

ORDINANCE NO. 16-1006

AN ORDINANCE ADOPTING A PUBLIC FACILITIES STRATEGY FOR THE LINN AVENUE AND HAZELWOOD DRIVE SEWER SYSTEMS

WHEREAS, the City of Oregon City is a home rule city under the laws of the State of Oregon and has a duly acknowledged Comprehensive Land Use Plan;

WHEREAS, on August 6, 2014, the City Commission adopted Ordinance 14-1006, declaring a moratorium based on a lack of sanitary sewer capacity to allow new or expanded connections to the City's sewer system in four areas of the City, as identified on the map attached as Exhibit A;

WHEREAS, on October 1, 2014, the City Commission adopted Ordinance No. 14-1012, adopting the City of Oregon City Sanitary Sewer Master Plan (SSMP), which sets forth solutions necessary to correct the problem that created the need for the moratorium and serves as the City's corrective program under ORS 197.530 and 197.768;

WHEREAS, Section 3 of Ordinance No. 14-1012 and ORS 197.530(1) provides that upon adoption of the SSMP, the effective date of the moratorium adopted through Ordinance 14-1006, will expire six months from the date of SSMP enactment unless otherwise extended;

WHEREAS, on March 18, 2015, the City Commission adopted Ordinance No. 15-1002, extending the existing moratorium for an additional six months or until October 1, 2015;

WHEREAS, on September 28, 2015, the City adopted Ordinance 15-1015, lifting the moratorium for the 12th Street NW area but also extending the moratorium for a second period for the remaining constrained areas until April 1, 2016;

WHEREAS, on April 1, 2016, the City adopted Ordinance 16-1005, lifting the moratorium for the 12th St. NE, 12th St. SW, and 12th St. / 13th St. / Division St areas but also extending the moratorium for a third period until October 1, 2016 for the still-constrained Linn Avenue and Hazelwood Drive sewer systems;

WHEREAS, the City continues to find a demonstrated need to prevent sanitary sewer overflows that would occur in constrained areas, specifically "Linn Ave N.," "Linn Ave S.," and "Hazelwood;"

WHEREAS, on September 17, 2014, the City Commission adopted Resolution No. 14-17, adopting new monthly sanitary sewer collection charges that will allow for the implementation of the SSMP identified solutions to resolve the current capacity deficiencies but some of those improvements have not yet been made and the problem giving rise to the moratorium still exists;

WHEREAS, the SSMP acts as the City's public facilities strategy that provides a clear, objective and detailed description of the actions and practices the City will engage in to control the time and sequence of development approvals in response to the identified deficiencies in the City's sewer system;

WHEREAS, pursuant to ORS 197.768(3), the City provided written notice to the Department of Land Conservation and Development on June 17, 2016, which is more than 45 days prior to the final public hearing for adoption of this ordinance;

WHEREAS, pursuant to ORS 197.768(3), the City has made written findings justifying the need for a public facilities strategy which prohibits land development, building and sewer permit approvals in the constrained areas until capital improvement projects are complete; and

WHEREAS, pursuant to ORS 197.768(3), on August 17, 2016, the City Commission held a duly noticed public hearing adopting a public facilities strategy based on the lack of sanitary sewer capacity to allow new or expanded connections to the City's sewer system in two areas.

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

Section 1. Adoption of the public facilities strategy. Based on the findings set forth in Exhibit B; the expiration of the moratorium on new development in the areas identified as "Linn Ave N.," "Linn Ave S.," and "Hazelwood" shown in the map attached as Exhibit A (Figures 1A-1C), as set forth in Ordinance No. 16-1005; and the capital improvement projects identified in the SSMP, the City adopts the SSMP as the public facilities strategy for the Linn Avenue and Hazelwood Drive sewer systems.

Section 2. Term. This public facilities strategy shall be effective as of October 1, 2016 and will expire on October 1, 2018, unless otherwise extended in accordance with state law.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Read for the first time at a regular meeting of the City Commission held on the 3rd day of August, 2016, and the City Commission finally enacted the foregoing ordinance this 17th day of August, 2016 and will take effect on October 1, 2016.



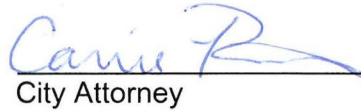
DAN HOLLADAY, Mayor

Attested to this 17th day of August, 2016:

Approved as to legal sufficiency:



Kattie Riggs, City Recorder



City Attorney

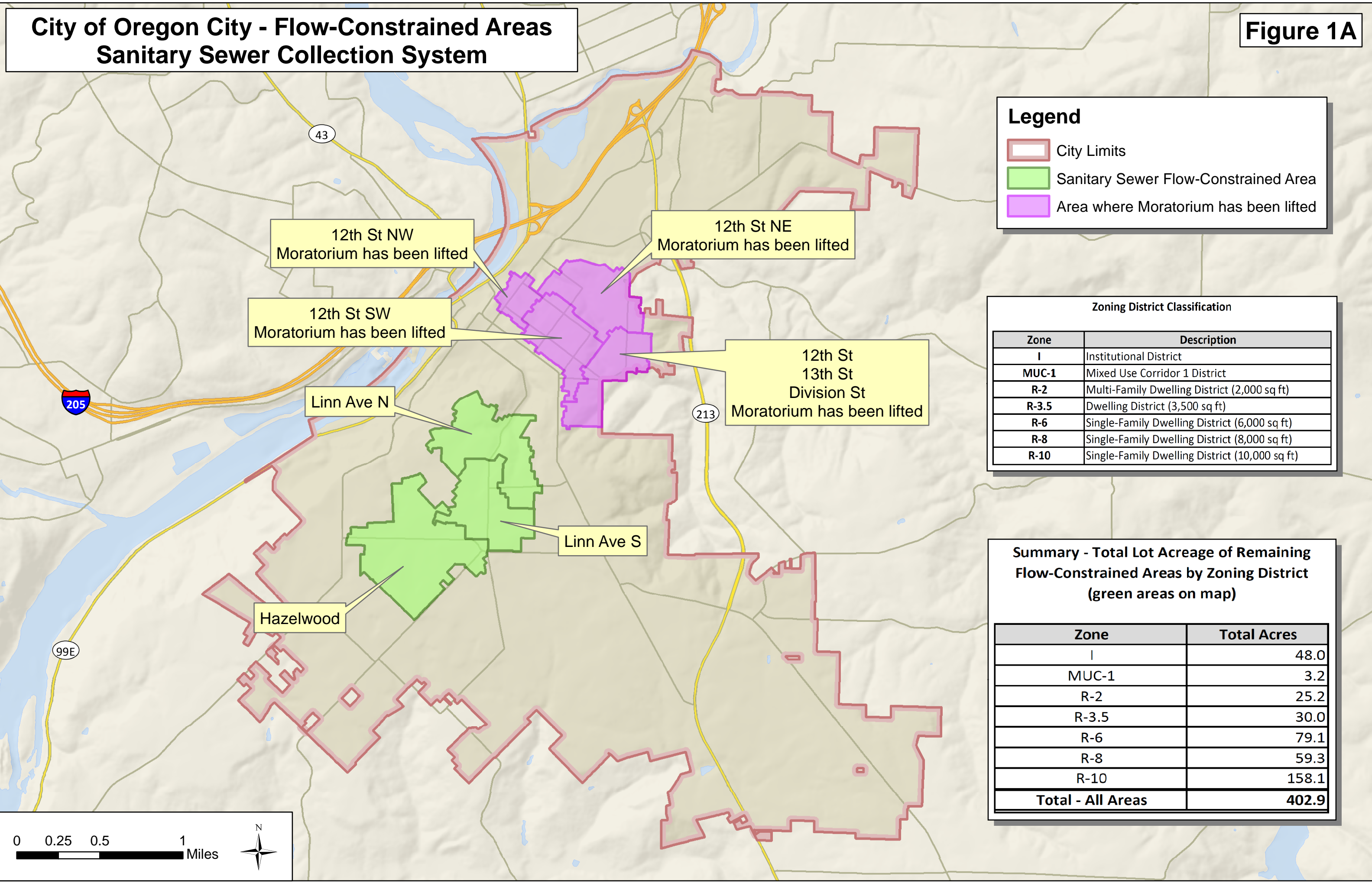
Attachments:

Exhibit A – Figures 1A, 1B, and 1C, Maps identifying the areas affected by the Public Facilities Strategy

Exhibit B - City Engineer Findings Supporting Public Facilities Strategy

City of Oregon City - Flow-Constrained Areas Sanitary Sewer Collection System

Figure 1A



Legend

- City Limits
- Sanitary Sewer Flow-Constrained Area
- Area where Moratorium has been lifted

Zoning District Classification

Zone	Description
I	Institutional District
MUC-1	Mixed Use Corridor 1 District
R-2	Multi-Family Dwelling District (2,000 sq ft)
R-3.5	Dwelling District (3,500 sq ft)
R-6	Single-Family Dwelling District (6,000 sq ft)
R-8	Single-Family Dwelling District (8,000 sq ft)
R-10	Single-Family Dwelling District (10,000 sq ft)

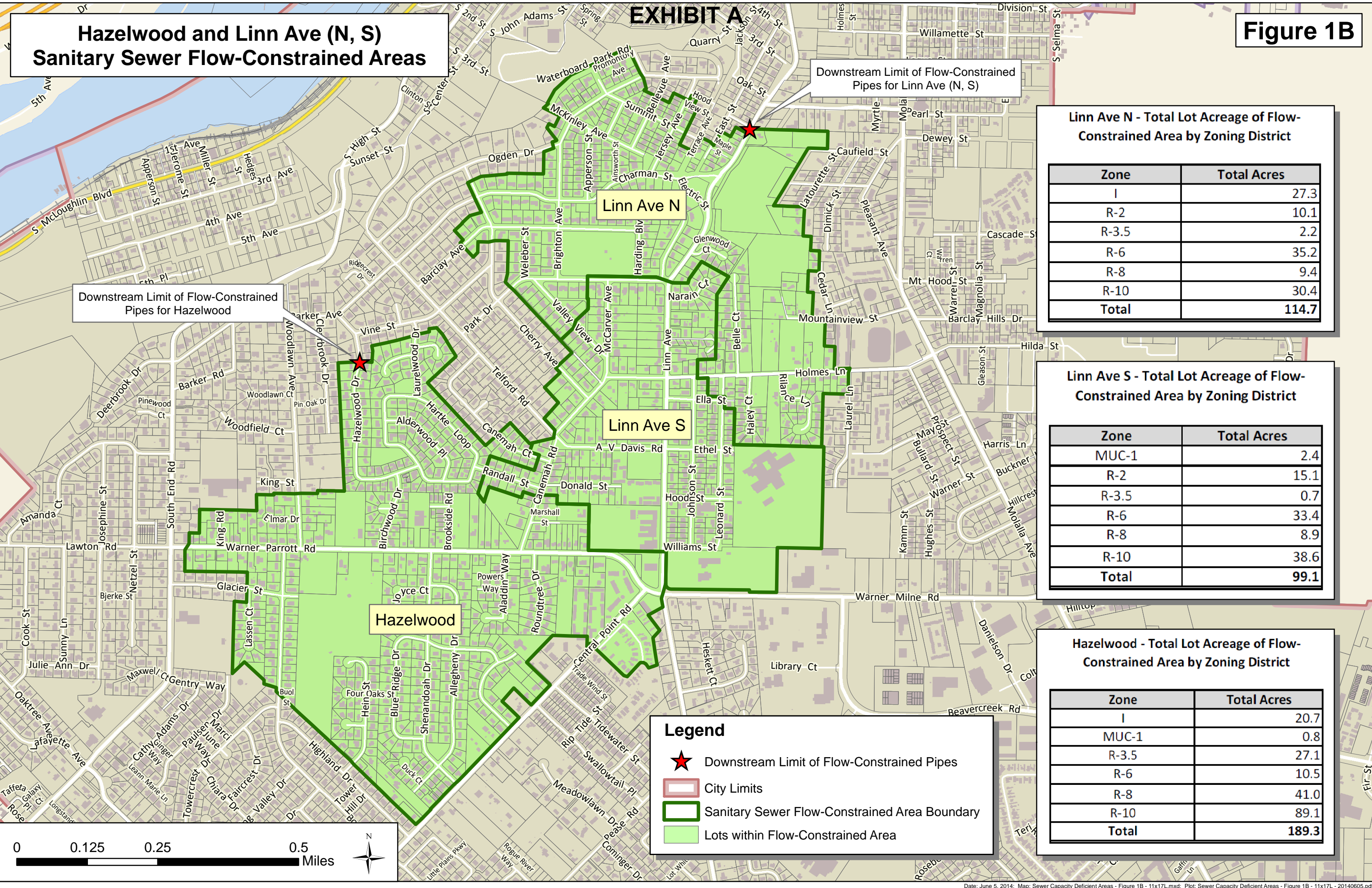
Summary - Total Lot Acreage of Remaining Flow-Constrained Areas by Zoning District (green areas on map)

Zone	Total Acres
I	48.0
MUC-1	3.2
R-2	25.2
R-3.5	30.0
R-6	79.1
R-8	59.3
R-10	158.1
Total - All Areas	402.9

Hazelwood and Linn Ave (N, S)
Sanitary Sewer Flow-Constrained Areas

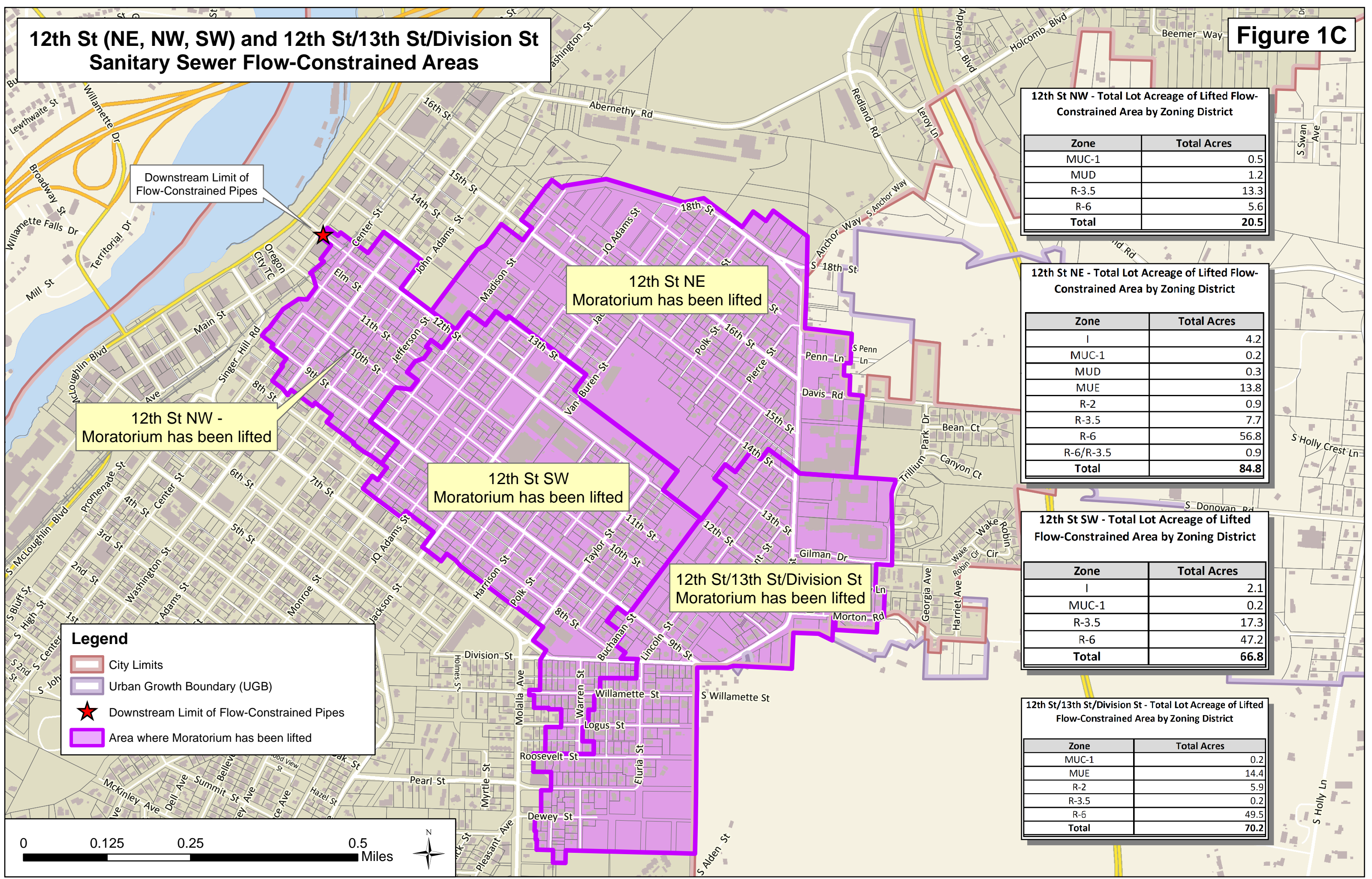
EXHIBIT A

Figure 1B



12th St (NE, NW, SW) and 12th St/13th St/Division St Sanitary Sewer Flow-Constrained Areas

Figure 1C



12th St NW - Total Lot Acreage of Lifted Flow-Constrained Area by Zoning District	
Zone	Total Acres
MUC-1	0.5
MUD	1.2
R-3.5	13.3
R-6	5.6
Total	20.5

12th St NE - Total Lot Acreage of Lifted Flow-Constrained Area by Zoning District	
Zone	Total Acres
I	4.2
MUC-1	0.2
MUD	0.3
MUE	13.8
R-2	0.9
R-3.5	7.7
R-6	56.8
R-6/R-3.5	0.9
Total	84.8

12th St SW - Total Lot Acreage of Lifted Flow-Constrained Area by Zoning District	
Zone	Total Acres
I	2.1
MUC-1	0.2
R-3.5	17.3
R-6	47.2
Total	66.8

12th St/13th St/Division St - Total Lot Acreage of Lifted Flow-Constrained Area by Zoning District	
Zone	Total Acres
MUC-1	0.2
MUE	14.4
R-2	5.9
R-3.5	0.2
R-6	49.5
Total	70.2



MEMORANDUM

PREPARED FOR: City Commission, City of Oregon City
SUBJECT: Ordinance No. 16-1006 *Adopting a Public Facilities Strategy for the Linn Avenue and Hazelwood Drive Sewer Systems*

PLANNING FILE: L 14-03 Sanitary Sewer Moratorium
FROM: Aleta Froman-Goodrich, P.E., City Engineer
DATE: June 17, 2016

Background

The City of Oregon City (City) provides sanitary sewer collection services to nearly 33,000 people across an area of approximately 9.3 square miles. Currently there are over 10,400 service connections to the sanitary sewer collection system which includes approximately 9,740 residential, 520 commercial, and 130 industrial users. The City owns the following infrastructure: over 148 miles of gravity pipelines, ranging in size from approximately 2 to 36 inches in diameter; 3,700 manholes; 12 (major) pumping stations; and 6 miles of sanitary force mains. The City's buildout population is expected to reach 52,500 by the year 2035, with most of the growth occurring around the fringes of the existing city limits. In 2012, the City retained Brown and Caldwell to develop a new Sanitary Sewer Master Plan (SSMP) including a calibrated model of the City's sanitary sewer collection system. The new SSMP identified areas where capital improvement projects are needed to convey existing and future wastewater flows. Specifically, the master plan identified four flow-constrained areas, Linn Avenue, Hazelwood Drive, 12th Street, and 13th Street/Division Street, which had sewers that were undersized and currently operated beyond existing capacity during both the 1- in 5-year and 1- in 10-year storm events. Any additional flows introduced into these sewers prior to fixing the capacity problems will increase surcharging and the potential for sanitary sewer overflows (SSO) that could result in flooding and/or basement backups. The City of Oregon City's Comprehensive Land Use Plan requires that the rate of community growth and development may not exceed the community's ability to provide essential public services, including a sanitary sewer system. Policy 11.2.1 of the City's Comprehensive Plan requires that the City "plan, operate and maintain the wastewater collection system for all current and anticipated city residents;" Policy 11.2.3 requires that the City "...provide enough collection capacity to meet standards established by the Oregon Department of Environmental Quality (DEQ) to avoid discharging inadequately treated sewage into surface water."

In order to not exacerbate identified sewer capacity problems in the four aforementioned flow constrained areas, a 6-month moratorium on land development, building, and sewer permit approvals was adopted by the City Commission on August 6, 2014, through adoption of Ordinance 14-006. This moratorium has been extended for three (3) six month periods. The third moratorium extension will expire October 1, 2016.

During the time since the original moratorium was declared, capital projects have been completed to remedy capacity shortcomings in the 12th Street and 13th Street / Division Street areas. The Linn Avenue and Hazelwood Drive moratorium areas are still flow constricted based on the SSMP, and further development must be prohibited until capital improvement projects to remedy identified capacity shortcomings in the system are completed. It is anticipated that projects to remedy flow shortcomings in the Linn Avenue and Hazelwood Drive basins will be completed in 2016 and 2017, respectively.

Adoption of a public facilities strategy under ORS 197.768 is required in order to prohibit development in the identified flow-constricted areas until the necessary capital improvement projects to remedy flow shortcomings are completed.

The City is required to adopt findings to address the standards for a public facilities strategy under ORS 197.768(4). The City finds the following:

- (a) There is a rapid increase in the rate or intensity of land development in a specific geographic area that was unanticipated at the time the original planning for that area was adopted or there has been a natural disaster or other catastrophic event in a specific geographic area;*

The sewer systems in most of the constrained areas – Linn Avenue and Hazelwood Drive – were constructed in the 1980s as part of a citywide sewer separation program, or longer ago. The sewer system was expected to meet the current and projected needs of the community when it was constructed, but is no longer able to meet the anticipated increase in the rate and intensity of land use development required to serve the needs of approximately 20,000 more residents by 2035. Further, many existing manholes in the system are made of brick and have failing manhole walls and channels. Segments of pipe in the system are constructed from clay, asbestos, and other materials which crack and deteriorate over time. New manholes and pipes will be constructed using modern materials and construction techniques, specifically precast reinforced concrete manhole barrels and modern PVC sewer pipe, both of which have exceptional performance and service life compared to brick and clay construction. Both in terms of function and repair condition, portions of the sewer system are subject to catastrophic failure in their existing condition.

The Portland Metro Region has experienced a dramatic increase in new construction during the past 5 years. If construction and sewer hook-ups were allowed in the sewer-constrained areas of Linn Avenue and Hazelwood Drive, the City expects that a rapid rate of increased and intense land development would occur. For example, the City denied the land use application for a proposed dormitory facility to house 60 people in the Hazelwood Drive area. The City denied the application, in part, because of sewer capacity issues.

In addition to land development pressures, the City considers SSOs a public health and safety risk. Thus, the City treats SSOs as catastrophic events in the Linn Avenue and Hazelwood Drive sewer systems because of the potential for human exposure to sewage overflows, and because DEQ does not allow SSOs. Further, the City has obligations under the federal Clean Water Act to prevent unpermitted discharges from the sanitary sewer system to water of the United States. In recent years the City has experienced overflowing sewers in several locations during heavy rain events. During heavy rain events, City staff has observed significant surcharging within the Hazelwood Drive sewer system along Warner

Parrott Road and in the sewers that are located in Shenandoah Drive and Joyce Court. In addition, during the heavy rains of December 7, 2016, an SSO was observed by Staff at the sewer manhole at the intersection of Linn Avenue and Pearl Street. During two separate storm events, the first on January 2, 2009, and the second on January 19 and 20, 2012, SSOs were recorded. Basement flooding was experienced by the residents at five properties during the first event and at two of the same five properties during the second storm event. The risk of additional property damage, as well as public health and environmental concerns related to SSOs supports the City's decision to enact the public facilities strategy.

New capital improvement projects outlined in the SSMP will protect public health and the environment. No further development that requires sewer hook-ups should be allowed in the constrained areas until the capital improvement projects identified in the SSMP, which is the City's public facilities strategy for the Linn Avenue and Hazelwood Drive sewer systems, are completed.

(b) The total land development expected within the specific geographic area will exceed the planned or existing capacity of public facilities; and

Hydraulic modeling carried out as part of the SSMP revealed that segments of pipe in many areas of the City have insufficient capacity to serve existing system users during heavy rainfall. As continued new development and infill occurs, the shortcomings of the system will only be exacerbated. The SSMP Appendix K, Section 3.1, predicts surcharging and flooding during the 1- in 10-year storm event in the Linn Avenue area in the existing condition. The SSMP Appendix K, Section 3.2, predicts surcharging and flooding during the 1- in 10-year storm event in the Hazelwood Drive area in the existing condition. Both areas have the potential for additional sewer connections if new development is not restricted, which would only exacerbate the current SSO risk.

(c) The public facilities strategy is structured to ensure that the necessary supply of housing and commercial and industrial facilities that will be impacted within the relevant geographic area is not unreasonably restricted by the adoption of the public facilities strategy.

The overall impact area is approximately 403 acres, 7% of the total acreage across City. The percentage of the impact area based on zoning districts includes approximately 87% residential, 12% institutional, and 1% mixed use. The area of developable lots located in the overall impact area is approximately 54.3 acres, less than 1% of the total developable acreage across City. The developable lots in the impact area are properties that are either vacant or have a high potential for redevelopment. The percentage of the developable area based on zoning districts includes approximately 97% residential (52.4 acres) and 3% mixed use (1.9 acres). The moratorium areas were identified with the goal of protecting public safety and wellbeing while minimizing disruption to economic development. Other areas outside of the impact area continue to be developed to serve residential, commercial and industrial facility uses. The following two tables illustrate land use applications submitted since the effective date of the moratorium ordinance on August 6, 2014 and show that the City has available developable land outside of the constrained areas that will be affected by the adoption of the public facilities strategy.

Table 1. Residential Development Applications Submitted Outside of the
Constrained Sewer System Area Since the Moratorium

Proposed Development	Address	Zoning	File #	# Lots / Units	Acres	Status
Subdivision	19845 S Leland Rd	R-6	TP-14-0005	39	8.6	Under Construction
Subdivision	19751 Meyers Rd	R-8	TP-14-0006	8	1.83	Final Plat Review
Subdivision	14711 Thayer Rd	R-3.5	TP-14-0007	11	1.45	Final Plat Review
Subdivision	19882 White Ln	R-8	TP-15-0001	32	9.08	Under Construction
Subdivision	19371 Pease Rd	R-8	TP-15-0002	19	4.25	Final Plat Review
Subdivision	19588 Mccord Rd	R-6	TP-15-0003	25	5.2	Final Plat Review
Subdivision	318 Willamette St	R-3.5	TP-15-0004	12	1.0	Final Plat Review
Subdivision	19113 Pease Rd	R-6	TP-15-0005	32	6.3	Final Plat Review
Subdivision	15961 Hunter Ave	R-10	TP-15-0006	10	4.3	Planning Review
Subdivision	19584 Central Point Rd	R-10/R-8	TP-15-0007	41	10.6	Final Plat Review
Subdivision	13548 Gaffney Ln	R-3.5	TP-15-0008	7	0.7	Incomplete
Partition	16565 Apperson Blvd	R-10	MP-14-0001	2	0.64	Platted
Partition	13770 Lazy Creek Ln	R-3.5	MP-14-0002	2	0.63	Platted
Partition	1009 Woodlawn Ave	R-8	MP-15-0001	3	.8	Final Plat Review
Partition	13834 Lazy Creek Ln	R-3.5	MP-16-0001	2	.8	Incomplete
				245 Units	56.18 Acres	

Table 2. New Commercial, Multifamily and Institutional Site Plan and Design Review and Development
Plan Applications Submitted Outside of the Constrained Sewer System Area since the Moratorium

Description	Address	Permit number	Application date	Status
Minor SP for addition to Sherwin-Williams paint	1617 Beavercreek Rd	SP-14-0013	9/4/2014	Approved
11087 sq ft Tire Store	2002 Washington St	SP-14-0016	9/18/2014	Approved
Minor site plan for facade changes to tenant space	820 Main St	SP-14-0017	11/17/2014	Approved
Carnegie Library Addition and Renovation - 14,500 sf addition and Library park design changes	606 John Adams St	SP-15-0002	1/23/2015	Approved
New office building	415 Center St	SP-15-0004	3/10/2015	Approved
18 unit multi-family complex	13849 Holcomb Blvd	SP-15-0013	8/14/2015	Approved

New Transportation Facility and Offices for OCSD	Address pending	DP-14-0004	12/23/2014	Approved
Cove Development - 244 Apartments	Address pending	DP-15-0001	7/6/2015	Approved
7,500 sq. ft. retail building.	358 Warner Milne Rd	DP-16-0002	4/1/2016	Under Review
Detailed Development Plan for new medical office building.	1505 Division St	DP-16-0003	4/25/2016	Under Review

CONCLUSION

Based on the foregoing, the City finds that the conditions of ORS 197.768(4) have been satisfied, and a public facilities strategy should be adopted to prohibit land development, building, and sewer permit approvals within the Linn Avenue and Hazelwood Drive for two years, commencing October 1, 2016.

Under ORS 197.768(5), the public facilities strategy includes clear, objective and detailed descriptions of the actions that the City will engage in to control the time and sequence of development approvals in response to the identified deficiencies in public facilities. The City's public facilities strategy is set forth in the attached SSMP developed to remedy the sewer constrained areas for the Linn Avenue and Hazelwood Drive sewer systems. See Figures 1A-1C.

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