washington County Department of Health and Human Services

Date: 9/18/2006

Contacts:

Bonnie Widerburg, DHS Public Information Officer, 971-673-1282

Kent Burtner, Washington County Health Division Public Information
Officer, 503-615-4647, william.k.burtner@state.or.us

Technical Contacts:

Jay Kravitz, M.D., Washington County Health Officer, (503) 846-8714,
jay_kravitz@co.washington.or.us

Toby Harris, Washington County Public Health Program Supervisor (503)
846-4932, Toby_Harris@co.washington.or.us

Emilio DeBess, DVM, DHS Public Health Division, Public Health
Veterinarian, 971-673-1111

West Nile Virus Detected in Washington County Crow

Public Health Officials Recommend Prevention Measures for Residents

Hillsboro, Ore. – A dead crow found in Washington County has tested positive for West Nile Virus, county and state public health officials confirmed today. The bird was found near the

intersection of Cirrus Dr. and Hall Blvd. in Beaverton and was tested at the Oregon State University's Veterinarian Diagnostic Laboratory in Corvallis.

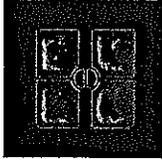
"West Nile Virus has been moving slowly across the United States since 1999 and first came to Oregon in 2004," said Public Health Program Supervisor Toby Harris. "With this indication of West Nile in our county, we recommend that residents take simple steps to reduce their risk for contracting the virus."

The risk of West Nile Virus infection and serious illness is low. Humans can only get the virus from mosquitoes that have fed on infected birds. Residents should take these actions to prevent contracting the virus:

- Use mosquito repellent, preferably one containing DEET, Picardin or oil of lemon eucalyptus. Always follow the directions on the label carefully. When applying repellent to children, first rub it on your hands then on each child.
- Eliminate all sources of standing water, including clogged gutters, birdbaths and old tires.
- Avoid playing and working outdoors at dawn and dusk, when mosquitoes are most active.
- Wear long pants and long-sleeved shirts when outdoors.
- Fit screen doors and windows tightly to avoid flying mosquitoes from entering homes.
- Discuss the risk of West Nile infection with your veterinarian and consider vaccinating any horses you may own.

"Most people infected with West Nile virus will have no symptoms or a mild, flu-like illness," states Harris. "Fewer than one percent of infected individuals will develop brain or nervous system illness, such as meningitis or encephalitis. The infection is potentially more serious for people over the age of 50, and in people with suppressed immune systems. We encourage people to take precautions to protect themselves and their families from infection," adds Harris.

As a reminder, although anyone can contract the virus, the leading risk factor is age. People 50 years old or older are most susceptible to developing serious symptoms, according to Harris.



PROCLAMATION

Whereas, the month of October has been recognized as National Arts and Humanities Month by thousands of arts and cultural organizations, communities, and states across the country;

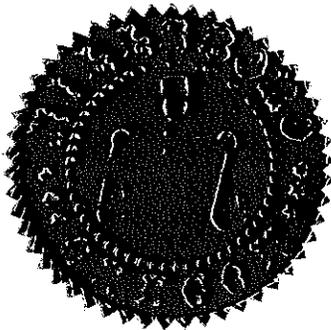
Whereas, the arts and humanities embody much of the accumulated wisdom, intellect, and imagination of humankind;

Whereas, the arts and humanities enhance and enrich the lives of every American;

WHEREAS, the Glenn and Viola Walters Cultural Arts Center will join hundreds of arts organizations and communities across the nation in celebrating National Arts and Humanities Month throughout October, and will present activities that honor the efforts of artists, historians, and arts organizations working to make the arts and humanities a part of everyone's life; and

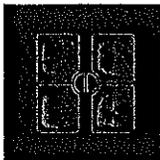
NOW, THEREFORE, BE IT RESOLVED, that I, Mayor Tom Hughes, do hereby proclaim October as National Arts and Humanities Month in Hillsboro and call upon our citizens to celebrate and promote the arts and culture in our nation and to specifically encourage the greater participation by those said citizens in taking action for the arts and humanities in their towns and cities.

Signed this 2nd day of October, 2007



Tom Hughes

Tom Hughes, Mayor



PROCLAMATION

WHEREAS, energy efficiency is important to Hillsboro because it saves consumers and businesses money, and helps protect the environment because it lessens greenhouse gas emissions and reduces air pollution; and

WHEREAS, the nation's Mayors are committed to maintaining secure, safe and affordable energy resources for their citizens; and

WHEREAS, by taking the ENERGY STAR® Change a Light Pledge — citizens of Hillsboro have the opportunity to save energy and to help voluntarily reduce greenhouse gas emissions by switching to ENERGY STAR qualified light bulbs and fixtures in their homes; and

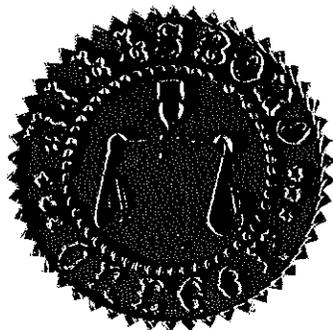
WHEREAS, if every home in Hillsboro made this one change, our city would save 10,055,556 kWh of electricity per year, resulting in an annual total savings of \$935,166.70 in energy costs while also preventing 14,584,122 pounds of greenhouse gas emissions each year; and

WHEREAS, Hillsboro is proud to do our part in this nationwide effort, celebrating this day-ENERGY STAR Change a Light Day-to promote energy efficiency and environmental stewardship in every household, by installing ENERGY STAR qualified lighting as a significant first step;

NOW THEREFORE, I Tom Hughes, accept this Pledge and encourage the citizens of Hillsboro to make this important change, and by virtue of the power vested in me as Mayor, hereby proclaim October 3, 2007, as

ENERGY STAR Change a Light Day

Signed this 2nd day of October, 2007.



Tom Hughes

Tom Hughes, Mayor