

## **COUNCIL ORDINANCE No. 2200**

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ADOPTING THE FINAL DEVELOPMENT PLAN AND PROGRAM FOR WAVERLY WOODS (FILE #PD-2020-001) AND AMENDING THE CITY'S ZONING MAP TO ADD THE "PD" DESIGNATION TO THE SUBJECT PROPERTY AS SHOWN IN EXHIBIT D (FILE #ZC-2020-001).**

**WHEREAS**, the approved final development plan and program will establish the standards and requirements for development within the Waverly Woods development; and

**WHEREAS**, the proposed amendments to the Zoning Map will result in residential development that is compatible with the surrounding neighborhood; and

**WHEREAS**, on January 12, 2021, the Planning Commission conducted a public hearing as required by Milwaukie Municipal Code (MMC) 19.1007.5 and adopted a motion in support of the final development plan and program and proposed amendments; and

**WHEREAS**, the City Council finds that the final development plan and program and proposed amendments are in the public interest of the City of Milwaukie.

**Now, Therefore, the City of Milwaukie does ordain as follows:**

Section 1. Findings. Findings of fact in support of the final development plan and program amendments are adopted by the City Council and are attached as Exhibit A and also include the Council staff report dated February 7, 2021 and the applicant's Final Written Argument dated December 15, 2020. To the extent there are any conflicts between the applicant's Final Written Argument and the Recommended Findings of Fact and/or the Council Staff Report, the Recommended Findings of Fact and/or the Council Staff Report shall be controlling.

Section 2. Final Development Plan and Program. The final development plan and program for the Waverly Woods development are adopted by the City Council and are attached as Exhibit B.

Section 3. Conditions and Other Requirements. Conditions of approval and other requirements related to the final development plan and program are adopted by the City Council and are attached as Exhibit C.

Section 4. Amendments. The Milwaukie Zoning Map is amended as described in Exhibit D (Proposed Zoning Map Amendments).

Section 5. Effective Date. The amendments shall become effective 30 days from the date of adoption.

Read the first time on **March 2, 2021** and moved to second reading by **5:0** vote of the City Council.

Read the second time and adopted by the City Council on **March 2, 2021**.

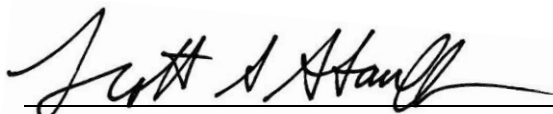
Signed by the Mayor on **March 2, 2021**.

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Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read 'Scott S. Stauffer', written over a horizontal line.

Scott S. Stauffer, City Recorder

A handwritten signature in black ink, appearing to read 'Justin D. Gericke', written over a horizontal line.

Justin D. Gericke, City Attorney

**Recommended Findings for Approval  
File #PD-2020-001, Waverly Woods**

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, Scott Wyse, representing Walker Ventures LLC, has applied for approval of a Planned Development in the Willamette Greenway Overlay Zone at 10415 SE Waverly Ct. This site is in the R-2 Zone. The land use application file number is PD-2020-001.
2. The proposal is for a multi-unit dwelling development consisting of four (4) residential buildings, a community center with swimming pool, and a community room built over three (3) phases totaling 100 dwelling units. The proposed development is being submitted as a Planned Development application to provide more flexibility related to development standards, such as building height in the Willamette Greenway Zone. The site is in the Willamette Greenway Zone and is also subject to Willamette Greenway review.
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - MMC Title 12 Streets, Sidewalks, and Public Places
  - MMC Section 19.1007 Type IV Review
  - MMC Section 19.311 Planned Development Zone (PD)
  - MMC Section 19.302 Medium and High Density Residential Zones (including R-2)
  - MMC Title 17 Land Division
  - MMC Section 19.401 Willamette Greenway Zone
  - MMC Chapter 19.500 Supplementary Development Regulations
  - MMC Chapter 19.600 Off-Street Parking and Loading
  - MMC Chapter 19.700 Public Facility Improvements
  - MMC Section 19.902 Amendments to Maps and Ordinances
  - MMC 19.905 Conditional Uses

Only the sections relevant to the decision for denial of the application are addressed below.

4. The application submittal includes a proposed Planned Development, Zoning Map Amendment, Property Line Adjustment, Willamette Greenway Conditional Use Review, and Transportation Facilities Review. Of all of the application components, the Planned Development and Zoning Map Amendment require the highest level of review (Type IV); as per MMC Subsection 19.1001.6.B, all are being processed with Type IV review.

The application has been processed and public notice provided in accordance with MMC Section 19.1007 Type IV Review. As required by MMC Subsection 19.1002.2, a preapplication conference was held on May 14, 2020. Public notice was sent to property owners and current residents within 400 ft of the subject property. As required by law, public hearings with the Planning Commission were held on October 27, 2020, December 8, 2020, and January 12, 2021, resulting in a recommendation for final decision by the City

Council. A public hearing with the City Council was held on February 16, 2021, as required by law.

These findings are worded to reflect the City Council's role as final decision-maker; they represent the Planning Commission's recommendation to the City Council.

5. MMC Title 12 Streets, Sidewalks, and Public Places

a. MMC Chapter 12.16 Access Management

MMC Section 12.16.040 establishes standards for access (driveway) requirements, including access spacing, number and location of accessways, and limitations for access onto local and neighborhood streets. For multifamily properties accessing local and neighborhood streets, new driveways must be spaced at least 100 ft from the nearest intersection.

*The subject property has frontage on both Waverly Ct and Lava Dr, but development accessing Waverly Ct is the only development proposed at this time. Waverly Ct is a local street. The proposed site driveway would meet the City's spacing standard of 100 ft for local streets due to the property location on a corner. However, the driveway on Waverly Ct was shown to be offset from the existing Waverly Greens driveway on the opposite side of the street. The proposed new driveway at Waverly Ct was found to meet stopping sight distance but intersection sight distance for turning vehicles was not met. In the submitted Transportation Impact Study (TIS) Kittleson & Associates cited the following AASHTO guidance, "if the available sight distance for an entering or crossing vehicle is at least equal to the appropriate stopping sight distance for the major road, then drivers have sufficient sight distance to anticipate and avoid collisions." Their study specified that any new landscaping, above ground utilities, and signage should be located and maintained along the site frontage to maximize sight distance.*

*The City's traffic consultant recommends the minimum AASHTO sight distance requirements should be met at the proposed driveways and final acceptance should be made by the City Engineer prior to final site plan approval.*

*As conditioned, the development is consistent with the applicable standards of MMC 12.16.*

b. MMC Chapter 12.24 Clear Vision at Intersections

MMC 12.24 establishes standards for maintenance of clear vision at intersections to protect the safety and welfare of the public in their use of City streets.

*As conditioned, all driveways, accessways, and intersections associated with the proposed development conform to the applicable standards of MMC 12.24.*

*The City Council finds that, as conditioned, the development meets all applicable requirements of MMC Title 12. This standard is met.*

6. MMC Title 17 establishes the regulations governing land division.

a. MMC Chapter 17.12 Application Procedure and Approval Criteria



MMC Section 17.12.030 establishes the approval criteria for property line adjustment. The proposed plans meets these criteria as described below.

- (1) MMC Subsection 17.12.030.A.1 requires that the proposed property line adjustment complies with Title 19 Zoning and other applicable ordinances, regulations, and design standards.

*As demonstrated by the applicant's submittal materials and evidenced by these findings, the proposed property line adjustment complies with the applicable ordinances, regulations, and design standards. As proposed, this criterion is met.*

- (2) MMC Subsection 17.12.030.A.2 requires that the proposed boundary will allow reasonable development and will not create the need for a variance of any land division or zoning standard.

*The proposed boundary will provide sufficient area on each parcel to accommodate future development in accordance with the standards of the underlying R-2 zone. The parcels do not have physical constraints or dimensional limitations that would necessitate the need for variances in the future. As proposed, this criterion is met.*

- (3) MMC Subsection 17.12.030.A.3 requires that the proposed boundary change not reduce residential density below minimum density requirements of the zoning district in which the property is located.

*The proposed boundary results in three parcels. Parcel 1 contains the existing Dunbar Woods development with 36 units. The minimum density on this parcel would be 25 units. Parcel 2 is proposed to contain the proposed development of 100 units, which exceeds the minimum density of 78 units. Parcel 3 is 1.84 acres and will be developed as part of a future development.*

*As proposed, this criterion is met.*

*As proposed, the City Council finds that the proposed boundary meets the applicable criteria.*

b. MMC Chapter 17.28 Design Standards

MMC 17.28, particularly MMC Section 17.28.040, establishes standards for lot design for land divisions and boundary changes.

- (1) MMC Subsection 17.28.040.A requires that the lot size, width, shape, and orientation shall be appropriate for the location and the type of use contemplated, as well as that minimum lot standards shall conform to Title 19.

*The proposed lots are generally rectangular in shape and meet the minimum area requirements for the underlying R-2 zone. All lots conform to the relevant standards of the R-2 zone as described in Finding 7 and to other applicable standards of Title 19 as described elsewhere in these findings.*

- (2) MMC Subsection 17.28.040.B requires that lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable, shall run at right angles to the street

upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street.

*The proposed lots are generally rectangular in shape and meet the minimum lot standards in Title 19. The proposed new lot lines are at a 90-degree angle to Waverly Ct or Lava Dr and the rear lot lines are generally parallel to the street.*

- (3) MMC Subsection 17.28.040.C limits compound lot lines for side or rear lot lines.

*No compound lot lines are proposed for the side or rear lot lines.*

- (4) MMC Subsection 17.28.040.D allows lot shape standards to be varied pursuant to MMC 19.911.

*No variances to the lot shape standards are requested in this application.*

- (5) MMC Subsection 17.28.040.E limits double frontage and reversed frontage lots, stating that they should be avoided except in certain situations.

*None of the proposed lots is a double frontage or reversed frontage lot.*

- (6) MMC Subsection 17.28.040.F requires that, pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access. This standard applies when a lot has frontage on more than one street.

*As proposed all of the lots comply with the minimum required 35 ft of frontage.*

*As proposed, the City Council finds that the new lots presented in the applicant's preliminary plat meet the applicable design standards established in MMC 17.28.*

c. MMC Chapter 17.32 Improvements

MMC 17.32 establishes procedures for public improvements, including a requirement that work shall not begin until plans have been approved by the City.

*As discussed in Finding 11, physical improvements are required as a result of the proposed Planned Development.*

*As conditioned, the City Council finds that the applicable standards of MMC 17.32 are met.*

7. MMC Chapter 19.300 Base Zones

As a Planned Development, the proposed subdivision is subject to the requirements for Planned Developments as established in MMC Section 19.311. The Planned Development (PD) zone is a superimposed zone applied in combination with regular existing zones. The subject property is zoned R-2, so the underlying zone requirements of MMC Section 19.302 are relevant and must be addressed as well.

a. MMC Section 19.311 Planned Development Zone (PD)

The purpose of a Planned Development (PD) zone is to provide a more desirable environment than is possible through the strict application of Zoning Ordinance requirements, encouraging greater flexibility of design and providing a more

desirable use of public and private common open space. PD zones can promote variety in the physical development pattern of the city and encourage a mix of housing types.

(1) MMC Subsection 19.311.2 Use

The City Council approves the final development plan of a PD zone, in consideration of the proposal's conformance to the following standards:

(a) Conformance to the City's Comprehensive Plan

*As addressed in more detail in Findings 8 and 12, the proposed Planned Development conforms to the City's applicable Comprehensive Plan and is consistent with the relevant policies and goals.*

(b) Formation of a compatible and harmonious group

*As proposed, the development is a new community within the Waverly Greens and Dunbar Woods "neighborhood" already located in the immediate area. The proposed development will provide 100 units of apartments in four buildings. Although the proposed structures will have different front facades from the existing developments, because each community has its own character, according to the applicant's submittal materials, the size, orientation, architecture, color palette, and articulating features will be similar and will lend a sense of group compatibility.*

(c) Suitability to the capacity of existing and proposed community utilities and facilities

*The existing public utilities and facilities in the vicinity of the subject property are all of sufficient size and capacity to support the proposed development. As required, the new utilities provided within the proposed development itself will be suitable to serve it.*

(d) Cohesive design and consistency with the protection of public health, safety, and welfare in general

*The proposed street access is cohesively designed and meets the various applicable City standards for spacing and sight-distance. Frontage improvements along the subject property's frontage on Waverly Ct, including sidewalks, landscaping, and streetlights will meet applicable City standards. A trail system through a portion of the open space area will offer recreational opportunities while limiting impacts to natural areas.*

(e) Affordance of reasonable protection to the permissible uses of properties surrounding the site

*No commercial or other nonresidential uses are proposed as part of the development. Surrounding properties are zoned for low-density and high-density*

*residential uses, and the proposed development will not limit any future development or redevelopment of those properties.*

(2) MMC Subsection 19.311.3 Development Standards

MMC 19.311.3 establishes that the various applicable standards and requirements of MMC Title 19, including those of the underlying zone(s), are applicable in a PD zone, unless the Planning Commission grants a variance from said standards in its approval of the PD or the accompanying subdivision plat. The City Attorney has concurred with the conclusion of City staff that a formal variance request is not required for adjustments related to the flexibility inherent in the stated purpose of the PD zone to encourage greater flexibility of design and provide a more efficient and desirable use of common open space, with an allowance for some increase in density as a reward for outstanding design (e.g., housing type, lot size, lot dimension, setbacks, and similar standards).

(a) Minimum Size of a PD Zone

MMC Subsection 19.311.3.A requires that a PD Zone may be established only on land that is suitable for the proposed development and of sufficient size to be planned and developed in a manner consistent with the purposes of this zone.

*The subject property is approximately 10.8 acres in size and provides an adequate area for development.*

(b) Special Improvements

MMC Subsection 19.311.3.B establishes the City's authority to require the developer to provide special or oversize sewer lines, water lines, roads and streets, or other service facilities.

*The City's Engineering Department has determined that no special or oversize facilities are required to ensure that the proposed development provides adequate public facilities.*

(c) Density Increase and Control

MMC Subsection 19.311.3.C allows an increase in density of up to 20% above the maximum allowed in the underlying zone(s), if the City Council determines that the proposed Planned Development is outstanding in planned land use and design and provides exceptional advantages in living conditions and amenities not found in similar developments constructed under regular zoning.

*Subtracting the area occupied by area with 25% or greater slope as required by the density-calculation standards provided in MMC Subsection 19.202.4, the maximum allowable density for the net area of the subject property is 84 units. The applicant has proposed a total of 100 units, which is a 20% increase. The applicant*

*has listed the following elements as evidence of the project's outstanding design and exceptional advantages:*

- *The development takes advantage of the naturally sloping topography by tucking most of the required parking under the building to minimize surface parking which further increases the vegetated area.*
- *The proposed development retains 54% of the vegetated area and the existing tree canopy west of the development extends above the building heights which minimizes the visual impact of the additional building height from the Willamette River. This creates a unique forested setting for the proposed development.*
- *The proposal includes relocating and enlarging the existing community garden, which is an extremely popular amenity and creating an overlook area and walking paths through the forested area with strategic views of the Willamette River in an area currently impassable. Very few multi-unit developments include a community garden space. The overlook area and paths will be available from the public right-of-way and open to the public.*
- *This development seeks to maximize density and minimize its footprint to create "an urban development within an urban forest." Fulfilling the needs for more housing while providing more natural recreation spaces to improve occupant health and exposure to and appreciation for our natural environment. Through the project's compact design, the project will also reduce its operational footprint. Through the approval of the additional height allowance and width of the buildings, the project is able to take advantage of the natural topography on the site to tuck parking under the buildings. Tucking the parking under the building saves the development from surface parking allowing the project space to maintain the forested areas, add additional community spaces, community gardens, and other amenities.*
- *The proposed development includes 100 units of much-needed housing with a range of different sized units and price points.*
- *The site plan includes significant buffers and large setbacks from existing residences that are well beyond the requirements of the R-2 zone. These setbacks and buffers include significant trees and other vegetation.*
- *The proposed buildings include many exceptional features as compared to similar multi-unit developments:*
  - *Buildings A.1 and A.2 are designed to have corner windows to take advantage of views.*

- *Buildings B.1 and B.2, while without river views will primarily face vegetated areas rather than other buildings and parking lots.*
- *Tuck-under parking is rare in typical multi-unit developments providing a significant amenity for tenants while also reducing the footprint of the development.*
- *Each apartment unit is designed with a balcony, which are designed to be more than three times the size required in the multi-family design standards. The smallest private outdoor space is 195 sq ft.*
- *80% of the apartments are designed to have cross ventilation, which reduces the need for air conditioning during warm weather*
- *Amenities such as solar panels and electric vehicle charging stations will be available upon completion of the project.*

*The applicant has asserted that, without the Planned Development process, the site would be difficult to develop without resulting in greater impacts to the forested areas of the site.*

*As per the recommendation of the Planning Commission, the City Council finds that the proposed development provides sufficiently outstanding design features and exceptional amenities to justify the proposed density increase.*

(d) Peripheral Yards

MMC Subsection 19.311.3.D requires that yards along the periphery of any Planned Development zone be at least as deep as the front yard required in the underlying zone(s). Open space may serve as peripheral yard.

*The front yard requirements of the underlying R-2 zone is 15 ft. The proposed development provides large wooded setbacks, the smallest of which is 36 ft.*

(e) Open Space

MMC Subsection 19.311.3.E requires that a Planned Development set aside land as open space, for scenic, landscaping, or other recreational purposes within the development. A minimum of one-third of the gross area of the site must be provided as open space and/or outdoor recreational areas, with at least half of this area being of the same general character as the area containing dwelling units.

*The gross area of the subject property is approximately 10.8 acres, so a minimum of 3.24 acres must be provided as open space, with at least 1.6 acres available for recreational purposes. The applicant has proposed a maintained forest area with walking paths of approximately 3.5 acres, in addition to the areas of forested steep slopes to be maintained as open areas.*

(3) MMC Subsection 19.311.6 Planning Commission Review of Preliminary Development Plan and Program

MMC 19.311.6 establishes that the Planning Commission shall review an applicant's preliminary development plan and program for a PD and shall notify the applicant whether the proposal appears to satisfy the provisions of this section or has any deficiencies. Upon the Commission's approval in principle of the preliminary plan and program, the applicant shall file a final development plan and program and an application for zone change.

*The applicant has submitted a development plan and program for the proposed PD and has requested that the Commission consider it to be the final development plan and program submittal, along with the accompanying application for zone change.*

(4) MMC Subsection 19.311.8 Land Division

MMC 19.311.8 requires that the submittal of a final development plan and program be accompanied by an application for subdivision preliminary plat, where the PD involves the subdivision of land.

*The proposal involves a 100-unit apartment development. The proposal includes a property line adjustment; the proposal does not include a subdivision.*

(5) MMC Subsection 19.311.9 Approval Criteria

MMC 19.311.9 requires that the approval authority may approve, approve with conditions, or deny the proposed PD zone based on the following criteria:

(a) Substantial consistency with the proposal approved with Subsection 19.311.6

*The applicant has submitted a development plan and program for the proposed PD and has requested that the Commission consider it to be the final development plan and program submittal, along with the accompanying application for zone change.*

(b) Compliance with Subsections 19.311.1, 19.311.2, and 19.311.3

*As demonstrated by these findings, the proposed development complies with these sections.*

(c) The proposed amendment is compatible with the surrounding area based on the following factors:

- (i) Site location and character of the area.
- (ii) Predominant land use pattern and density of the area.
- (iii) Expected changes in the development pattern for the area.

*The proposed amendment is compatible with the surrounding area based upon the site location and character of the area. The existing dense, tall forest minimizes the impact of the proposed taller and wider buildings on the ridge on the views from the Willamette River and the breaking up of the length into two distinct masses*

*minimizes the appearance from the street. As noted above, the existing multifamily structures in the neighborhood exceed the lengths proposed in this development with the existing Stuart and Waverley Hall Apartments located to the east of this development both ranging in over 284 ft in length. The proposed development is consistent with the predominant land use pattern and density of the area as it is surrounded by existing multifamily apartment complexes. There are no expected changes in the development pattern for the area. The area is designated med-high density residential and this development is the last undeveloped tract of land in the surrounding neighborhood. The general arrangement of the proposed buildings, including forested area and large setbacks and buffers, integrates the development into the surrounding neighborhood. It serves as a better transition between the surrounding high-density neighborhood and the adjacent low-density area with single-family homes. As indicated by the applicable 1989 City of Milwaukie Comprehensive Plan, there are no plans to change the development pattern for the area.*

- (d) The need is demonstrated for uses allowed by the proposed amendment

*As stated in the application materials, the proponents understand the needs of the rental market as they own a large portfolio of apartment communities ranging in affordability. They have found a gap in the availability of the proposed apartment types. Within their community, they have a waiting list for the type of accommodations this project is providing. The City of Milwaukie's Comprehensive Plan recognizes increased housing is a need and the City Council has identified increased housing opportunity and supply as a top goal for the city.*

- (e) The subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the use(s) allowed by the proposed amendment, or such facilities, utilities, and services are proposed or required as a condition of approval for the proposed amendment

*The applicant team has performed preliminary investigations into the existing infrastructure including a transportation study to analyze the impacts of increased traffic on the existing city infrastructure. Increased storm water, sewer, domestic and fire water supply as a result of this 100-unit development have also been reviewed and calculated. The submitted application materials include these analyses confirming the adequacy of the existing systems. The existing public transportation facilities, utilities, and available services are adequate to support the proposed development.*

- (f) The proposal is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact study may be required subject to the provisions of Chapter 19.700

*A transportation impact study has been included as part of application submittal. See Finding 11 for details.*



(g) Compliance with all applicable standards in Title 17 Land Division

*As detailed in Finding 5, the proposed development complies with the applicable standards in Title 17.*

(h) Compliance with all applicable development standards and requirements

*As conditioned, and as detailed in these Findings, the proposed development complies with the applicable development standards and requirements.*

(i) The proposal demonstrates that it addresses a public purpose and provides public benefits and/or amenities beyond those permitted in the base zone

*The Residential R-2 zone allows multi-unit residential development by right. As detailed by the applicant, the proposed project fulfills and expands needed amenities for the existing six communities of Waverley Greens Apartments. It would provide more places for community gathering and celebration. The proposed two new community centers and outdoor amenities provide places for the residents to garden, swim, eat, celebrate, meet, organize, and educate themselves. The existing community already partners with local educators to provide classes to its residents. This proposal will increase the number of spaces and opportunities for these experiences. The project is designed to be part of the existing natural forest. The proposal includes relocating and enlarging the community garden, which is an extremely popular amenity and creating walkable paths through the forested area with views of the Willamette River in an area that is currently unpassable. The proposal includes a public river viewing area adjacent to the public right-of-way. The additional density requested would add 16 units to the city's housing inventory. Through the site design the proposed development preserves and manages areas of significant forest far beyond the requirements of the base zoning regulations.*

*The general arrangement of the proposed buildings, including forested area and large setbacks and buffers, integrates the development into the surrounding neighborhood. It serves as a better transition between the surrounding high-density neighborhood and the adjacent low-density area with single-family homes.*

*The proposed development seeks to maximize density and minimize its footprint to create an urban development within an urban forest. An additional objective is to fulfill the need for more housing in Milwaukie while providing more natural recreation spaces to improve occupant health and exposure to and appreciation for the natural environment. Through the project's compact design, the project will also reduce its operational footprint. The approval of the additional height allowance and width of the building would allow the project to take advantage of the natural topography on the site to tuck parking under the buildings. The parking level pushes the building to exceed the Willamette Greenway Zone height limit, but still within the allowable City of Milwaukie code. Tucking the parking under the building saves the development from surface parking allowing the*

*project space to maintain the forested areas, add additional community spaces, community gardens and other amenities.*

*As conditioned, the City Council finds that the proposed development meets the approval criteria.*

(6) MMC Subsection 19.311.10 Planning Commission Action on Final Development Plan and Program

MMC 19.311.10 requires that the Planning Commission hold a public hearing using Type IV review to consider a final development plan and program, zone change application, and subdivision preliminary plat. If the Planning Commission finds that the final development plan and program is in compliance with the preliminary approval and with the intent and requirements of the applicable provisions of the zoning ordinance, it shall forward a recommendation for approval to the City Council for adoption. *As required, the Planning Commission held public hearings on October 27, 2020, December 8, 2020, and January 12, 2021 in accordance with the Type IV process outlined in MMC Section 19.1007 and considered the proposed development plan and program, zone change application, property line adjustment, and Willamette Greenway review. The Planning Commission found that the development plan and program is in compliance with the intent and requirements of the applicable provisions of MMC Title 19 Zoning and forwarded a recommendation of approval to the City Council for adoption.*

(7) MMC Subsection 19.311.11 Council Action on Final Development Plan and Program

MMC 19.311.11 requires that the City Council consider the final development plan and program and zone change application through the Type IV review process, upon receipt of a recommendation from the Planning Commission. Upon consideration of the proposal, the Council may adopt an ordinance applying the PD zone to the subject property and adopt the final development plan and program as the standards and requirements for that PD zone. The Council may also continue consideration and refer the matter back to the Planning Commission with recommendations for amendment, or may reject the proposal and abandon further hearings and proceedings.

*The Council considered the final plan and program and zone change application, as well as the accompanying applications for subdivision preliminary plat and associated reviews, in accordance with the Type IV review process outlined in MMC Section 19.1007. The Council held a public hearing on February 16, 2021, and adopted an ordinance applying the PD zone to the subject property, which adopted the final development plan and program as the standards and requirements for the new PD zone (Ordinance 2200).*

*The City Council finds that the applicable standards and requirements of MMC 19.311 are met. As per Ordinance 2200, the final development plan and program is adopted as the standards and requirements and the PD zone designation is applied to the subject property.*

b. MMC Section 19.302 Medium and High Density Residential Zones (including R-2)

The subject property is zoned Residential R-2. MMC 19.302 establish the allowable uses and development standards for the residential R-3 zone. As noted in Finding 7-a(2), although the underlying zone standards are primarily applicable, the PD zone allows adjustment to some of those standards. This applies to such underlying zone limitations as housing type, lot size, lot dimension, setbacks, and similar standards that relate to flexibility of design, greater efficiency in the use of common open space, and minor increases in density allowed as a reward for outstanding design.

(1) Permitted Uses

As per MMC Table 19.302.2, multifamily development is an outright permitted use in the R-3 zone.

*The proposal is a 100-unit multifamily development.*

(2) Lot and Development Standards

As discussed in Finding 7-a(2), above, adjustments to underlying zone standards that are related to the flexibility of design afforded by the PD process are allowed and do not require a formal variance request. Table 7-b(2) compares the applicable standards for development in the R-2 zone with the standards proposed as the final development plan and program for this PD zone.

| Table 7-b(2)               |                      |                                    |
|----------------------------|----------------------|------------------------------------|
| Standard                   | R-2 Requirement      | Proposed PD Requirement – Parcel 2 |
| 1. Minimum Lot Size        | 5,000 sq ft          | 294,350 sq ft                      |
| 2. Minimum Lot Width       | 50 ft                | 300+ ft                            |
| 3. Minimum Lot Depth       | 80 ft                | 300+ ft                            |
| 4. Minimum street frontage | 35 ft                | 300+ ft                            |
| 5. Front Yard              | 15 ft                | 15.08 ft                           |
| 6. Side Yard               | 5 ft                 | 36 ft                              |
| 7. Rear Yard               | 15 ft                | 99 ft                              |
| 8. Maximum Building Height | 3.5 stories or 45 ft | 4 stories; 52 ft                   |

|  |   |   |
|--|---|---|
|  | (whichever is less;<br>with additional<br>10% vegetation) |   |
| <b>9. Side yard height plane limit</b> | 45-degree slope at 25 ft height                           | Exceeds this standard – see PD request for additional building height.  |
| <b>10. Maximum lot coverage</b>        | 45%   | 21.9%   |
| <b>11. Minimum vegetation</b>          | 15%   | 54%   |
| <b>12. Minimum density</b>             | 11.6 units per acre                                       | Minimum of 78 units for entire site   |
| <b>13. Maximum density</b>             | 17.4 units per acre                                       | Maximum of 84 units for entire site<br>(Applicant has requested a 20% density increase to a total of 100 units) |

*The lots and development standards that will govern development on the subject property are shown in Table 7-b(2) and effectively establish a component of the final development plan and program for this PD zone.*

8. MMC 19.400 Overlay Zones and Special Areas

a. MMC 19.401 Willamette Greenway Overlay Zone

MMC 19.401 establishes criteria for reviewing and approving development in the Willamette Greenway.

(1) MMC Subsection 19.401.5 Procedures

MMC 19.401.5 establishes procedures related to proposed uses and activities in the Willamette Greenway zone. Development in the Willamette Greenway zone requires conditional use review, subject to the standards of MMC Section 19.905 and in accordance with the approval criteria established in MMC Subsection 19.401.6.

*To construct a multi-unit apartment community constitutes “development” as defined in MMC Subsection 19.401.4 and is subject to the conditional use review standards of MMC 19.905 and the approval criteria of MMC 19.401.6.*

(2) MMC Subsection 19.401.6 Criteria

MMC 19.401.6 establishes the criteria for approving conditional uses in the Willamette Greenway zone.

(a) Whether the land to be developed has been committed to an urban use, as defined under the State Willamette River Greenway Plan

The State Willamette River Greenway Plan defines “lands committed to urban use” in part as “those lands upon which the economic,

developmental and locational factors have, when considered together, made the use of the property for other than urban purposes inappropriate.”

*The land for the proposed project has been committed to an urban use as defined under the State Willamette River Greenway Plan. The City of Milwaukie has designated the use of this land as Residential R-2, medium and high-density development.*

- (b) Compatibility with the scenic, natural, historic, economic, and recreational character of the river

*The proposed development would be more than 1,000 ft from the river and there is currently no access to the river from the subject property. The proposed development is consistent with the multi-unit residential character of the surrounding area and in its relationship with the river. The proposed development is set back from the river with a buffer of an existing adjacent golf course and multiple existing multi-unit residential developments that are closer and more exposed to the river. The proposed development maintains 54% of the site in its vegetated and forested state. The proposed development includes the addition of recreational walking paths through the forested site.*

- (c) Protection of views both toward and away from the river

*By maintaining the existing forest and specifically orienting the new development, the views from the river will be minimally impacted. New opportunities for views to the river are proposed through the creation of recreational paths in the existing forest and removing invasive species and dead/diseased trees along with curating views from the development itself. Overall, the project will increase the opportunities for visual enjoyment of the river and its surrounding environment while minimally impacting the views from and/or across the river.*

- (d) Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the river, to the maximum extent practicable

*The proposed development footprint is located to the northeast portion of the site, which is the farthest corner away from the river. The south and west of the site are devoted to walking paths and recreational uses for future residents along with maintaining habitat corridors. The development site has no direct connection to the river.*

- (e) Public access to and along the river, to the greatest possible degree, by appropriate legal means

*There is no public access from the site to the river from the proposed development or its surrounding area. The subject property is not directly adjacent to the river.*

- (f) Emphasis on water-oriented and recreational uses

*There is no direct access to the river from the site. Increased access to views of the river will be created by the development.*

- (g) Maintain or increase views between the Willamette River and downtown

*The site is not in the downtown.*

- (h) Protection of the natural environment according to regulations in Section 19.402

*Section 19.402 does not apply to the site; there are no mapped resource areas on the site. However, as part of the project, the proposed development would remove invasive species, dead and diseased trees, and improve the overall health of the forested area on the site.*

- (i) Advice and recommendations of the Design and Landmarks Committee, as appropriate

*The subject properties are not within a downtown zone and the proposed activity does not require review by the Design and Landmarks Committee.*

- (j) Conformance to applicable Comprehensive Plan policies

The Open Spaces, Scenic Areas, and Natural Resources Element includes goals and objectives related to conservation of open space and protection and enhancement of natural and scenic resources in order to create an aesthetically pleasing urban environment, while preserving and enhancing significant natural resources.

The Willamette Greenway Element includes policies related to land use, public access and view protection, and maintenance of private property.

The Housing Element includes policies to provide opportunities for a wider range of housing choice in Milwaukie.

*The proposed development is being reviewed through the Willamette Greenway conditional use process as provided in MMC Subsection 19.401.5. The project will not impact visual corridors from Waverly Ct given the limited view opportunities that currently exist. The proposed development maximizes density while minimizing development footprint to increase urban tree canopy, recreational areas, and also provide additional community spaces - key aspects of the Milwaukie Comprehensive Plan.*

*The subject property is not designated as containing mapped natural resources. However, by preserving a significant portion of the site as forest, this upland wooded area would remain in a natural state.*

*The subject property is designated as high density; increasing the number of residential units to meet future demand is an important consideration in the Comprehensive Plan. One of the planning concepts is that the City's housing policies are designed to ensure that existing and future residents are provided*

*housing opportunities coincident with a broad range of housing demands. The applicant has clarified that the overall Waverly Greens communities include rental units at a variety of rent levels and that the proposed units would be rented at the higher end of that scale. The 2016 Housing Needs Assessment notes that there is an overall need for additional housing in the city to meet the 20-year future housing unit demand. Of all needed future housing, 30% is estimated to be in the form of multi-unit developments and the proposed additional units expand the overall housing stock in the city. Although the greatest need is for housing is at the lower price point, there is a case to be made for adding to the existing housing stock at this higher price point to provide an opportunity for existing residents to move into these new units, thereby making units at lower price points available to others.*

*The subject property is zoned for high density development and is part of a larger multi-unit development community, but is also adjacent to a low-density single-unit development area. As shown in the applicant's site plans, by providing additional setbacks and a stated commitment to additional landscaped buffers, the proposed development provides this balance of interests. The proposed project addresses policy objectives through the use of extensive vegetated areas, tuck-under parking and additional building height to reduce overall project footprint, and increased setbacks and buffer areas to adjacent residences.*

- (k) The request is consistent with applicable plans and programs of the Division of State Lands

*The proposed activity is not inconsistent with any known plans or programs of the Department of State Lands (DSL).*

- (l) A vegetation buffer plan meeting the conditions of Subsections 19.401.8.A through C

*The subject properties are not immediately adjacent to the main channel of the Willamette River. The proposed residential development is more than 1,000 ft from the river. This criterion does not apply.*

*The City Council finds that, as conditioned, the proposed activity meets all relevant approval criteria provided in MMC 19.401.6.*

- (3) MMC Subsection 19.401.9 Private Noncommercial Docks

MMC 19.401.9 establishes the requirements for private noncommercial docks.

- (a) Only 1 dock is allowed per riverfront lot of record.

*No docks are proposed as part of this development.*

*This standard is not applicable.*

*The City Council finds that, as conditioned, the proposed activity meets all applicable standards of development activity in the Willamette Greenway zone.*

9. MMC Chapter 19.500 Supplementary Development Regulations

a. MMC Subsection 19.505.3 Multifamily Housing

MMC 19.505.3 establishes design standards for multifamily housing, to facilitate the development of attractive housing that encourages multimodal transportation and good site and building design. The requirements of this subsection are intended to achieve the principles of livability, compatibility, safety and functionality, and sustainability. The design elements, established in MMC Subsection 19.505.3.D, are applicable to all new multifamily housing developments with 3 or more units.

- (1) MMC Subsection 19.505.3.B states that all new multifamily and congregate housing developments with 3 or more dwelling units on a single lot are subject to the design elements in Table 19.505.3.D.

*The proposed development will have 100 dwelling units on a single lot and is considered multifamily. The proposed development meets the applicability standards of MMC 19.505.3.B.*

- (2) MMC Subsection 19.505.3.D contain standards for Multifamily Design Guidelines.

*The proposed multi-unit residential development is following the Design Guidelines for the Discretionary Process. The application meets the standards of this section as described in Table 2 below.*

**Table 19.505.3.D**  
**Design Guidelines—Multifamily Housing**

| Design Element               | Guideline   | Findings  |
|------------------------------|---|---|
| <b>1. Private Open Space</b> | <p>The development should provide private open space for each dwelling unit, with direct access from the dwelling unit and visually and/or physically separate from common areas.</p> <p>The development may provide common open space in lieu of private open space if the common open space is well designed, adequately sized, and functionally similar to private open space.</p> | <p><i>Each apartment unit has its own private balcony directly accessible from the interior of each dwelling. The balconies are separated physically and visually from other apartments. The smallest private outdoor space is 195 sq ft.</i></p> |



**Table 19.505.3.D**  
**Design Guidelines—Multifamily Housing**

| <b>Design Element</b>                 | <b>Guideline</b>   | <b>Findings</b>   |
|---------------------------------------|--|---|
| <b>2. Public Open Space</b>           | The development should provide sufficient open space for the purpose of outdoor recreation, scenic amenity, or shared outdoor space for people to gather.  | <i>There are multiple open space areas proposed in the development, including large outdoor community gardens, a swimming pool, walking trails, permanent picnic tables, and river overlook sitting areas. The project is proposing 54% of the site to be vegetated open space set aside for scenic, landscaping, or open recreational purposes.</i>  |
| <b>3. Pedestrian Circulation</b>      | Site design should promote safe, direct, and usable pedestrian facilities and connections throughout the development. Ground-floor units should provide a clear transition from the public realm to the private dwellings.     | <i>As designed, the proposed development will have continuous connections with adequate lighting and street crossings to site elements as required. Walkways are separated from vehicle parking with physical barriers such as planter strips and raised curbs. Walkways shall be constructed of concrete, with a minimum width of 5 ft and a width of 7 ft where parked vehicles will overhang the walkway. The walkways will be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials.</i>  |
| <b>4. Vehicle and Bicycle Parking</b> | Vehicle parking should be integrated into the site in a manner that does not detract from the design of the building, the street frontage, or the site. Bicycle parking should be secure, sheltered, and conveniently located. | <i>138 off-street parking spaces are proposed for the development. A total of 108 vehicle parking spaces for residents will be located under the buildings and 30 parking spaces will be provided off the private dead-end street for the apartment buildings, community center and other amenity spaces.<br/><br/>Covered, secure bike parking with permanently mounted bike racks/hangers will be provided in the parking garage. Outdoor bike racks located no further than 3 ft from the main entrance of each building, are also proposed.<br/><br/>A total of 100 bicycle parking spaces are proposed, 50 of which would be covered spaces (50%).</i> |

**Table 19.505.3.D**  
**Design Guidelines—Multifamily Housing**

| <b>Design Element</b>                        | <b>Guideline</b>  | <b>Findings</b>   |
|--|---|---|
| <b>5. Building Orientation and Entrances</b> | Buildings should be located with the principal façade oriented to the street or a street-facing open space such as a courtyard. Building entrances should be well-defined and protect people from the elements.   | <i>The proposed buildings numbered A.1, A.2, and B.2 are located on a private internal dead-end drive, not a public right-of-way. Buildings A.1 and A.2 feature street facing primary entrances, which become focal points as the central element of the buildings' U-shape. Users are drawn into the building entry by an entry overhang, walking paths, and landscape elements.</i> |
| <b>6. Building Façade Design</b>             | <p>Changes in wall planes, layering, horizontal &amp; vertical datums, building materials, color, and/or fenestration should be incorporated to create simple and visually interesting buildings. Windows and doors should be designed to create depth and shadows and to emphasize wall thickness and give expression to residential buildings.</p> <p>Windows should be used to provide articulation to the façade and visibility into the street.</p> <p>Building facades should be compatible with adjacent building facades.</p> <p>Garage doors shall be integrated into the design of the larger façade in terms of color, scale, materials, and building style.</p> | <i>The street facing façade is broken into two building masses flanking a recessed entry with outdoor balconies and projecting window bays providing visual interest. A minimum of 25% of the façade is glazing. Garage doors will appear highly transparent as the garages will be open air and require doors that are perforated.</i>   |
| <b>7. Building Materials</b>                 | <p>Buildings should be constructed with architectural materials that provide a sense of permanence and high quality, incorporating a hierarchy of building materials that are durable.</p> <p>Street-facing facades should consist predominantly of a simple palette of long-lasting materials such as brick, stone, stucco, wood siding, and wood shingles.</p> <p>Split-faced block and gypsum reinforced fiber concrete (for trim elements) should only be used in limited quantities.</p> <p>Fencing should be durable, maintainable, and attractive.</p>   | <i>Building materials will be a mix of fiber cement board siding with wood accent siding with metal trim panels. The buildings will be constructed with architectural materials that provide a sense of permanence and high quality consistent with this requirement.</i>   |

**Table 19.505.3.D**  
**Design Guidelines—Multifamily Housing**

| <b>Design Element</b>      | <b>Guideline</b>   | <b>Findings</b>  |
|----------------------------|--|--|
| <b>8. Landscaping</b>      | Landscaping should be used to provide a canopy for open spaces and courtyards, and to buffer the development from adjacent properties. Existing, healthy trees should be preserved whenever possible. Landscape strategies that conserve water should be included. Hardscapes should be shaded where possible, as a means of reducing energy costs (heat island effect) and improving stormwater management. | <i>Approximately 54% of the site is proposed to be landscaped or maintained as vegetation and a detailed landscaping plan and tree plan were submitted. As part of the development, existing trees will be maintained where possible. Diseased and dead trees, as well as, invasive species, such as English ivy and blackberries, will be removed and replaced by native plants where appropriate. New natural walking paths will be developed through the preserved wooded area for residents.</i> |
| <b>9. Screening</b>        | Mechanical equipment, garbage collection areas, and other site equipment and utilities should be screened so they are not visible from the street and public or private open spaces. Screening should be visually compatible with other architectural elements in the development.   | <i>Screening will be provided as per the development standards. Mechanical equipment will be housed inside the buildings with some roof top equipment located on lower roof areas that are blocked from view by adjacent high sloped roofs. Trash and recycling will be collected in trash rooms on the parking levels of each apartment building to avoid waste containers being visible from the outside.</i>  |
| <b>10. Recycling Areas</b> | Recycling areas should be appropriately sized to accommodate the amount of recyclable materials generated by residents. Areas should be located such that they provide convenient access for residents and for waste/recycling haulers. Recycling areas located outdoors should be appropriately screened or located so they are not prominent features viewed from the street.                              | <i>Recycling collection will be provided in the trash/recycling room located on the parking level of each building. Residents will be responsible for bringing their recycling to that location and maintenance staff will collect and transport the material off site.</i>  |

**Table 19.505.3.D**  
**Design Guidelines—Multifamily Housing**

| Design Element                    | Guideline  | Findings  |
|-----------------------------------|--|---|
| <b>11. Sustainability</b>         | Development should optimize energy efficiency by designing for building orientation for passive heat gain, shading, day-lighting, and natural ventilation. Sustainable materials, particularly those with recycled content, should be used whenever possible. Sustainable architectural elements should be incorporated to increase occupant health and maximize a building's positive impact on the environment. When appropriate to the context, buildings should be placed on the site giving consideration to optimum solar orientation. Methods for providing summer shading for south-facing walls, and the implementation of photovoltaic systems on the south-facing area of the roof, are to be considered. | <i>As proposed, sustainability is a key component in the design of the development. Building orientation and solar access along with passive strategies were the first step of the design analysis. A preliminary solar study has been completed, and the applicants are committed to installing solar panels on the roofs. Each unit is provided with operable windows and overhangs, and sunscreens will be studied to maximize efficiency as part of the building design. Retaining and re-planting the surrounding tree canopy is a key component to maintaining a cool site that takes advantage of the breezes flowing down the Willamette River and through the tree canopy to provide passive cooling for the units. On-site rainwater collection is being investigated along with applying roofing materials with an SRI of 78 where the roof has a 3/12 pitch or less and an SRI of 29 where the roof pitch is 3/12 or greater.</i> |
| <b>12. Privacy Considerations</b> | Development should consider the privacy of, and sight lines to, adjacent residential properties, and should be oriented and/or screened to maximize the privacy of surrounding residences.   | <i>As proposed, all privacy considerations have been incorporated into the design, including vegetated screening provided by the existing and proposed tree canopy and plantings.</i>   |
| <b>13. Safety</b>                 | Development should be designed to maximize visual surveillance, create defensible spaces, and define access to and from the site. Lighting should be provided that is adequate for safety and surveillance, while not imposing lighting impacts to nearby properties. The site should be generally consistent with the principles of Crime Prevention Through Environmental Design (CPTED): <ul style="list-style-type: none"> <li>• Natural Surveillance</li> <li>• Natural Access Control</li> <li>• Territorial Reinforcement</li> </ul>  | <i>As proposed, all safety design considerations will be met in the final permit plans. The project is designed to maximize visual surveillance, create defensible spaces, and define access to and from the site. Exterior light fixtures will be provided that minimize light pollution while maintaining adequate lighting for egress and security. Units have living spaces that overlook building entrances and parking areas.</i>   |

*The City Council finds that, as conditioned, the discretionary multifamily design guidelines have been met.*

**10. MMC Chapter 19.600 Off-Street Parking and Loading**

MMC 19.600 regulates off-street parking and loading areas on private property outside the public right-of-way. The purpose of these requirements includes providing adequate space

for off-street parking, minimizing parking impacts to adjacent properties, and minimizing environmental impacts of parking areas.

a. MMC Section 19.602 Applicability

MMC 19.602 establishes the applicability of the provisions of MMC 19.600, and MMC Subsection 19.602.3 establishes thresholds for full compliance with the standards of MMC 19.600. Development of a vacant site is required to provide off-street parking and loading areas that conform fully to the requirements of MMC 19.600.

*The proposed development consists of 100 apartment units in 4 buildings and an amenity building/clubhouse on a vacant site and is required to conform fully to the requirements of MMC 19.600.*

*The City Council finds that the provisions of MMC 19.600 are applicable to the proposed development.*

b. MMC Section 19.605 Vehicle Parking Quantity Requirements

MMC 19.605 establishes standards to ensure that development provides adequate vehicle parking (off-street) based on estimated parking demand.

*The proposed multi-unit residential development includes 100 apartments that are more than 800 sq ft.*

*As per MMC Table 19.605.1, the minimum number of required off-street parking spaces for multifamily housing is 1.25 spaces per unit for units more than 800 sq ft. The maximum number of spaces is 2 spaces per unit, regardless of size. According to MMC Table 19.605.1, the proposed development should provide a minimum of 125 spaces and would have a maximum of 200 spaces allowed. As proposed, the development would provide 29 surface parking spaces and 108 garage spaces, for a total of 137 spaces, which falls within that range.*

*The City Council finds that this standard is met.*

c. MMC Section 19.606 Parking Area Design and Landscaping

MMC 19.606 establishes standards for parking area design and landscaping, to ensure that off-street parking areas are safe, environmentally sound, and aesthetically pleasing, and that they have efficient circulation.

(1) MMC Subsection 19.606.1 Parking Space and Aisle Dimension

MMC 19.606.1 establishes dimensional standards for required off-street parking spaces and drive aisles. For 90°-angle spaces, the minimum width is 9 ft and minimum depth is 18 ft, with a 9-ft minimum curb length and 22-ft drive aisles. Parallel spaces require with 22-ft lengths and a width of 8.5 ft.

*The applicant has submitted a parking plan that satisfies these dimensional standards.*

(2) MMC Subsection 19.606.2 Landscaping

MMC 19.606.2 establishes standards for parking lot landscaping, including for perimeter and interior areas. The purpose of these landscaping standards is to

provide buffering between parking areas and adjacent properties, break up large expanses of paved area, help delineate between parking spaces and drive aisles, and provide environmental benefits such as stormwater management, carbon dioxide absorption, and a reduction of the urban heat island effect.

(a) MMC Subsection 19.606.2.C Perimeter Landscaping

In all but the downtown zones, perimeter landscaping areas must be at least 6 ft wide where abutting other properties and at least 8 ft wide where abutting the public right-of-way. At least 1 tree must be planted for every 30 lineal ft of landscaped buffer area, with the remainder of the buffer planted with grass, shrubs, ground cover, mulch, or other landscaped treatment. Parking areas adjacent to residential uses must provide a continuous visual screen from 1 to 4 ft above the ground to adequately screen vehicle lights.

*For the majority of the site, the design maintains more than 30 ft of setback to the proposed buildings. The majority of the parking spaces are covered garage spaces, but 29 surface spaces are proposed in the interior of the community. None of these spaces are located at the perimeter of the site.*

*This standard is met.*

(b) MMC Subsection 19.606.2.D Interior Landscaping

At least 25 sq ft of interior landscaped area are required for each parking space. Planting areas must be at least 120 sq ft in area, at least 6 ft in width, and dispersed throughout the parking area. For landscape islands, at least 1 tree shall be planted per island, with the remainder of the buffer planted with grass, shrubs, ground cover, mulch, or other landscaped treatment.

*The proposed development includes 29 surface parking spaces, for which a minimum of 725 sq ft of interior landscaping is required. As proposed, the site plan provides approximately 2,000 sq ft of interior landscaping in 10 individual landscaped islands, well over the minimum required. All of the interior landscaped areas are at least 120 sq ft in size, but the triangle-shaped islands at the end of the line of stalls are approximately 112 sq ft. All islands are disbursed throughout the various parking areas on the site.*

*This standard is met through the approval of the Planned Development.*

(c) MMC Subsection 19.606.2.E Other Parking and Landscaping Provisions

Preservation of existing trees in off-street parking areas is encouraged and may be credited toward the total number of trees required. Parking area landscaping must be installed prior to final inspection, unless a performance bond is posted with the City. Required landscaping areas may serve as stormwater management facilities, and pedestrian walkways

are allowed within landscape buffers if the buffer is at least 2 ft wider than required by MMC 19.606.2.C and 19.606.2.D.

*As noted in the findings above, approximately 54% of the site will be maintained with vegetation including the existing tree canopy. An arborist report was included with the application, including a tree removal and protection plan. 135 trees are proposed for protection and retention with priority given to the larger diameter Douglas firs and Oregon white oaks.*

*This standard is met.*

*As conditioned, the City Council finds that the applicable standards of MMC 19.606.2 are met.*

(3) MMC Subsection 19.606.3 Additional Design Standards

MMC 19.606.3 establishes various design standards, including requirements related to paving and striping, wheel stops, pedestrian access, internal circulation, and lighting.

(a) MMC Subsection 19.606.3.A Paving and Striping

Paving and striping are required for all required maneuvering and standing areas, with a durable and dust-free hard surface and striping to delineate spaces and directional markings for driveways and accessways.

*The plans submitted indicate that all parking areas will be paved and striped.*

*This standard is met.*

(b) MMC Subsection 19.606.3.B Wheel Stops

Parking bumpers or wheel stops are required to prevent vehicles from encroaching onto public rights-of-way, adjacent landscaped areas, or pedestrian walkways. Curbing may substitute for wheel stops if vehicles will not encroach into the minimum required width for landscape or pedestrian areas.

*The applicant's narrative indicates that a combination of curbs set back 2 ft or wheel stops will be installed to prevent vehicles from encroaching into pedestrian walkways and perimeter landscaping areas. This requirement will be confirmed as part of the subsequent Development Review and final inspection.*

*This standard is met.*

(c) MMC Subsection 19.606.3.C Site Access and Drive Aisles

Accessways to parking areas shall be the minimum number necessary to provide access without inhibiting safe circulation on the street. Drive aisles shall meet the dimensional requirements of MMC 19.606.1, including a 22-ft minimum width for drive aisles serving 90°-angle stalls and a 16-ft minimum width for drive aisles not abutting a parking space. Along

collector and arterial streets, no parking space shall be located such that its maneuvering area is in an ingress or egress aisle within 20 ft of the back of the sidewalk. Driveways and on-site circulation shall be designed so that vehicles enter the right-of-way in a forward motion.

*The proposed development will take its access via a driveway from Waverly Ct. The proposed drive aisles meet the minimum applicable dimensional requirements and are designed so that vehicles enter the right-of-way in a forward motion.*

*The submitted Transportation Impact Analysis (TIS) includes future vehicle trip distribution related to the development based on the impact of the development combined with background growth.*

*As conditioned, this standard is met.*

(d) MMC Subsection 19.606.3.D Pedestrian Access and Circulation

Pedestrian access shall be provided so that no off-street parking space is farther than 100 ft away, measured along vehicle drive aisles, from a building entrance or a walkway that is continuous, leads to a building entrance, and meets the design standards of MMC Subsection 19.504.9.E.

*As proposed, no off-street parking space is farther than 100 ft away from a building entrance or walkway that meets the standards of this subsection.*

*This standard is met.*

(e) MMC Subsection 19.606.3.E Internal Circulation

The City Council has the authority to review the pedestrian, bicycle, and vehicular circulation of the site and impose conditions to ensure safe and efficient on-site circulation. Such conditions may include, but are not limited to, on-site signage, pavement markings, addition or modification of curbs, and modification of drive aisle dimensions.

*The City Council has reviewed the proposed circulation plan and concluded that it provides safe and efficient on-site circulation.*

*This standard is met.*

(f) MMC Subsection 19.606.3.F Lighting

Lighting is required for parking areas with more than 10 spaces and must have a cutoff angle of 90° or greater to ensure that lighting is directed toward the parking surface. Lighting shall not cause a light trespass of more than 0.5 footcandles measured vertically at the boundaries of the site and shall provide a minimum illumination of 0.5 footcandles for pedestrian walkways in off-street parking areas.

*The proposed development will have continuous connections with adequate lighting and street crossings to site elements as required. The applicant's submittal*



*did not include a lighting plan. A condition requiring a photometric plan showing compliance to be submitted during permit review has been included.*

*As conditioned, this standard is met.*

*As conditioned, the City Council finds that the applicable standards of MMC 19.606.3 are met.*

*As conditioned, the City Council finds that the applicable design and landscaping standards of MMC 19.606 are met.*

d. MMC Section 19.608 Loading

MMC 19.608 establishes standards for off-street loading areas and empowers the Planning Director to determine whether loading spaces are required. The purpose of off-street loading areas is to contain loading activity of goods on-site and avoid conflicts with travel in the public right-of-way; provide for safe and efficient traffic circulation on the site; and minimize the impacts of loading areas to surrounding properties. For residential development with fewer than 50 dwelling units on a site that abuts a local street, no loading space is required; otherwise, 1 space is required.

*The proposed multi-unit residential development includes 100 units in 4 buildings. None of the buildings have more than 50 dwellings, but a loading zone is included adjacent to the Community Center. No impacts to the public right of way or surrounding properties are anticipated by loading activity on the site.*

*The City Council finds that this standard is met and that no loading spaces are required.*

e. MMC Section 19.609 Bicycle Parking

MMC 19.609 establishes standards for bicycle parking for new development of various uses. Multifamily residential development with 4 or more units shall provide 1 space per unit. When at least 10 bicycle spaces are required, a minimum of 50% of the spaces shall be covered and/or enclosed. MMC Subsection 19.609.3.A provides that each bicycle parking space shall have minimum dimensions of 2 ft by 6 ft, with 5-ft-wide aisles for maneuvering. MMC Subsection 19.609.4 requires bike racks to be located within 50 ft of a main building entrance.

*The proposed multi-unit residential development has 100 units, which equals a minimum of 100 bicycle spaces required, 50 of which must be covered and/or enclosed. Per Finding 10-b, a total of 100 bicycle spaces are proposed, with 50 of those spaces being covered, which will be located at the parking garage entry of each building. This secure bike parking will be on permanently mounted bike racks/hangers in the parking garage. Outdoor bike racks, located no further than 30 ft from the main entrance of each building are included to meet the required number of racks required. The submitted plans do not include details of the bike stall dimensions, so a condition has been established to require more detailed information sufficient to determine that the applicable standards are met.*

*As conditioned, the City Council finds that this standard is met.*

f. MMC Section 19.610 Carpool and Vanpool Parking

MMC 19.610 establishes carpool parking standards for new industrial, institutional, and commercial development. The number of carpool/vanpool parking spaces shall be at least 10% of the minimum amount of required parking spaces. Carpool/vanpool spaces shall be located closer to the main entrances of the building than other employee or student parking, except ADA spaces and shall be clearly designated with signs or pavement markings for use only by carpools/vanpools.

*The proposed development is a multi-unit residential development.*

*This standard does not apply.*

*As conditioned, the City Council finds that the proposed development meets all applicable standards of MMC 19.600.*

11. MMC Chapter 19.700 Public Facility Improvements

MMC 19.700 is intended to ensure that development, including redevelopment, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts.

a. MMC Section 19.702 Applicability

MMC 19.702 establishes the applicability of the provisions of MMC 19.700, including new construction.

*The applicant proposes to develop new construction of 100 multifamily residential units as an expansion to an existing multifamily development. The proposed new construction and additional dwelling units trigger the requirements of MMC 19.700.*

b. MMC Section 19.703 Review Process

MMC 19.703 establishes the review process for development that is subject to MMC 19.700, including requiring a preapplication conference, establishing the type of application required, and providing approval criteria.

*The applicant had a preapplication conference with City staff on May 14, 2020, prior to application submittal. The applicant's proposal includes a Transportation Facilities Review and a transportation impact study, meeting the requirements of this section.*

c. MMC Section 19.704 Transportation Impact Evaluation

MMC 19.704 establishes the process and requirements for evaluating development impacts on the surrounding transportation system, including determining when a formal Transportation Impact Study (TIS) is necessary and what mitigation measures will be required.

*The proposed development completed a formal TIS according to scoping developed by the City Engineer and the City's on-call traffic consultant (DKS) provided the applicant with a scope of work for the TIS. No offsite mitigation was found to be required. Adjacent frontage improvements will include 6-ft curb tight sidewalks, three new pedestrian crossings, and a ½-*

*street 2" mill and overlay of Waverly Court along the property frontage as shown in submitted preliminary plans dated July 28, 2020 and received by the city on August 4, 2020. Additional information regarding the TIS is presented in the accompanying staff report.*

*As submitted, the applicant's TIS is sufficient to meet the requirements of MMC 19.704.*

d. MMC Section 19.705 Rough Proportionality

MMC 19.705 requires that transportation impacts of the proposed development be mitigated in proportion to its potential impacts.

*Improvements submitted by the applicant were in rough proportion to potential impacts. Final design will be approved by the City Engineer prior to construction, including final design mitigations for any deficiency in intersection-sight distance.*

e. MMC Section 19.707 Agency Notification and Coordinated Review

MMC 19.707 establishes provisions for coordinating land use application review with other agencies that may have some interest in a project that is in proximity to facilities they manage.

*The application was referred to the Oregon Department of Transportation (ODOT), Clackamas County Department of Transportation and Development (DTD), TriMet, and Metro for comment. Agency comments have been incorporated into these findings and the associated conditions of approval.*

f. MMC Section 19.708 Transportation Facility Requirements

MMC 19.708 establishes the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities.

(1) MMC Subsection 19.708.1 General Street Requirements and Standards

MMC 19.708.1 provides general standards for streets, including for access management, clear vision, street layout and connectivity, and intersection design and spacing.

*As proposed, the development is consistent with the applicable standards of MMC 19.708.1.*

(2) MMC Subsection 19.708.2 Street Design Standards

MMC 19.708.2 provides design standards for streets, including dimensional requirements for the various street elements (e.g., travel lanes, bike lanes, on-street parking, landscape strips, and sidewalks).

*The proposed Waverly Ct cross section conforms to applicable requirements and are consistent with MMC 19.708.2.*

(3) MMC Subsection 19.708.3 Sidewalk Requirements and Standards

MMC 19.708.3 provides standards for public sidewalks, including the requirement for compliance with applicable standards of the Americans with Disabilities Act (ADA).

*The proposed development includes ADA ramps and ADA compliant sidewalks.*

*As conditioned, the development is consistent with all applicable standards of MMC 19.708.3.*

(4) MMC Subsection 19.708.4 Bicycle Facility Requirements and Standards

MMC 19.708.4 provides standards for bicycle facilities, including a reference to the Public Works Standards.

*The City's bicycle facilities goals, objectives, and policies are found in Chapter 6 of the Transportation System Plan (TSP). No additional context is identified for the adjacent frontage of development.*

*As proposed, the development is consistent with all applicable standards of MMC 19.708.4.*

(5) MMC Subsection 19.708.5 Pedestrian/Bicycle Path Requirements and Standards

MMC 19.708.5 provides standards for pedestrian and bicycle paths.

*The proposed site plan includes pedestrian connections within the development connecting to the proposed sidewalk on Waverly Ct.*

*As proposed, the development is consistent with all applicable standards of MMC 19.708.5.*

(6) MMC Subsection 19.708.6 Transit Requirements and Standards

MMC 19.708.6 provides standards for transit facilities.

*The City's transit facilities goals, objectives, and policies are found in Chapter 7 of the TSP. No additional context is identified for the adjacent frontage of development.*

*As proposed, the development is consistent with all applicable standards of MMC 19.708.6.*

*As conditioned, the City Council finds that the proposed development meets the applicable public facility improvement standards of MMC 19.700.*

12. MMC Section 19.902 Amendments to Maps and Ordinances

MMC 19.902 establishes the process for amending the City's Comprehensive Plan and land use regulations, including the zoning map. Specifically, MMC Subsection 19.902.6 establishes the review process and approval criteria for zoning map amendments.

a. MMC Subsection 19.902.6.A Review Process

MMC 19.902.6.A provides that, generally, changes to the zoning map that involve 5 or more properties or encompass more than 2 acres of land are legislative and are therefore subject to Type V review; otherwise, they are quasi-judicial in nature and subject to Type III review. The City Attorney has the authority to determine the appropriate review process for each proposed zoning map amendment.

*The proposed zoning map amendment encompasses a single property of approximately 10.8 acres and is related to a proposed planned development, which requires Type IV review. The City Attorney has determined that the proposed zoning map amendment is quasi-judicial in nature and requires Type III review. The concurrent planned development requires Type IV review, which is also a quasi-judicial process. The City Council finds that the Type IV review process is appropriate for the proposed zoning map change.*

b. MMC Subsection 19.902.6.B Approval Criteria

MMC 19.906.2.B establishes the following approval criteria for zoning map amendments:

- (1) The proposed amendment is compatible with the surrounding area based on the following factors:

- (a) Site location and character of the area
- (b) Predominant land use pattern and density of the area
- (c) Expected changes in the development pattern for the area

*The area surrounding the subject property includes a golf course, low to moderate density residential development, as well as a number of multi-unit dwelling developments. The proposed development will preserve over half of the site area as natural open space or vegetation with access through trails for low-impact recreational use. The location offers easy access to Highway 224, downtown Milwaukie and the light rail station, the Trolley Trail and the Springwater corridor, Milwaukie Bay Park, and Hwy 99E.*

*The 100 units of apartments will be arranged in a compact pattern of four buildings with mostly covered parking in the lower levels of the buildings to minimize the building footprint. The development is requesting a 20% increase in overall density, but that is due to the steep slopes on the site, not the gross area of the subject property. The proposed development is consistent with the Housing element of the Comprehensive Plan and the need for more rental housing opportunities in Milwaukie.*

*The proposed zoning amendment is compatible with the surrounding area based on the factors listed above.*

- (2) The need is demonstrated for uses allowed by the proposed amendment.

*The applicable 1989 Milwaukie Comprehensive Plan, as amended, includes an objective calling for an adequate and diverse range of housing types in the city, including a wide range of densities. One of the planning concepts is that the City's housing policies are*

*designed to ensure that existing and future residents are provided housing opportunities coincident with a broad range of housing demands. The 2016 Housing Needs Assessment notes that there is an overall need for additional housing in the city to meet the 20-year future housing unit demand. Of all needed future housing, 30% is estimated to be in the form of multi-unit developments and the proposed additional units expand the overall housing stock in the city.*

- (3) The availability is shown of suitable alternative areas with the same or similar zoning designation.

*Functionally, the PD designation is a form of overlay zone designation that can be applied to sufficiently sized properties for greater flexibility in developing the site. This criterion is more applicable to standard base zone designations and is intended to ensure that a suitable number of other properties with the same base zone designation will remain available for development.*

*This criterion is not applicable to a proposal to add the PD designation to a base zone.*

- (4) The subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the use(s) allowed by the proposed amendment, or such facilities, utilities, and services are proposed or required as a condition of approval for the proposed amendment.

*The applicant's submittal materials include a traffic impact study, utility plans, and preliminary stormwater drainage report to demonstrate that public facilities are or will be made adequate to serve the proposed development.*

*Existing water and sanitary sewer services in Waverly Ct are provided by the City and Clackamas County's Water and Environment Services (WES) respectively and are adequate to serve the proposed new units.*

*The applicant proposes to manage stormwater runoff from the new development with methods for water conservation and maintenance on-site. three large, shallow bioswale facilities.*

*No newly dedicated public rights-of-way are proposed to serve the proposed lots. Proposed public improvements to Waverly Ct are shown including new pedestrian crossings, pedestrian ramps, and sidewalks. All improvements will be constructed to meet applicable City standards.*

*The subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the proposed development.*

- (5) The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact study may be required subject to the provisions of Chapter 19.700.

*The applicant prepared a transportation impact study (TIS) to evaluate the proposed development's anticipated impacts on the transportation system. The TIS concluded that*

*traffic volumes from the proposed development will not cause any of the intersections in the study area to fall below acceptable levels of service. Additional information is provided in the accompanying staff report.*

*As conditioned, the proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system.*

- (6) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, including the Land Use Map.

*The Land Use Map within the City's Comprehensive Plan (Plan) reflects the R-2 zoning of the subject property, with a High Density designation for the site. The proposed amendment would add the Planned Development (PD) designation to the zone designation for the subject property but would not affect the designation on the Land Use Map.*

*The Comprehensive Plan includes a number of goals and policies that are applicable to the proposed development.*

- (a) Chapter 1 Citizen Involvement

*The goal of Chapter 1 is to encourage and provide opportunities for citizens to participate in all phases of the planning process. Prior to submitting the application, the applicant attended a meeting of the Historic Milwaukie Neighborhood District Association on July 13, 2020 to present the project. The applicant noted that the neighbors spoke highly of the current Waverley Greens apartment properties and noted the quality landscaping and community amenities. Overall, the community reaction to the presentation was positive with attendees looking forward to walking through the wooded areas and perhaps even being future tenants.*

*The Type IV review process utilized for consideration of any Planned Development provides for public hearings by both the Planning Commission and City Council, where citizens have the opportunity to present testimony and participate in the decision-making process. Public hearings on the proposed development were held by the Planning Commission on October 27, 2020, December 8, 2020, and January 12, 2021; a public hearing was held by the City Council on February 16, 2021. The Commission and Council considered testimony from citizens en route to reaching the decision reflected in these findings.*

- (b) Chapter 3 Environmental and Natural Resources

*Open Spaces, Scenic Areas, and Natural Resources Element*

*Goal statement: To conserve open space and protect and enhance natural and scenic resources in order to create an aesthetically pleasing urban environment, while preserving and enhancing significant natural resources.*

*The subject property does not contain mapped natural resources subject to MMC 19.402. In 1987, the area known as “Waverly Woods” was identified as a natural resources property, but, as noted in the background and concepts section, the site (and others) was dropped as a designated natural area because “...of other values (i.e. economic, social).”*

(i) *Objective #1 – Open Space*

*This objective seeks to protect open space resources in the city, defined as vacant land that will remain undeveloped in accordance with the Willamette Greenway program or other land use requirements.*

*The subject property is nearly entirely wooded, and the proposed development includes maintaining approximately 54% of the site in vegetation and includes removal of all invasive plants and trees.*

(ii) *Objective #2 – Natural Resources*

*The subject property is not designated as containing mapped natural resources. However, by preserving a significant portion of the site as forest, this upland wooded area would remain in a natural state.*

(c) *Chapter 4 Land Use*

*Residential Land Use and Housing Element*

*Goal statement: To provide for the maintenance of existing housing, the rehabilitation of older housing and the development of sound, adequate new housing to meet the housing needs of local residents and the larger metropolitan housing market, while preserving and enhancing local neighborhood quality and identity.*

*One of the planning concepts is that the City’s housing policies are designed to ensure that existing and future residents are provided housing opportunities coincident with a broad range of housing demands. The applicant has clarified that the overall Waverly Greens communities include rental units at a variety of rent levels and that the proposed units would be rented at the higher end of that scale. The 2016 Housing Needs Assessment notes that there is an overall need for additional housing in the city to meet the 20-year future housing unit demand. Of all needed future housing, 30% is estimated to be in the form of multi-unit developments and the proposed additional units expand the overall housing stock in the city. Although the greatest need is for housing is at the lower price point, there is a case to be made for adding to the existing housing stock at this higher price point to provide an opportunity for existing residents to move into these new units, thereby making units at lower price points available to others. Data shows that some renter households have the ability to pay for newer and/or higher quality units than is currently available.*

(i) *Objective #2 – Residential Land Use: Density and Location*



*This objective is to locate higher density residential uses so that the concentration of people will help to support public transportation services and major commercial centers.*

*The proposed development seeks to maximize allowable density in a smaller footprint on a site within walking distance of the downtown area and all of its amenities including a public bus hub and a light rail transit station.*

(ii) *Objective #3 – Residential Land Use: Design*

*This objective relates to a desirable living environment by allowing flexibility in design while also minimizing the impact of new construction on existing development. Planning concepts in this section state that "...residential design policies are intended to ensure a high quality of environmental design, a flexible design approach, and a smooth integration of new development into existing neighborhoods. Density bonuses and transfers will be encouraged so that full development potential on individual parcels may be realized. Transition policies will be applied to reduce any negative impacts of development on adjacent uses."*

*This means that the goal is to balance the goal of providing additional housing, including density bonuses to realize the full development potential of a site, while at the same time requiring thoughtful design as it relates to adjacent properties. The subject property is zoned for high density development and is part of a larger multi-unit development community, but is also adjacent to a low-density single-unit development area. As shown in the applicant's revised site plans, by providing additional setbacks and a stated commitment to additional landscaped buffers, the proposed development provides this balance of interests.*

(iii) *Objective #4 – Neighborhood Conservation*

*This objective relates to the various areas of city that are defined by allowed density. In high density areas, such as the subject property, "...clearance and new construction will be allowed, as will construction on currently vacant lands. Identified historic resources will be protected as outlined in the Historic Resources Chapter. The predominant housing type will be multifamily."*

(iv) *Objective #5 – Housing Choice*

*This objective states that the city will "...continue to encourage an adequate and diverse range of housing types and the optimum utilization of housing resources to meet the housing needs of all segments of the population." The planning concept in this objective is that "...while the predominant housing type is expected to continue to be single family detached, the City will encourage a wide range of housing types and densities in appropriate locations within individual neighborhood areas including duplexes,*

*rowhouses, cottage clusters, accessory dwelling units, live/work units, multifamily...”*

*Included in the listed policies is that the City will “...encourage the development of larger subdivisions and PUDs that use innovative development techniques for the purpose of reducing housing costs as well as creating an attractive living environment. Such techniques to reduce costs may include providing a variety of housing size, type, and amenities. The City may provide density bonuses, additional building height allowances, or other such incentives for the provision of affordable housing in residential development projects.”*

*The plan looks to balance somewhat competing interests and minimize impacts to adjacent properties. It also discusses the desire for open space and/or recreational areas as part of these housing developments and preserving existing tree coverage whenever possible.*

*The proposed project addresses these policy objectives through the use of extensive vegetated areas, tuck-under parking and additional building height to reduce overall project footprint, and increased setbacks and buffer areas to adjacent residences.*

#### *Willamette Greenway Element*

*Goal statement: To protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*

*Generally, the Willamette Greenway boundaries are to include all land within 150 feet of the ordinary low water line of the Willamette River and such additional land, including Kellogg Lake and lands along its south shore. The subject property is more than 1,000 feet as the crow flies from the river and there is private development in the form of both residential dwellings and the Waverly Country Club between the river and the development site.*

*The subject property has no physical relationship with the river and has no direct connection to the river. The proposed development maintains 54% of the site in its vegetated and forested state. The proposed development includes the addition of recreational walking paths through the forested site and provides public viewing points to the river.*

*By maintaining the existing forest and carefully orienting the new development, the views from the river will be minimally impacted. New opportunities for views to the river are proposed through the creation of recreational paths in the existing forest and removing invasive species and dead/diseased trees along with creating views from the development itself. Overall, the project will increase the opportunities for visual enjoyment of the river and its surrounding environment while minimally impacting the views from and/or across the river.*

Neighborhood Element

*Goal statement: To preserve and reinforce the stability and diversity of the City's neighborhoods in order to attract and retain long-term residents and ensure the City's residential quality and livability.*

*The subject property and surrounding area are in what was identified in the plan as Neighborhood Area 1. It recognizes that the Waverly Heights residential area is a "mix of large single family homes and high density apartments." The plan includes a guideline for multifamily housing that includes that new multifamily housing should not "significantly alter the visual character of existing single family areas." The plan includes considerations such as: projects should not be located randomly throughout the neighborhood; should have adequate off-street parking; should have close proximity to major streets and public transit; and should be designed to be aesthetically pleasing.*

*The subject property is on the edge of an existing single-unit dwelling neighborhood and also within a high-density residential area made up of both rental apartments and condominiums. Its proposed location is not random and is within walking distance of downtown and all of its amenities including public transit. The proposed site design includes a significant setback and buffer from adjacent properties, over one-half of the site will be vegetated, and the buildings have a high-end design aesthetic, which is compatible with the surrounding neighborhood.*

(d) *Chapter 5 – Transportation, Public Facilities and Energy Conservation*

*Chapter 5 focuses on the provision of high quality, consistent, and reliable public facilities and services, which are integral to the future growth and livability of Milwaukie. Policies include maintaining and enhancing levels of public facilities and services to city residents and businesses.*

*The applicant team has performed preliminary investigations into the existing infrastructure including a transportation study to analyze the impacts of increased traffic on the existing city infrastructure. Increased storm water, sewer, domestic and fire water supply as a result of this 100-unit development have also been reviewed and calculated. The submitted application materials include these analyses confirming the adequacy of the existing systems. The existing public transportation facilities, utilities, and available services are adequate to support the proposed development.*

*Chapter 5 addresses the City's responsibility to support a multimodal approach to transportation planning in a way that reflects how citizens think about and experience the transportation system. Policies include developing and maintaining a safe and secure transportation system and provide travel choices to allow people to reduce the number of trips made by single-occupant vehicles. Additional policies include maintaining a set of design and development regulations that are*

*sensitive to local conditions to create a well-connected transportation system that is sustainable and meets the needs of current and future generations.*

*The City's Transportation System Plan (TSP) is an ancillary Comprehensive Plan document that contains the City's long-term transportation goals and policies. The applicant's TIS demonstrates consistency with the TSP and asserts that the proposed development will not result in significant impacts to the surrounding transportation system.*

*As conditioned, the proposed amendment is consistent with the goals and policies of the Comprehensive Plan, including the Land Use Map.*

- (7) The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

*The Metro Urban Growth Management Functional Plan includes a number of titles that address various aspects of the region's goals and policies for urban development.*

- (a) Title 1 Housing Capacity

*The proposed development will provide a large number of needed housing units in a compact urban form.*

- (b) Title 7 Housing Choice

*The proposed development will provide needed multi-unit rental housing and will support Metro's policies for expanding housing choice with a needed housing type in Milwaukie.*

- (c) Title 13 Nature in Neighborhoods

*The proposed development supports Metro's policies for conserving and enhancing habitat areas by minimizing impacts to the wooded area via a compact development, maintaining more than one-half of the site in vegetation, removing invasive species, and developing a trail system for residents.*

*The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.*

- (8) The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

*Several of the Statewide Planning Goals are relevant to the proposed amendment:*

- (a) Goal 2 Citizen Involvement

*Prior to submitting the application, the applicant attended a meeting of the Historic Milwaukie Neighborhood District Association on July 13, 2020 to present the project. The applicant noted that the neighbors spoke highly of the current Waverley Greens apartment properties and noted the quality landscaping and community amenities. Overall, the community reaction to the presentation was*

*positive with attendees looking forward to walking through the wooded areas and perhaps even being future tenants.*

*The Type IV review process utilized for consideration of any Planned Development provides for public hearings by both the Planning Commission and City Council, where citizens have the opportunity to present testimony and participate in the decision-making process. Public hearings on the proposed development was held by the Planning Commission on October 27, 2020, December 8, 2020, and January 12, 2021; a public hearing was held by the City Council on February 16, 2021. The Commission and Council considered testimony from citizens en route to reaching the decision reflected in these findings.*

(b) *Goal 10 Housing*

*As addressed in Finding 7-b(6) and elsewhere in these findings, the proposed development would provide 100 units of much-needed rental housing to the city.*

*Per the City's 2016 Housing Needs Analysis (HNA), Milwaukie currently has a range of housing types, including single-family detached and attached homes, duplexes, multi-family, and mixed-use developments, and has sufficient capacity to provide for needed housing during the next 20 years. The HNA includes the City's buildable lands inventory (BLI) for housing within the UGB, showing that the city has sufficient zoned capacity to meet the projected housing needs over the next 20 years. Relevant findings from the HNA include:*

- (i) The projected growth in the number of non-group households over 20 years (2016-2036) is roughly 1,070 households, with accompanying population growth of 2,150 new residents. The supply of buildable land includes properties zoned to accommodate a variety of housing types. Single-family residential zones with larger minimum lot sizes (e.g., R5, R7 and R10 zones) will accommodate single-family detached housing. Multi-family and mixed-use zones can accommodate high density housing (apartments).*
- (ii) Over the next 20 years, 30% of all needed units are projected to be multi-family in structures of 5+ attached units.*
- (iii) Although the greatest need is for housing is at the lower price point, there is a case to be made for adding to the existing housing stock at this higher price point to provide an opportunity for existing residents to move into these new units, thereby making units at lower price points available to others. Data in the HNA shows that some renter households have the ability to pay for newer and/or higher quality units than is currently available.*

(c) *Goal 12 Transportation and Transportation Planning*

*As addressed in Finding 14 and elsewhere in these findings, the applicant's TIS demonstrates that the proposed development will not require changes to the functional classification of existing or planned transportation facilities and will not result in significant impacts on the transportation system.*

(d) *Goal 15 Willamette River Greenway*

*As addressed in Finding 8 and elsewhere in these findings, the proposed development is not incompatible with the river, particularly because it is located more than 1,000 ft from the river. By maintaining the existing forest and specifically orienting the new development, the views from the river will be minimally impacted. New opportunities for views to the river are proposed through the creation of recreational paths in the existing forest and removing invasive species and dead/diseased trees along with curating views from the development itself. Overall, the project will increase the opportunities for visual enjoyment of the river and its surrounding environment while minimally impacting the views from and/or across the river.*

*As conditioned, the proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.*

*The proposed amendment, as conditioned, is consistent with the applicable criteria for zoning map amendments.*

*As conditioned, the City Council finds that the proposed amendment to the City's Zoning Map is approvable.*

13. The application was referred to the following departments and agencies on September 17, 2020:

- Milwaukie Building Division
- Milwaukie Engineering Department
- Milwaukie Public Works Department
- Clackamas County Fire District #1
- Island Station Neighborhood District Association Chairperson and Land Use Committee
- Oregon Marine Board
- Oregon Department of Fish and Wildlife
- Division of State Lands – Wetlands and Waterways
- Oregon Parks and Recreation Department
- North Clackamas Parks and Recreation District

In addition, notice of the public hearing was mailed to owners and residents of properties within 400 ft of the subject property on October 7, 2020, on November 17, 2020, and on January 27, 2021.

Agency and NDA comments received are summarized as follows:

- **Kate Hawkins, Development Review Planner and Avi Tayar, P.E., Oregon Department of Transportation:** Comments related to crash history analysis and

Year 2021 queuing analysis in the submitted TIS. Recommendations were that the applicant should evaluate any contributing factors and demands and identify potential improvements. The applicant submitted a response to the review memo and ODOT stated that they agreed with the supplemental analysis. While there may be concerns with queues and crashes at the intersection of the 17<sup>th</sup> Ave/Harrison St/OR-99E, the proposed development does not appear to have a significant impact on these conditions and no additional mitigation is necessary.

All public comments received are available for review on the application webpage:  
<https://www.milwaukieoregon.gov/planning/pd-2020-001>.

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council  
Ann Ober, City Manager

**Date Written:** Feb. 7, 2021

**Reviewed:** Laura Weigel, Planning Manager

**From:** Vera Kolias, Senior Planner

**Subject:** **Waverly Woods Planned Development**

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**ACTION REQUESTED**

Council is asked to consider adopting the proposed ordinance found in Attachment 1 regarding the proposed 100-unit planned development at the site located at 10415 SE Waverly Ct (land use application master file #PD-2020-001), including the Final Development Plan and Program found in Attachment 1-b. The action would change the zoning map to add the Planned Development designation to the subject property as shown in Attachment 1-d.

In addition, adopt the Final Decision and Order presented in Attachment 2 to approve the applications for the proposed property line adjustment, Willamette Greenway review, conditional use review, and transportation facilities review, as addressed in the recommended Findings and Conditions of Approval found in Attachments 1-a and 1-c, respectively.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

No Council action or discussion has occurred. The Council is the final decision-maker for Planned Development projects. The Planning Commission review of the project to date is summarized below.

- [January 12, 2021](#): The Commission deliberated and voted 6-1 to recommend that Council approve the project with the recommended conditions of approval.
- [December 8, 2020](#): The Commission re-opened the hearing on December 8, took additional public testimony on the new information, and closed the public hearing. The applicant was provided 7 days to submit a final written argument, which was received on December 15.
- [October 27, 2020](#): The Commission opened the public hearing for PD-2020-001 and heard presentations from city staff and the applicant. The public testimony portion of the hearing was opened, but the hearing was continued due to the lateness of the hour and the presence of many people waiting to testify.

**ANALYSIS**

Extensive public input was received during the first and second Commission public hearings, and additional information was submitted by both the applicant and the public in response to that testimony. This includes the applicant's final written argument (see Attachment 4). All written testimony received after the October 27, 2020 public hearing was posted, as required, on the [application webpage](#).



## Project Description

The proposed development is an addition to the existing Waverly Greens Apartment communities. The 10.8-acre subject property at 10415 SE Waverly Ct is made up of three parcels and is currently developed with the Dunbar Woods apartments. As part of this proposal, the applicant is adjusting the boundaries of the site to establish Dunbar Woods on its own lot, use 6.77 acres for the planned development, and establish a third parcel for a future development (see Figure 1). The proposal is for Waverly Woods, which would be the phased construction of four multifamily apartment buildings with a total of 100 dwelling units. The project would be phased so that Building A.1 (32 units) will be built along the Ridge in Phase 1 and Building A.2 (32 units) and the associated community room will occur in Phase 2. The two Gardens Buildings B.1 (18 units) and B.2 (18 units) and the community center with pool would be developed in Phase 3 (see Figure 2).

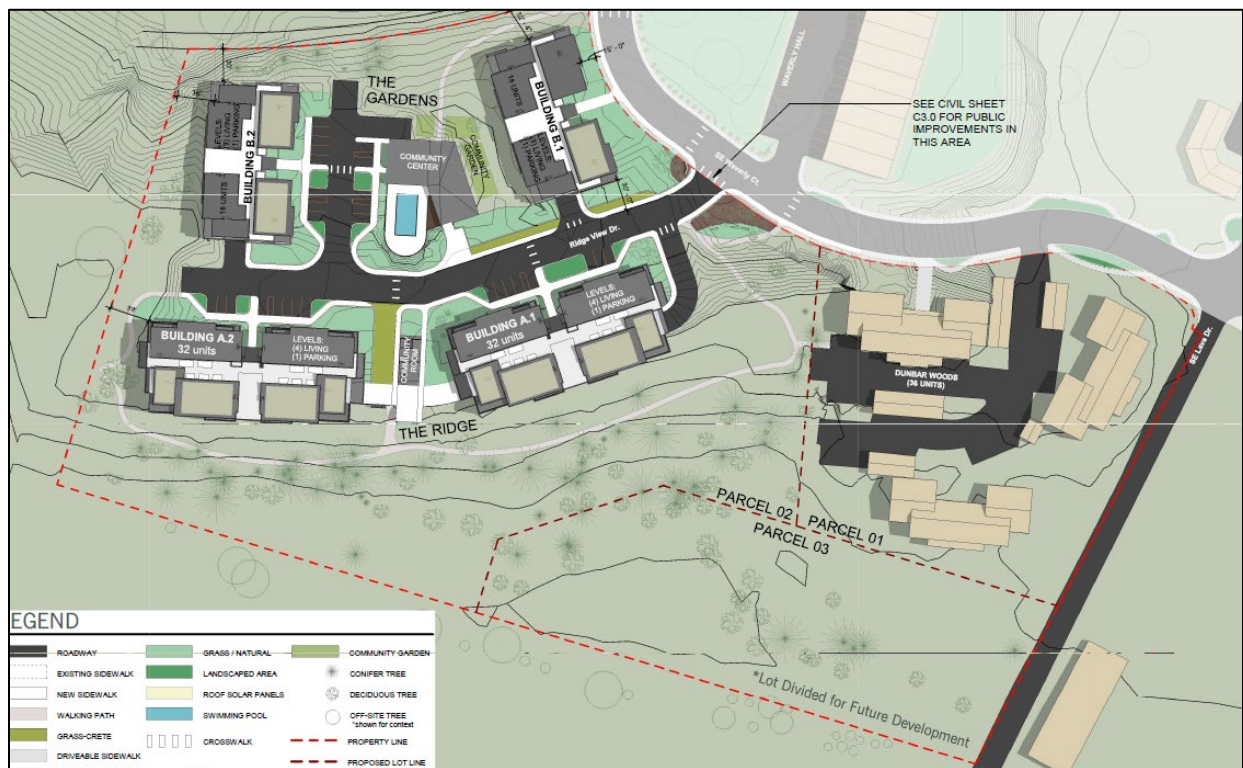


Figure 1. Development Plan

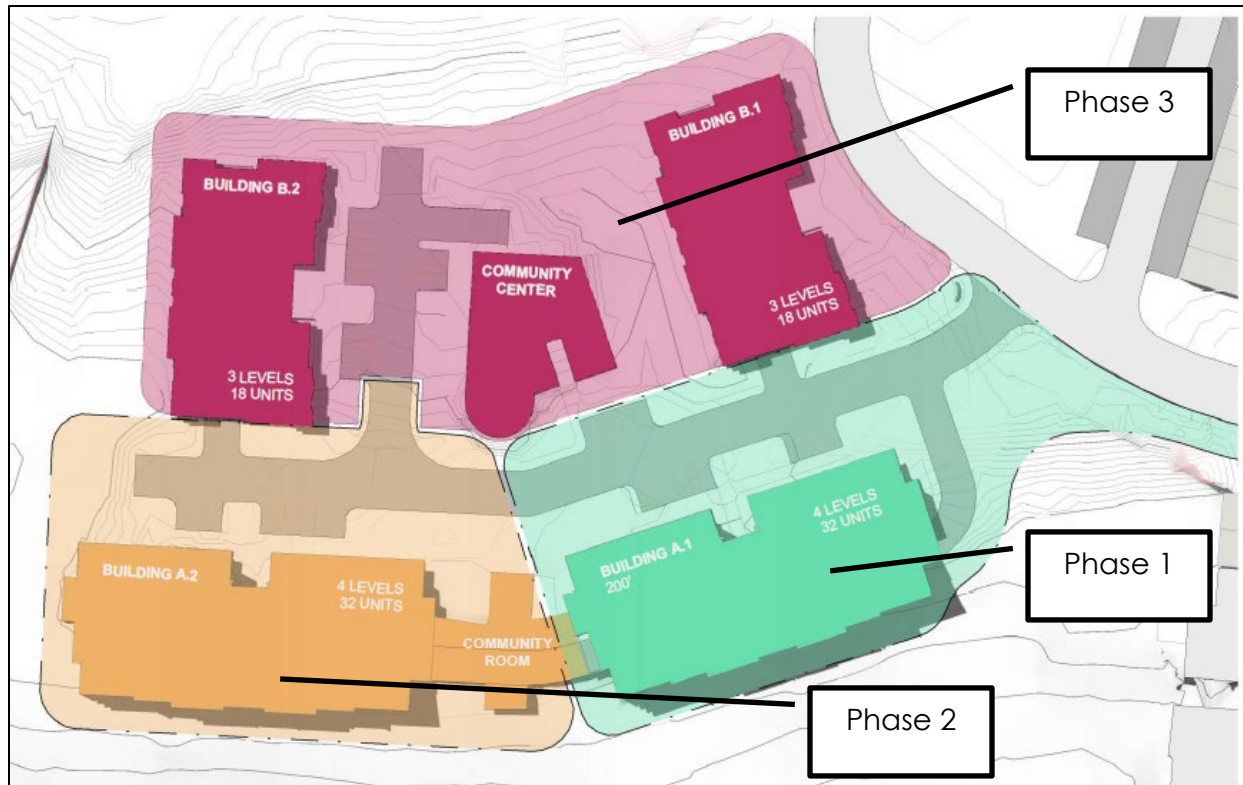


Figure 2. Phasing Plan

The project's general contractor estimates each phase will take approximately one year to complete resulting in three years of total construction for all three phases over the permitted 7-year timeframe. Per Section 19.311.16 Expiration of Planned Development Zone, "substantial construction" of Phase 1 is required to occur within one year of the final development approval. Building A.1 is currently on schedule for a mid-Summer 2021 construction start with site utility work scheduled for late Spring 2021. Construction on Phase 2 will commence after Phase 1 construction is complete, but that is subject to change depending on market conditions.

The applicant confirmed in written testimony and on a revised site plan that key amenities in the proposal, including tuck-under parking, preserved open space and vegetated areas, large community garden, and viewing areas and a forested path accessible from the public right-of-way, will be available upon completion and occupancy of Building A.1 (Phase 1).

The applicant has confirmed that all construction access for the proposed project would be from Waverly Court, not from Lava Dr.

## Site and Vicinity

The subject property is located at 10415 SE Waverly Ct and is surrounded by residential development on three sides (both single family and multifamily) and Waverly Country Club to the west (see Figure 3). As described above, a portion of the subject property contains Dunbar Woods; the remainder of the site is undeveloped. Access to the development is proposed from Waverly Ct off Lava Dr. Given its proximity to the Willamette River, a portion of the site is in the Willamette Greenway Overlay Zone (WG Zone).



Figure 3. Site and Vicinity

The site is located in the Historic Milwaukie neighborhood in the northwest part of the city.



## B. Zoning Designation

Residential R-2 and Willamette Greenway Overlay WG

(see Figure 4)

## C. Comprehensive Plan Designation

High Density Residential (HD)

## D. Land Use History

The Waverly Greens Apartments development has occurred in phases since 1967. The following land use application relates specifically to the subject property.

- **1989 (file #CU-89-01):** The construction of 165 apartment dwelling units in the Waverly Greens development (the existing Dunbar Woods community) in the Willamette Greenway was approved. Once the first 36 units were constructed, no additional units were built.



Figure 4. Zoning designation

## Proposal

The applicant is seeking land use approval to develop a 100-unit apartment community. The applicant is using the Planned Development (PD) process, which allows greater flexibility in design that would otherwise be possible through the standards of the underlying zone in the Willamette Greenway.

The project requires approval of the following applications:

### 1. Planned Development (master file #PD-2020-001)

The PD process allows for adjustments in lot sizes, lot dimensions, and some development standards, including building height; and a potential increase in density (up to 20% above the maximum normally allowed).

### 2. Zoning Map Amendment (ZC-2020-001)

The city's Zoning Map would be changed, adding the PD designation to the existing R-2 designation for the site.

### 3. Willamette Greenway review (WG-2020-001)

Much of the site is located in the Willamette Greenway Overlay zone. Development in the WG requires conditional use approval.

### 4. Property Line Adjustment (PLA-2020-001)

As part of this proposal, the applicant is adjusting the boundaries of the site to establish Dunbar Woods on its own lot, use 6.77 acres for the Waverly Woods planned

development, and establish a third parcel for a future development. The number of lots is not changing.

5. Transportation Facilities Review (TFR-2020-002)

The project's impacts on transportation (vehicular, bicycle, and pedestrian) must be evaluated to determine whether improvements to the transportation system are warranted.

### **Land Use Review Process – Planned Developments**

Milwaukie Municipal Code (MMC) Section 19.311 outlines the review process for approval of a Planned Development. The process can include the submittal of a preliminary development plan would be submitted by the applicant for the Planning Commission to review. If successful, the Commission would approve the preliminary plan "in principle." The applicant would then initiate a Type IV review process by submitting a final development plan along with a proposed subdivision and any other applicable reviews. The Commission would consider the application package and make a recommendation to the City Council for a final decision.

Per MMC 19.1001.6.B, the applicant may request, or the city may require, that multiple land use applications be processed concurrently or individually. Applications processed concurrently consolidates the review of multiple applications into a single review process, which has been followed in this case. In the interest of moving the proposal through the review process without unnecessary delay but without reducing the opportunities for public participation and input, this application has been processed and reviewed as concurrent applications: consideration of preliminary development plan and proposed zone change, including any related land division, natural resource review, transportation facilities review, etc., within one Type IV process.

In the case of Waverly Woods, the applicant opted to move directly into the Type IV process and has presented its preliminary development plan as the final development plan. The applicant was aware of the risks associated with the possibility that the Commission would not approve the development plan in principle and may not forward a recommendation for approval to Council.

Questions were raised during the hearings about the processing of the application, specifically about the preliminary and final planned development process in MMC 19.311. However, as stated above, per MMC 19.1001.6.B, the applicant may request, or the city may require, that multiple land use applications be processed concurrently or individually

### **Key Questions - Summary**

As raised during the public hearings and in subsequent written testimony, staff has identified the following key questions for Council's deliberation. Aspects of the proposal not listed below are addressed in the Findings (see Attachment 1) and generally require less analysis and discretion by Council.

- A. Does the proposed project comply with the applicable Comprehensive Plan?
- B. Does the project design adequately address the approval criteria for review of a development in the Willamette Greenway?

- C. Does the project provide enough “exceptional advantages in living conditions and amenities not found in similar developments” to warrant the additional proposed density, building height, and building length as allowed by MMC Subsection 19.311.3?
- D. Have the project’s impacts on traffic been thoroughly evaluated?

**A. Does the proposed project comply with the 1989 Comprehensive Plan?**

The filing date of the application for this development was August 4, 2020, which was prior to the August 18, 2020 adoption of the 2020 comprehensive plan. Therefore, the 1989 Comprehensive Plan is the plan applicable to the development – not the recently adopted one.

Several sections of the comprehensive plan apply to the proposal (see Attachment 1 for detailed Findings), but the key elements and associated objectives are:

Open Spaces, Scenic Areas, and Natural Resources Element

Goal statement: To conserve open space and protect and enhance natural and scenic resources in order to create an aesthetically pleasing urban environment, while preserving and enhancing significant natural resources.

The subject property does not contain mapped natural resources subject to MMC 19.402. In 1987, the area known as “Waverly Woods” was identified as a natural resources property, but, as noted in the Background and Planning Concepts section, the site (and others) was removed as a designated natural area because of “...other values (i.e. economic, social).”

**Objective #1 – Open Space**

This objective seeks to protect open space resources in the city, defined as vacant land that will remain undeveloped in accordance with the Willamette Greenway program or other land use requirements. MMC 19.401 regulates development in the Willamette Greenway. As proposed, the development would maintain more than one-half of the site as vegetation, including 40% as a preserved forest. The proposal includes restoration of this forested area with the removal of invasive species. As discussed further in this staff report, the proposal meets the approval criteria of MMC 19.401.

**Objective #2 – Natural Resources**

This objective seeks to protect natural resources however the subject property is not designated as containing mapped natural resources. However, by preserving a significant portion of the site as forest, this upland wooded area would remain in a natural state.

Residential Land Use and Housing Element

Goal statement: To provide for the maintenance of existing housing, the rehabilitation of older housing and the development of sound, adequate new housing to meet the housing needs of local residents and the larger metropolitan housing market, while preserving and enhancing local neighborhood quality and identity.

### Objective #3 - Residential Land Use: Design

This objective relates to a desirable living environment by allowing flexibility in design while also minimizing the impact of new construction on existing development. Planning concepts in this section state that "...residential design policies are intended to ensure a high quality of environmental design, a flexible design approach, and a smooth integration of new development into existing neighborhoods. Density bonuses and transfers will be encouraged so that full development potential on individual parcels may be realized. Transition policies will be applied to reduce any negative impacts of development on adjacent uses."

From staff's perspective the goal is to balance the goal of providing additional housing, including density bonuses to realize the full development potential of a site, while requiring thoughtful design as it relates to adjacent properties. The subject property is zoned for high density development and is part of a larger multi-unit development community but is also adjacent to a low-density single-unit development area. As shown in the applicant's revised site plans, by providing additional setbacks and a stated commitment to additional landscaped buffers, the proposed development provides this balance of interests.

Again, the plan looks to balance somewhat competing interests and minimize impacts to adjacent properties. It also discusses the desire for open space and/or recreational areas as part of these housing developments and preserving existing tree coverage whenever possible.

The proposed project addresses these policy objectives through the use of extensive vegetated areas, tuck-under parking and additional building height to reduce overall project footprint, and increased setbacks and buffer areas to adjacent residences.

### Objective #4 – Neighborhood Conservation

This objective relates to the various areas of city that are defined by allowed density. In high density areas, such as the subject property, "...clearance and new construction will be allowed, as will construction on currently vacant lands. Identified historic resources will be protected as outlined in the Historic Resources Chapter. The predominant housing type will be multifamily." MMC 19.403 applies to designated historic resources in the city.

### Objective #5 – Housing Choice

This objective states that the city will "...continue to encourage an adequate and diverse range of housing types and the optimum utilization of housing resources to meet the housing needs of all segments of the population." The planning concept in this objective is that "...while the predominant housing type is expected to continue to be single family detached, the City will encourage a wide range of housing types and densities in appropriate locations within individual neighborhood areas including duplexes, rowhouses, cottage clusters, accessory dwelling units, live/work units, multifamily..."

Planning concepts in this section states that housing policies are designed to ensure that existing and future residents are provided housing opportunities coincident with a broad range of housing demands. The applicant has clarified that the overall Waverly Greens communities include rental units at a variety of rent levels and that the proposed units would be rented at the higher end of that scale. The 2016 Housing Needs Assessment (HNA) notes that there is an overall need for additional housing in the city to meet the 20-year future housing unit demand. Of all needed future housing, 30% is estimated to be in the form of multi-unit developments and the proposed additional units expand the overall housing stock in the city. Although the greatest need for housing is at the lower price point, adding housing stock at this higher price point provides an opportunity for existing residents to move into these new units, thereby making units at lower price points available to others. Data from the HNA shows that some renter households have the ability to pay for newer and/or higher quality units than is currently available.

#### Willamette Greenway Element

Goal statement: To protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

As stated in the plan, the Willamette Greenway boundaries are to include all land within 150 feet of the ordinary low water line of the Willamette River and such additional land, including Kellogg Lake and lands along its south shore. The subject property is more than 1,000 feet from the river and there is private development of both residential dwellings and the Waverly Country Club between the river and the development site.

The subject property has no physical relationship with the river as it is far away and is on a steep slope making the river inaccessible from the subject property. The proposed site plan minimizes the visual impact of the development from the river and provides public viewing points to the river and a walking path.

#### Neighborhood Element



Goal statement: To preserve and reinforce the stability and diversity of the city's neighborhoods in order to attract and retain long-term residents and ensure the city's residential quality and livability.

The subject property and surrounding area are in what was identified in the 1989 plan as Neighborhood Area 1. It recognizes that the Waverly Heights residential area is a "mix of large single-family homes and high-density apartments." The plan includes a guideline for multifamily housing that includes that new multifamily housing should not "significantly alter the visual character of existing single-family areas." The plan includes considerations such as: projects should not be located randomly throughout the neighborhood; should have adequate off-street parking; should have close proximity to major streets and public transit; and should be designed to be aesthetically pleasing.

The subject property is on the edge of an existing single-unit dwelling neighborhood and also within a high-density residential area made up of both rental apartments and condominiums. Its proposed location is not random and is within walking distance of downtown and all of its amenities including public transit. As noted above, the proposed site design includes a significant setback and buffer from adjacent properties, over one-half of the site will be vegetated, will have adequate off-street parking, and the buildings have a high-end design aesthetic.

**B. Does the project design adequately address the approval criteria for review of a development in the Willamette Greenway?**

Approval of a project in the Willamette Greenway (WG) is a conditional use, subject to the provisions of MMC 19.905. The conditional use approval criteria are found in MMC 19.905.4. The key criteria that apply to this project and that must be addressed by the application are:

- Are the characteristics of the lot suitable for the proposed use considering size, shape, location, topography, existing improvements, and natural features?
- Will the operating and physical characteristics of the proposed use be reasonably compatible with, and have minimal impact on, nearby uses?
- Will all identified impacts be mitigated to the extent practicable?

The purpose of the WG is to protect, conserve, enhance, and maintain the natural, scenic, historic, economic, and recreational qualities of lands along the Willamette River and major courses flowing into the Willamette River. The subject property is entirely within the Willamette Greenway. The WG section (MMC 19.401) of the code functions as an overlay zone and is combined with the base zone. MMC 19.401.6 includes a list of criteria that are to be taken into account in the consideration of a greenway conditional use:

- Compatibility with the scenic, natural, historic, economic, and recreational character of the river;
- Protection of views both toward and away from the river;

- Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the river, to the maximum extent practicable;
- Public access to and along the river, to the greatest possible degree, by appropriate legal means;
- Emphasis on water-oriented and recreational uses;
- Maintain or increase views between the Willamette River and downtown;
- Protection of the natural environment according to regulations in Section 19.402;
- Conformance to applicable Comprehensive Plan policies;
- The request is consistent with applicable plans and programs of the Division of State Lands;
- A vegetation buffer plan.

As the crow flies, the proposed development would be more than 1,000 ft from the river. There is currently no access to the river from the subject property. The applicant's materials state that the proposal is consistent with the multi-family character of the surrounding area and its relationship with the river. Images were provided with the application materials showing that the proposed development would be set back from the river with a buffer of the existing Waverly Country Club golf course and multiple existing multi-family developments closer and more exposed to the river.

Maintaining the natural tree canopy and forested nature of the site are important aspects to this development, which includes the addition of recreational walking paths through the forested site (See Figure 5). The application materials show that by maintaining the existing forest and purposefully orienting the new development, the views to and from the river will be minimally impacted. New opportunities for views to the river are proposed through the creation of recreational paths in the existing forest by removing invasive species and dead or diseased trees as well as creating new views from the development itself. Overall, the project will minimally impact the views from and/or across the river (See Figure 6).

MMC 19.401.3 prohibits structures exceeding 35 ft in height west of McLoughlin Blvd. This height restriction would appear to be related to protection of views to and from the river. Building A.1, a portion of Building A.2 and a portion of Building B.1 would be located in the Willamette Greenway. As discussed above, and shown in the illustrations submitted with the application, the additional building height requested as part of this planned development will not have a negative impact on the views to and from the river. As already noted, there are also many other visible existing developments and structures much closer to the river between the river and the subject property. Preservation of a significant amount of wooded areas on the site minimizes impacts of the proposed structures located in the greenway.



Figure 5. Surrounding development and Willamette River.

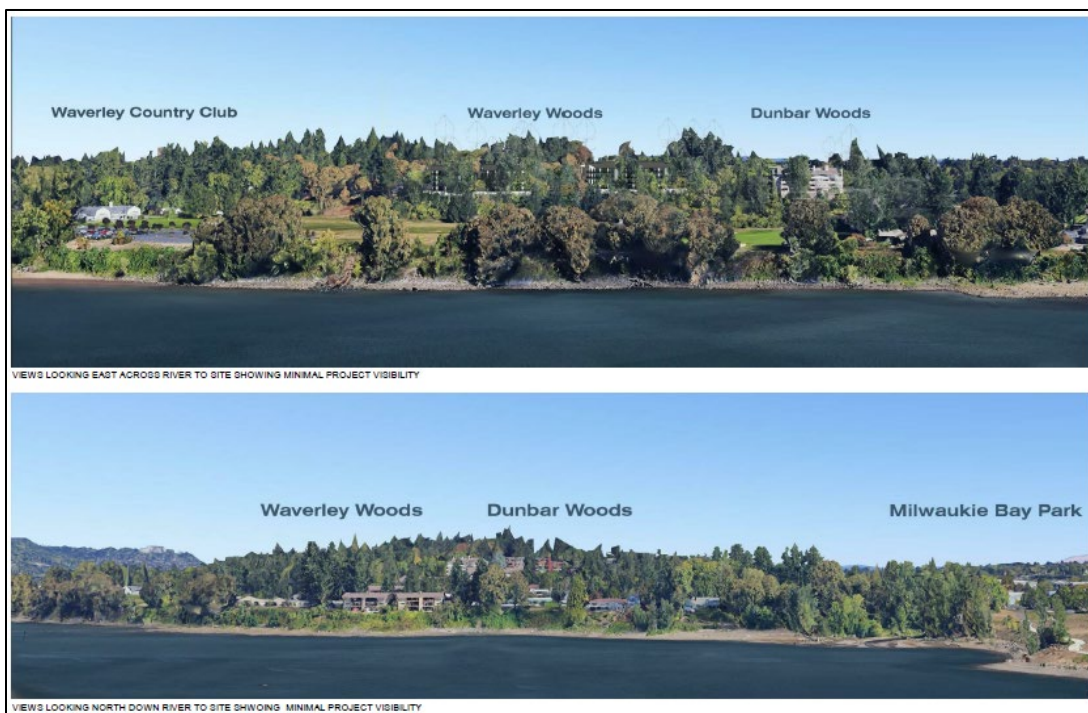


Figure 6. Views from the River

Based on the criteria for both the WG and for conditional uses, the subject property is appropriate for the proposed development, and its design takes into account the necessary considerations for development in the Willamette Greenway Zone.

**C. Does the project provide enough “exceptional advantages in living conditions and amenities not found in similar developments” to warrant the additional proposed density and building height as allowed by MMC Subsection 19.311.3?**

- The subject property is in the Residential R-2 zone as well as the Willamette Greenway (WG) zone. The Planned Development process allows the applicant to effectively create new development standards for the project, including:
  - An increase to the maximum building height, which in the R-2 zone is permitted up to 45 ft but is limited to 35 ft in the WG. The proposed development would include a building height along the ridge of just under 44 ft as measured on sloped sites (see detailed discussion below).
  - If the applicant can demonstrate exceptional design in the project, there is an opportunity to increase the density up to 20% above the maximum normally allowed. The proposal exceeds the maximum density of 84 dwelling units by 20%, equal to 16 units, for a total of 100 dwelling units (see detailed discussion below).
  - The proposal also includes an increase to the maximum overall building length of the two ridge buildings (Buildings A.1 and A.2) by 50 ft so that they would be 203 ft from end wall to end wall instead of the maximum of 150 ft (see detailed discussion below).
- The proposed development provides the following exceptional features:
  - In lieu of developing a fifth residential building, the project proposes to add an additional story to the two ridge buildings and increase their length to 203 ft. As a result, the overall lot coverage is decreased and the amount of pervious surface is increased, which are both clear advantages to a more compact development type.
  - The development takes advantage of the naturally sloping topography by tucking most of the required parking under the building to minimize surface parking, which further increases the vegetated area.
  - The proposed development retains 54% of the vegetated area and the existing tree canopy west of the development extends above the building heights, which minimizes the visual impact of the additional building height from the Willamette River. This creates a unique forested setting for the proposed development.
  - The proposal includes relocating and enlarging the existing community garden for the residents of the development, which is an extremely popular amenity, creating a public river viewing area adjacent to the public right-of-way, and walking paths through the forested area with strategic views of the Willamette River in an area currently impassable. Very few multi-unit developments include a community garden space. The public river view area and paths will be available from the public right-of-way.
  - The development seeks to maximize density and minimize its footprint to create “an urban development within an urban forest.” Fulfilling the need for more housing while providing more natural recreation spaces to

improve occupant health and exposure to and appreciation for the natural environment. Through the project's compact design, the project will also reduce its operational footprint. Through the approval of the additional height allowance and width of the buildings the project is able to take advantage of the natural topography on the site to tuck parking under the buildings. Tucking the parking under the building saves the development from surface parking allowing the project to maintain the forested areas, add additional community spaces, community gardens, and other amenities.

- The proposed development includes 100 units of much-needed housing with a range of different sized units and price points.
- The revised site plan, as discussed above, includes significant buffers and setbacks from existing residences that are well beyond the requirements of the R-2 zone. These setbacks and buffers include significant trees and other vegetation.
- The proposed buildings include many exceptional features as compared to similar multi-unit developments:
  - Buildings A.1 and A.2 are designed to have corner windows to take advantage of views.
  - Buildings B.1 and B.2, while without river views will primarily face vegetated areas rather than other buildings and parking lots.
  - Tuck-under parking is rare in typical multi-unit developments providing a significant amenity for tenants while also reducing the footprint of the development.
  - Each apartment unit is designed with a balcony, which are designed to be more than three times the size required in the multi-family design standards. The smallest private outdoor space is 195 sq ft.
  - 80% of the apartments are designed to have cross ventilation, which reduces the need for air conditioning during warm weather.
- As noted above, the key amenities will be available in Phase 1 when Building A.1 is completed.
- The applicant stated that other amenities, such as solar panels and electric vehicle charging stations are anticipated to be available upon completion of the project. The applicant submitted a memorandum on February 8, 2021 outlining the project's sustainable design strategies (see Attachment 14). These include:
  - Tree preservation and forest restoration
  - Maximize vegetation and reduce impervious pavement
  - Commitment to the integration of solar panels on the roofs of the proposed buildings

- A minimum of two electric car charging stations in the parking area of Building A.1 upon its completion and a commitment to install additional chargers as needed.
- Open Space
  - The applicant submitted a revised site plan identifying the preserved forest buffer area. The total area of the development site is 292,150 sq ft; the proposed buffer area is 114,150 sq ft or 40% of the total site. This open space area represents a green “collar” around the developed portion of the property.
  - MMC 19.311.3.E states that “The development plan and program shall provide for the landscaping and/or preservation of the natural features of the land. To ensure that open space will be permanent, deeds or dedication of easements of development rights to the City may be required (*emphasis added*)... Instruments and documents guaranteeing the maintenance of open space shall be approved as to form by the City Attorney. Failure to maintain open space or any other property in a manner specified in the development plan and program shall empower the City to enter said property in order to bring it up to specified standards.” The applicant has stated the intent to preserve the site’s open space areas but has not proposed a conservation restriction for the forested buffer area. Final language for this condition pending further discussion.

- Building Height

In Section 19.202.2, the zoning code provides for an alternative way of measuring building height for structures on sloped sites. It establishes a new base point to compensate for slope (See Figure 7).

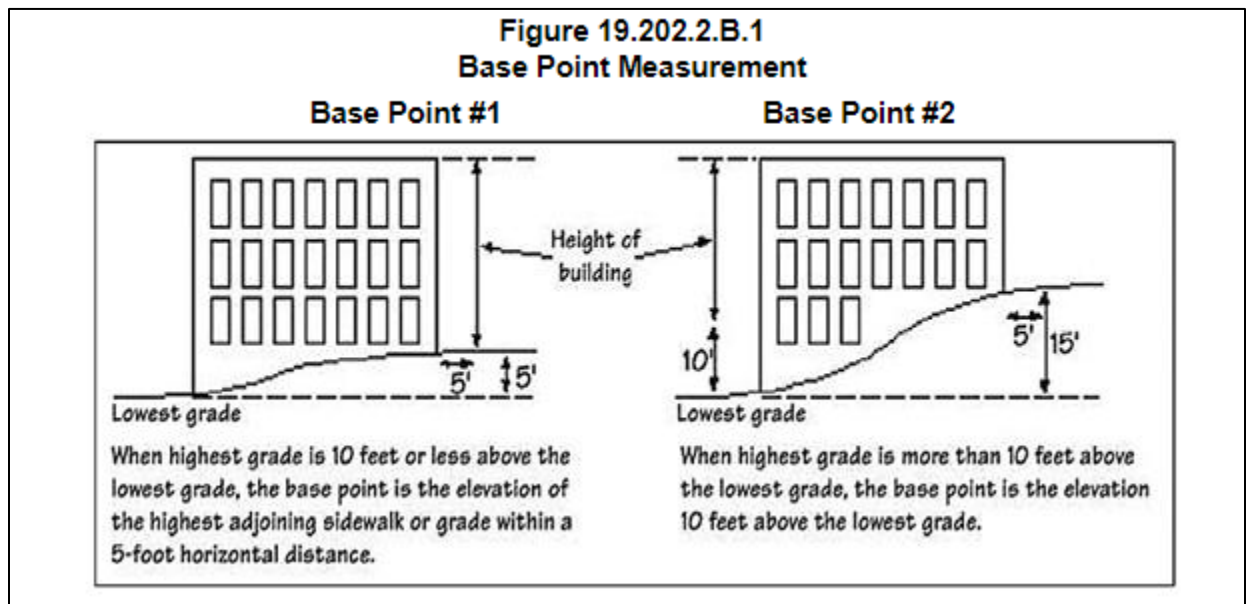


Figure 7. Building height measurement

Section 19.302.5.E also allows for one story of additional height if an additional 10% of site area beyond the minimum is retained in vegetation. The proposed development maintains 54% of the total site as vegetation, well above the



minimum of 15% in the R-2 zone. Therefore, an additional story beyond the 3 story/45 ft maximum height would be allowed, for a total height of 4 stories/55 ft. However, the site is also in the WG zone, which prohibits buildings taller than a maximum height of 35 ft.

Through the Planned Development process, the proposed development would have buildings along the ridge of 43 ft 8 inches in height rather than the maximum of 35 ft in the WG zone (see Figure 8).

The applicant submitted building section diagrams illustrating the proposed building height. At the top of the slope, the proposed 4-story buildings would be 43 ft high; at the bottom of the slope, the calculated building height would be 52 ft. The maximum building height in the R-2 zone, with additional vegetated area, is 4 stories or 55 ft; in the Willamette Greenway, the maximum building height is 35 ft.

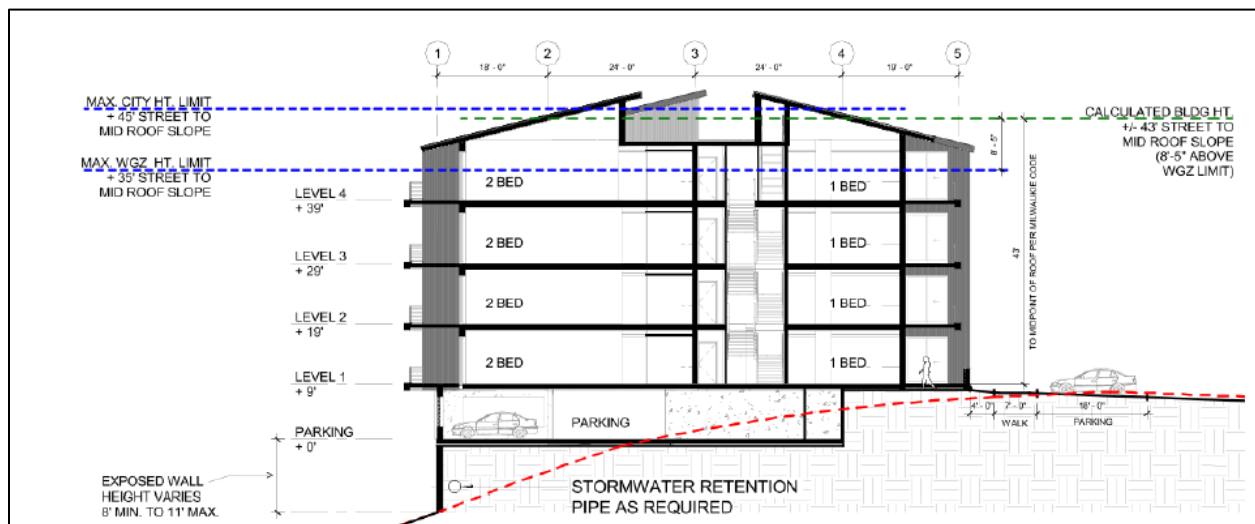


Figure 8. Proposed Building Height

The applicant submitted revised site plans showing Building A.2 moved six feet away from the adjacent property line, increasing the proposed setback for a total setback of 49 feet. The site plans also provide the total distance between Buildings A.2, B.2, and B.1 from the four closest residences: 218 feet, 200 feet, 143 feet, and 82 feet. The revised site plan also shows that Building A.2 is 99 feet from the Waverly Country Club property line (see Figure 9)

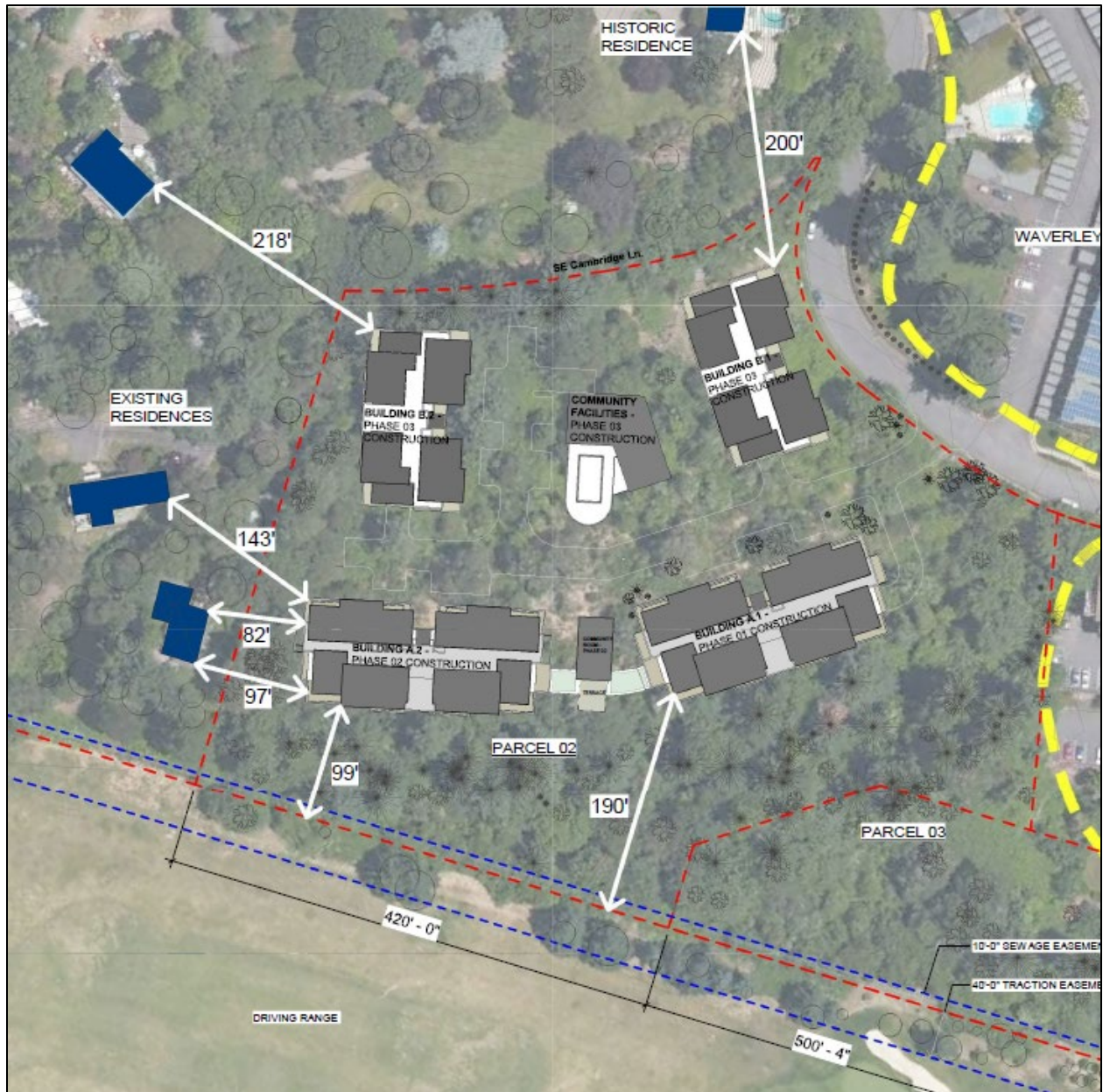


Figure 9. Distance to adjacent properties

Comments relative to shading impacts to neighboring properties were addressed in the applicant's supplemental plan set, which included existing and new development conditions during the summer and winter solstice. The submitted studies show no impact to adjacent properties during the summer solstice and minimal shadow impact from Building A.2 on the entry porch and garage of the adjacent residence.

The proposed building height is in keeping with the base code requirements and, as detailed above in the Willamette Greenway discussion, the additional height does not impact views to and from the river.



- Density

The maximum density in the R-2 zone is 17.4 units per acre. Parcel 3 is not proposed for development at this time, and Parcel 1 is the existing Dunbar Woods development site, so the density calculation focuses on Parcel 2.

Parcel 2 includes steep slopes over 25%, which is an area of 1.9 acres. The net area of Parcel 2 when subtracting the area of steep slopes is 4.855 acres. The maximum density allowed on Parcel 2 is 84 units. As a Planned Development, a 20% increase in density is permitted if the applicant can demonstrate exceptional design in the project. This increase would allow 100 units. The applicant is proposing 100 new units of housing in four buildings on Parcel 2.

- Building Length

Subsection 19.302.5.H.2 limits the overall horizontal length of multifamily buildings to 150 linear ft as measured from end wall to end wall.

Through the Planned Development process, the applicant seeks approval to extend the overall length of the two ridge buildings to 203 ft. The application materials show that the buildings would be broken up into two smaller 89-ft sections with a 23-ft wide entry access area at the street, so from the street the building will not have the appearance of a 200-ft long building (see Figure 10).

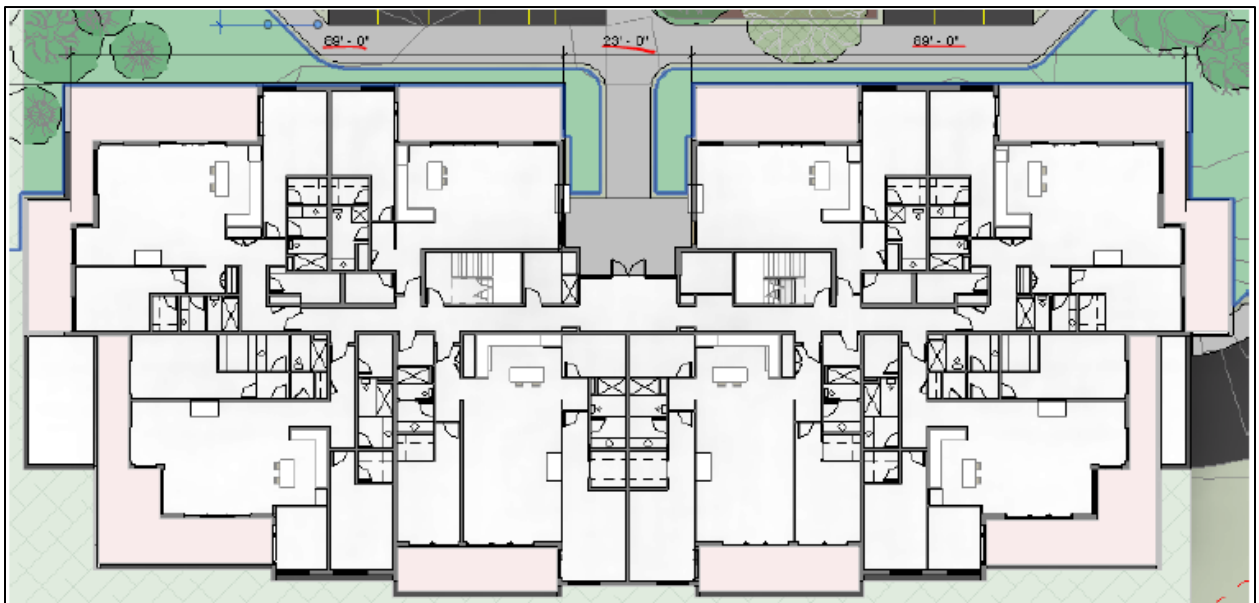


Figure 10. Building A-1 footprint

Based on the proposed design, the proposed building length is reasonable and is consistent with the purpose of minimizing the bulk of a building. It is also worth noting that buildings in the original Waverly Greens development exceed 280 ft in width, so the additional 50 ft is not out of context.

- Housing Affordability

Comments were raised about the proposed units being affordable or not and how the price point for the proposed units addresses the city's housing need. However, providing affordable units is not required for this development. The applicant has clarified that the overall Waverly Greens communities include rental units at a variety of rent levels and that the proposed units would be rented at the higher end of that scale. The 2016 HNA notes that there is an overall need for additional housing in the city to meet the 20-year future housing unit demand. Of all needed future housing, 30% is estimated to be in the form of multi-unit developments and the proposed additional units expand the overall housing stock in the city.

Although the greatest need is for housing is at the lower price point, adding to the existing housing stock at this higher price point to provide an opportunity for existing residents to move into these new units, thereby making units at lower price points available to others. Data from the HNA shows that some rental households have the ability to pay for newer and/or higher quality units than are currently available.

### Conclusion

The discussion above identifies many amenities and benefits associated with the development. The additional density requested would add 16 units to the city's housing inventory. Through the site design, the proposed development preserves and manages areas of significant forest far beyond the requirements of the base zoning regulations. It also includes a new river viewpoint adjacent to the public right-of-way, that would be open to the public.

The general arrangement of the proposed buildings, including forested area and large setbacks and buffers, integrates the development into the surrounding neighborhood. It serves as a better transition between the surrounding high-density neighborhood and the adjacent low-density area with single-family homes.

The purpose of the Planned Development zone is to encourage greater flexibility in design, to promote variety in the physical development pattern of the city, and to provide a more desirable environment than is possible through the strict application of the zoning requirements. Except for the Willamette Greenway zone restriction on building height, and the additional 16 dwelling units, the proposed development could be permitted via review of variances rather than the application of a planned development review. The proposal meets the base requirements for off-street parking as well as the design guidelines for multifamily development. The proposed design exceeds requirements for vegetation and open space and is in keeping with the purpose and goals of a planned development.

### **D. Have the project's impacts on traffic been thoroughly evaluated?**

The Transportation Facilities Review (TFR) process required the applicant to prepare a Transportation Impact Study (TIS), which involves estimates and forecasting based on traffic modeling and actual count data at specific intersections. City staff and DKS, the city's traffic consultant, coordinated with the applicant to define a scope of work for the

TIS and then reviewed the results as part of the application submittal process. Intersections included in the TIS are:

- 17<sup>th</sup> Ave. / Harrison St. / McLaughlin Blvd.
- 17<sup>th</sup> Ave. / Lava Dr.
- 17<sup>th</sup> Ave. / OR-224
- Lava Dr. / Waverly Ct.
- Waverly Ct. / proposed site access
- Lava Dr. / proposed site access

The proposed project was found to increase the number of vehicle trips in the area by 45 (12 in/33 out) weekday AM peak hour vehicle trips, 58 (35 in/23 out) weekday PM peak hour trips. Added daily trips are estimated at 359 trips. These estimates were based on applying ITE trips rate (Land Use Code 221) for Multifamily Housing (mid-rise).

According to the TIS, prepared by Kittleson & Associates, all study intersections were found to operate at an acceptable level of service through the 2021 AM and PM peak hours with full buildout of the proposed development. Both city staff and DKS reviewed the TIS and concur with its conclusions; while the four existing intersections studied will increase slightly in volume to capacity ratios, all four are anticipated to operate at Level of Service D or better. Level of Service D is the operating requirement. Additionally, Oregon Department of Transportation (ODOT) staff reviewed the intersections of 17<sup>th</sup> Ave. / OR-224 and 17<sup>th</sup> Ave. / Harrison St. / McLoughlin Blvd. and concurs that the development does have a significant impact on these two intersections. Historical crash data for the study area intersections indicate no patterns or trends that require mitigation associated with the proposed development. No significant safety issues were found from the review of the last five years of available collision data at study intersections.

The proposed site driveway would meet the city's spacing standard of 100 feet for local streets due to the property location on a corner. However, the driveway on Waverly Ct was shown to be offset from the existing Waverly Greens driveway on the opposite side of the street. The proposed new driveway at Waverly Ct was found to meet stopping sight distance, but intersection sight distance for turning vehicles was not met. Kittleson & Associates cited the following American Association of State Highway and Transportation Officials (AASHTO) guidance, "if the available sight distance for an entering or crossing vehicle is at least equal to the appropriate stopping sight distance for the major road, then drivers have sufficient sight distance to anticipate and avoid collisions." Their study specified that any new landscaping, above ground utilities, and signage should be located and maintained along the site frontage to maximize sight distance.

Given the impacted traffic patterns due to the current COVID-19 pandemic, current traffic counts could not be collected, historic 2014 counts were used to estimate 2020 existing counts. A 2.7% annual growth rate was applied over six years (2014 to 2020) for the AM peak hour. A 2.7% annual growth rate was applied over four years (2014 to 2018) for the PM peak hour. No growth was assumed from 2018 to 2020 based on PM peak hour signal detector data at two study intersections along 17th Avenue. An annual growth rate of 2.7% for AM peak period and 0% for the PM peak period was applied to 2020 existing volumes

to estimate 2021 background volumes. No additional trips from in-process developments were included in background volume.

The city's traffic consultant recommends the minimum AASHTO sight distance requirements should be met at the proposed driveways and final acceptance should be made by the city engineer prior to final site plan approval.

## **Planning Commission Decision**

Following a robust deliberation, the Planning Commission voted 6-1 to recommend approval of the application to the City Council with the Findings and Conditions of Approval included with this staff report. The Commission also wanted the following comments and recommendations to be shared with the Council during its review:

- Affordable Housing – the commissioners understand that requiring affordable units as part of the approval is not possible but wanted to emphasize their concern about housing affordability in the city.
- Sustainability – the commissioners believe that sustainable development is critical to fight climate change. While the applicants stated their commitment to sustainability, no specific commitments were made as part of the review process (solar panels, green building certification, etc.). Although the applicant has not specifically relied upon these aspects of the development for approval, Commissioners believe that the applicant should provide documentation that demonstrates, through measurable compliance, that each phase of the project that the buildings are meeting sustainability metrics beyond the building code requirements. Further, a plan should be submitted showing a solar energy plan and electric vehicle charging stations. *(Note: the applicant submitted a memorandum on February 8, 2021 summarizing the various sustainable aspects of the development and their commitment to sustainable design – see Attachment 14).*
- Public amenities – although requiring public amenities as part of the approval is not possible, the commissioners wanted to share their thoughts that access to the walking paths and community room should be available to the public and visitor parking should be provided.

## **Key Approval Criteria**

### MMC 19.311.9 – Planned Development Zone

The approval authority(ies) may approve, approve with conditions, or deny the PD Zone based on the following approval criteria:

- A. Substantial consistency with the proposal approved with Subsection 19.311.6;
- B. Compliance with Subsections 19.311.1, 19.311.2, and 19.311.3;
- C. The proposed amendment is compatible with the surrounding area based on the following factors:
  1. Site location and character of the area.
  2. Predominant land use pattern and density of the area.
  3. Expected changes in the development pattern for the area.

- D. The need is demonstrated for uses allowed by the proposed amendment;
- E. The subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the use(s) allowed by the proposed amendment, or such facilities, utilities, and services are proposed or required as a condition of approval for the proposed amendment;
- F. The proposal is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact study may be required subject to the provisions of Chapter 19.700;
- G. Compliance with all applicable standards in Title 17 Land Division;
- H. Compliance with all applicable development standards and requirements; and
- I. The proposal demonstrates that it addresses a public purpose and provides public benefits and/or amenities beyond those permitted in the base zone.

#### MMC 19.401.6 – Willamette Greenway

The following shall be taken into account in the consideration of a conditional use:

- A. Whether the land to be developed has been committed to an urban use, as defined under the State Willamette River Greenway Plan;
- B. Compatibility with the scenic, natural, historic, economic, and recreational character of the river;
- C. Protection of views both toward and away from the river;
- D. Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the river, to the maximum extent practicable;
- E. Public access to and along the river, to the greatest possible degree, by appropriate legal means;
- F. Emphasis on water-oriented and recreational uses;
- G. Maintain or increase views between the Willamette River and downtown;
- H. Protection of the natural environment according to regulations in Section 19.402;
- I. Advice and recommendations of the Design and Landmark Committee, as appropriate;
- J. Conformance to applicable Comprehensive Plan policies;
- K. The request is consistent with applicable plans and programs of the Division of State Lands;
- L. A vegetation buffer plan meeting the conditions of Subsections 19.401.8.A through C.

#### MMC 19.902.6 – Zoning Map Amendments

Changes to the Zoning Map shall be evaluated against the following approval criteria. A quasi-judicial map amendment shall be approved if the following criteria are met. A legislative map amendment may be approved if the following criteria are met:

1. The proposed amendment is compatible with the surrounding area based on the following factors:
  - a. Site location and character of the area.

- b. Predominant land use pattern and density of the area.
  - c. Expected changes in the development pattern for the area.
- 2. The need is demonstrated for uses allowed by the proposed amendment.
- 3. The availability is shown of suitable alternative areas with the same or similar zoning designation.
- 4. The subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the use(s) allowed by the proposed amendment, or such facilities, utilities, and services are proposed or required as a condition of approval for the proposed amendment.
- 5. The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact study may be required subject to the provisions of Chapter 19.700.
- 6. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, including the Land Use Map.
- 7. The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.
- 8. The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

#### **BUDGET IMPACT**

None.

#### **WORKLOAD IMPACT**

None.

#### **CLIMATE IMPACT**

The design of the development is compact, includes tuck-under parking to minimize its footprint, and maintains 54% of the site as forest or landscaped areas. The proposed development promotes less impervious surface and maintains more canopy than would be typical, furthering the city's climate action goals.

#### **COORDINATION, CONCURRENCE, OR DISSENT**

The city engineer and city attorney have participated in this land use review process.

#### **STAFF RECOMMENDATION**

This application is subject to Type IV review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above and make a recommendation to Council for a final decision. The Commission recommended approval of the application.

#### **ALTERNATIVES**

As the final decision maker, the Council must assess the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing, in order to make the final decision.

A waiver of the 120-day clock was necessary to accommodate the review schedule. In accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance, the applicant agreed to a waiver of the 120-day clock through February 18, 2021 to accommodate the public hearing with the Council. It is possible that further extensions will be required to complete the review process.

The Council has four decision-making options as follows:

- A. Continue the hearing, to allow for additional public testimony and/or the provision of additional information from the applicant. The Council may be able to identify specific information needs or suggested revisions to the proposed development plan. The applicant may need to provide another waiver to the 120-day clock.
- B. Approve the application subject to the recommended Findings and Conditions of Approval.
- C. Approve the application with minor modifications to the recommended Findings and Conditions of Approval. Such modifications need to be read into the record.
- D. Deny the application upon finding that it does not meet approval criteria.

## **ATTACHMENTS**

### **1. Ordinance**

- a. Exhibit A - Recommended Findings in Support of Approval
- b. Exhibit B – Final Development Plan and Program
  - i. Development Plan Set
    - 1. Cover Sheet
    - 2. Aerial Site View
    - 3. Existing Site Plan and Topography
    - 4. Proposed Site Plan (rev. 11/10/2020)
    - 5. Proposed Site Plan with Preserved Forest Zone
    - 6. Proposed Site Plan with distances to adjacent properties
    - 7. Phasing Plan
    - 8. Unit Density and Lot Coverage
    - 9. Parking Plan and Count
    - 10. Fire Access Diagram
    - 11. Forested Areas and Walkways
    - 12. Building Sections Showing Height Limits
    - 13. Site Sections and Elevations
    - 14. Phase 01 Site Plan
    - 15. Building A.1 Floor Plans, Sections and Elevations
    - 16. Building B Floor Plans, Sections and Elevations
    - 17. Tree Removal Plan and Schedule
    - 18. Tree Protection Plan
    - 19. Grading

- 20. Profiles
- 21. Waverly Ct Public Improvements
- 22. Utilities
  - c. Exhibit C - Recommended Conditions of Approval
  - d. Exhibit D - Recommended Other Requirements
  - e. Exhibit E – Existing and Proposed Zoning
- 2. Final Order
- 3. Applicant's Narrative and Supporting Documentation (original submittal received on August 4, 2020)
  - a. Application forms
  - b. Narrative
  - c. Preliminary development plans
  - d. Transportation Impact Study
  - e. Arborist Report – tree removal and protection plan
  - f. Pre-application conference notes
- 4. DKS Associates TIS review memo dated September 25, 2020
- 5. ODOT review memo dated October 1, 2020
- 6. Applicant response to ODOT dated October 9, 2020
- 7. ODOT review memo dated October 15, 2020
- 8. Applicant responses to public comments and revised drawings
- 9. Preliminary Stormwater Management Memo dated October 27, 2020
- 10. Public comments received during Planning Commission review
- 11. Minutes from October 27, 2020 Planning Commission meeting
- 12. Applicant's final written argument
- 13. Public comments received for City Council review
- 14. Applicant memo detailing sustainability measures dated February 8, 2021





HATHAWAY LARSON

Koback · Connors · Heth

December 15, 2020

**VIA EMAIL (c/o Vera Kolas, Planner)**

Mr. Robert Massey, Chair  
Planning Commission  
City of Milwaukie  
6101 S.E. Johnson Creek Blvd.  
Milwaukie, OR 97206

Re: Waverley Woods Apartment Planned Development (Application)  
Application File Nos. PD-2020-001, ZC-2020-001, WG-2020-001,  
PLA-2020-001 & TFR-2020-002  
Final Written Argument

Dear Chair Massey and Planning Commission Members:

As you know, this firm represents the applicant for the above-reference Application, Walker Ventures, LLC (the “Applicant”). The Applicant is submitting this final written argument pursuant to the post-hearing procedures the Planning Commission established for this Application. This final written argument is based on the evidence that has already been submitted into the record. For the reasons set forth in this final written argument and the record, the Applicant respectfully requests that the Planning Commission recommend approval of the Application subject to the conditions of approval set forth in the Staff Report, dated December 1, 2020 (the “Staff Report”), with one exception. For the reasons set forth in Section D.2 below, Applicant respectfully requests that the Planning Commission not adopt Condition 4.b as part of its recommendations.

**A. The Applicant proposed the Planned Development to allow for an exceptional development that would not be feasible under the base zoning and will minimize the overall impacts on the subject property and surrounding properties.**

As the Applicant explained in its November 17, 2020 letter to the Planning Commission, the primary purpose for proposing the Planned Development (“PD”) was to use the flexibility allowed by this process to design an exceptional development project that will minimize the impacts on the subject property and surrounding properties in a way that could not be otherwise achieved under the current R-2 zone:

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“From the beginning, more than eight years ago when Applicant first began discussions with architects about the development of this property, Applicant has emphasized the importance of taking advantage of the magnificent setting overlooking the Willamette river and creating this new community in a natural setting with more of a bucolic than an urban feel. That goal has remained paramount throughout the planning of this project. Applicant’s architects have proposed and studied numerous different plans over many years seeking to achieve those goals. Through that process it was eventually determined that it would not be feasible to meet those objectives by developing this site under the limitations of regular zoning. It became apparent that much more of the property can be preserved as open space if some buildings larger than permitted under regular zoning are constructed with parking tucked underneath. By that method, fewer buildings are needed, less of the land will be covered by buildings, less of the property will be paved with access roads, and less of the property will be covered by external parking, carports, or garages. Plans that were considered under regular zoning would have had much less open space and would not have preserved nearly as many of the existing trees and as much of the natural setting as does the planned development Applicant has submitted.” Letter from Scott Wyse, dated November 17, 2020, p.1-2.

By proposing adjustments to the density, height and length standards for the A-1 and A-2 buildings, the Applicant is able to design a multi-family residential project that is far superior and less impactful than a project developed under the R-2 zoning.<sup>1</sup> The Applicant is proposing four buildings as opposed to the five buildings that would be required under the R-2 zoning, and is well below the maximum 45% building lot coverage allowed under R-2 zoning (21.9%). Milwaukie Municipal Code (“MMC”) Table 19.302.4.B.4. The Applicant is proposing under building parking which will significantly reduce the amount of surface parking and impervious area required under the R-2 zoning option. As a result of the smaller development footprint, the Applicant is proposing to retain approximately 40% of the natural forest area on the property and provide 54% of vegetative open space, well in excess of the 15% vegetation open space requirement under the R-2 zoning.<sup>2</sup> MMC Table 19.302.4. The retention of a significant portion of the natural forest area enables the Applicant to provide significantly greater buffers, screening

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<sup>1</sup> Mr. Robinson’s claim that the Applicant’s November 17, 2020 letter was a threat to cut the neighbors out of the public process is a gross mischaracterization on that letter. Letter from Michael Robinson, dated December 8, 2020, p.1. Mr. Wyse never threatened to cut the neighbors out of the public process or pursue the base zone development option. Mr. Wyse simply explained the rationale behind the Applicant’s decision to pursue the PD proposal, why the PD proposal provides advantages over the base zone development option and noted that the PD proposal provided neighbors more procedural opportunities to comment on the project. This is a statement of fact not a threat.

<sup>2</sup> The Application Narrative indicates that the R-2 vegetative open space requirement is 25% pursuant to MMC 19.302.5.H.2 because the Applicant is proposing a fourth story. Application Narrative, p.4. Without the PD the Applicant would be limited to a 35-foot height under the WG overlay zone, and therefore the Applicant would be required to propose 5 buildings that are 35 feet in height and would be limited to the 15% vegetative open space requirement.

and setbacks to adjacent properties than the 5 to 15-foot setbacks required under the R-2 zoning.<sup>3</sup> MMC Table 19.302.4.B.1.

Although the Applicant is proposing some adjustments to the density, height and length standards, these adjustments are fairly modest under the circumstances.<sup>4</sup> The additional 20% density is consistent with the PD development standards and allows for a smaller development footprint. MMC 19.311.3.C. The additional height only applies to the A-1 and A-2 buildings, which are the furthest from the adjacent residential area, and is consistent with the R-2 zoning height limits.<sup>5</sup> Staff Report, p.6; MMC 19.202.2.B; MMC Table 19.302.4. The additional building length (203 feet as opposed to 150 feet) only applies to the A-1 and A-2 buildings, is significantly less than the 284-plus foot building length for the nearby Stuart and Waverley Hall Apartments located to the east of this development, and will include a significant recessed entry that will break the buildings up and provide the appearance of two building masses for each building. Staff Report, p.18; MMC Table 19.302.4.

This more flexible approach allows for trade-offs to enable an overall superior project, which is precisely what the PD process was intended to allow. The purpose of the PD process is to “provide a more desirable environment than is possible through the strict application of Zoning Ordinance requirements,” “encourage greater flexibility of design and the application of new techniques in land development,” “provide a more efficient, aesthetic, and desirable use of public and private common open space,” and “promote variety in the physical development pattern of the City.” MMC 19.311.1. In this case, the Applicant is proposing the PD to utilize the flexibility and provide a more efficient, aesthetic, and desirable use of the open space and promote variety in the development pattern.

**B. The Applicant is not asking for anything that is not expressly allowed or contemplated under the City’s zoning code.**

While the neighbors are certainly entitled to raise their objections and concerns as part of this public process, it is important to emphasize that many of the core objections relate to aspects of the project that are expressly allowed or contemplated under the City’s zoning code.

Several neighbors object to the concept of a multi-family apartment development on this property given its proximity to the Waverly Heights single-family subdivision and the Waverly

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<sup>3</sup> The four closest residences will be 218 feet, 200 feet, 143 feet and 82 feet from the closest proposed buildings. Building A.2 will be at least 99 feet from the WCC property line. Staff Report, p.6.

<sup>4</sup> The PD allows an applicant to modify the development standards, such as density, height and length, subject to compliance with the PD standards. As set forth in MMC 19.311.3, the “[a]pproval of a PD Zone establishes a modified set of development standards specific to the development.”

<sup>5</sup> The adjustment is only necessary because the Willamette Greenway (“WG”) overlay zone, which covers approximately 70% of the site, has a 35-foot height limitation. MMC 19.401.3.A.

Country Club (“WCC”) driving range.<sup>6</sup> However, the subject property is specifically designated for high density residential under the Comprehensive Plan and zoned R-2, which is one of the medium and high density residential zones that are intended to accommodate multi-family residential uses. Application Narrative, p.13; MMC 19.302. Properties to the south and east are similarly designated for high density residential under the Comprehensive Plan and zoned R-2. The property is adjacent to the Dunbar Woods Apartments and very close to several other existing apartment complexes in the area. The Comprehensive Plan identifies the Waverly Heights residential area as a “mix of large single family homes and high density apartments.” Staff Report, p.12. Concerns raised about the appropriateness or compatibility of a multi-family residential use on this property are inconsistent with the Comprehensive Plan and zoning designations for the property and surrounding area.

Several neighbors object to the concept of any development on the property given the WG overlay zone over a portion of the property and the fact that it has not been previously developed. The WG overlay zone does not prevent development or require the preservation of the property in its natural state. The WG overlay zone expressly allows all uses permitted under the base zone subject to the criteria in MMC 19.401.6. MMC 19.401.5.A. MMC 19.401.6 effectively requires an applicant to minimize the impacts of the development to the extent practicable which is precisely what the PD proposal is attempting to accomplish.

Several neighbors object to the concept of a PD proposal and phased development project. MMC 19.311 specifically allows for a PD process and expressly permits a phased development. MMC 19.311.17. As previously explained, the PD is being proposed consistent with the purpose of the PD zone.

**C. The Application complies with and exceeds the applicable approval standards criteria.**

The Application must be reviewed based on the approval standards and criteria set forth in the MMC. ORS 227.173(1). The purpose for requiring that the standards and criteria be set forth in the code is to ensure that both the applicant and the public understand the standards upon which a development proposal will be judged. *State ex rel. West Main Townhomes, LLC v. City of Medford*, 233 Or App 41, 225 P3d 56 (2009).

As explained in the Application material, testimony at the public hearings and the post-hearing written submittals, the project meets or exceeds the applicable approval standards and criteria. The Applicant is proposing a high-density multi-family residential development project which is expressly contemplated under the Comprehensive Plan and R-2 zoning. The Applicant is utilizing the PD process for its intended purpose - flexibility with the design to allow for an exceptional development project that will minimize the impacts on the subject property and surrounding properties in a way that could not be otherwise achieved under the base zoning. The project exceeds several key development standards – the maximum building lot coverage (21.9% versus the maximum 45% allowed under R-2), vegetative open space requirement (54%

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<sup>6</sup> The subject property is adjacent to the WCC driving range, but it is not adjacent to the golf course itself. The WCC is not located within the City of Milwaukie and therefore does not have a City zone.

versus the 15% required under R-2), and substantially larger buffers, screening and setbacks than required under the R-2 zone. The project complies with the multi-family residential design guidelines and proposes a superior design that implements several features not typically found in multi-family residential apartment projects (corner outlooks with windows on two walls, large balconies, cross ventilation, under building secure parking, etc.).

The City Staff, who is a neutral party in this proceeding and has significant expertise with respect to the City zoning code requirements and historical application of the code requirements to development projects, has consistently determined that the Application satisfies the applicable approval standards and criteria and recommended approval. Staff made this determination both before and after the Planning Commission's October 27, 2020 hearing and the public testimony and comments. The latest Staff Report provides a thorough and detailed analysis of the project's compliance with the approval criteria and responds to the questions and issues raised by the neighbors. The Planning Commission should give significant weight to Staff's analysis and recommendations.

#### **D. Summary of key issues and responses to neighbor comments.**

The Application, the Applicant's post-hearing written submittals and the Staff Reports already provide detailed responses to the approval criteria and the issues raised by the neighbors, and therefore the Applicant will rely on those detailed responses for purposes of this final written argument. The Applicant will use the final written argument to summarize its response to the key criteria and issues raised by the neighbors in the public process.

##### **1. The project provides exceptional advantages in living conditions and amenities not found in similar developments constructed under regular zoning.**

MMC 19.311.3.C allows a PD to exceed the density allowed under the base zone up to 20% if "the planned development is outstanding in planned land use and design and provides exceptional advantages in living conditions and amenities not found in similar developments constructed under regular zoning." The key term is "exceptional," which is not defined in the MMC, and therefore it should be interpreted consistent with its common usage. MMC 19.104. Webster's Third International Dictionary, which is the dictionary used by the Oregon courts to determine the meaning of undefined code terms, defines the term "exceptional" to mean: "being out of the ordinary; uncommon, rare" and "better than average; superior." Letter from Scott Wyse, dated November 17, 2020, p.2-3; *State v. Gaines*, 346 Or 160, 175, 206 P3d 1042 (2009).

The proposed development is an outstanding design and includes many exceptional features that are uncommon and better than average or superior to similar multi-family apartment developments constructed under regular zoning. See Letter from Scott Wyse, dated November 10, 2020, p.1-6; Letter from Scott Wyse, dated November 17, 2020, p.2-6. The proposal maximizes the density while at the same time providing a significantly smaller development footprint and less impervious area than similarly sized apartment developments. This will result in larger than typical buffers between the apartment buildings and the neighboring properties. The proposal will retain a significant portion of the natural forest (40%) and provide significantly more open space (54%) than similar apartment developments. This will create an

environment of urban living in a forested setting which is seldom achieved in apartment communities. The proposal includes secure under building parking, which is rare in all but the most dense urban settings, and is a huge advantage in the wet Oregon climate. Three-quarters of the apartments in the A-1 and A-2 buildings and two-thirds of the B-1 and B-2 buildings will have corner outlooks with windows on two walls, providing wonderful views from the apartment's principal living area, a quality rarely achieved in other apartment projects. The A-1 and A-2 buildings are designed to be cut into the slope of the property in such a way as to take full advantage of the extraordinary views from the property across the Willamette River, despite being set back very far from the adjoining WCC property and Willamette River. These views will be complemented by exceptionally large balconies for each unit. 80% of the apartments will have cross ventilation. The Applicant intends to provide solar panels and hook ups for electrical vehicles.<sup>7</sup> The proposal includes a new community garden, which is very popular with urban dwellers and rarely found in other apartment complexes. The proposal also includes natural paths and a public river viewing area adjacent to Waverly Court.<sup>8</sup>

The Applicant provided a detailed comparison of these proposed features to 24 existing apartment complexes in the area. *See* Letter from Scott Wyse, dated November 10, 2020, p.1-6. Few of these other apartment complexes have more than 30% of their land area in a vegetative state, and most have significantly less than that with most of the land area covered by the apartment buildings, roadways, parking spaces, carports, or garages. Only a few provided under building parking. Only one of the apartment complexes included a community garden. None of the other apartment complexes provide the extent of corner outlook views, oversized balconies and quality of views as the proposed development. Many of these similar apartment complexes do not offer any of these exceptional features and none of them offered all of them.

Notwithstanding the substantial difference between the proposed PD and these similar apartment developments, WCC and other neighbors raised various questions to which the Applicant would like to respond. First, WCC disputes the Applicant's definition of "exceptional" by claiming the Applicant cannot "create its own definition" even though Mr. Robinson initially argued that the Applicant needed to define the term before it can be applied. Letter from Michael Robinson, dated December 1, 2020, p.2; Letter from Michael Robinson, dated November 10, 2020, p.2-3. As previously explained, MMC 19.104 requires terms not defined in the MMC to be interpreted

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<sup>7</sup> The Applicant has completed a preliminary solar study, and, subject to completion of its solar study, the Applicant intends to install solar panels on the roofs, similar to the extensive solar panels the Applicant voluntarily provided as part of its Waverley Greens apartment complex. The Applicant intends to construct the infrastructure/wiring for the solar panels in the buildings as part of the development to make it solar ready and add the solar panels upon completion of the solar study. The Applicant will also construct the infrastructure/wiring needed to provide electric vehicle hook up stations for any residents that request them.

<sup>8</sup> A question was raised at the Planning Commission's December 8, 2020 hearing regarding parking for the use of the public viewing area. The Applicant is not proposing and does not believe it is necessary to provide additional parking for this small public viewing area. Most people will walk to the public viewing area from the surrounding area. For those people who will drive in their vehicle, the public viewing area is adjacent to Waverly Court and there is more than sufficient street parking to accommodate these vehicles.

consistent with their common usage and the Oregon courts rely on Webster's Third International Dictionary to determine the meaning of undefined code terms. WCC's position is contradictory since they offer their own definition of the term. Contrary to WCC's suggestion, neither MMC 19.311.3.C nor the common definition of exceptional require the Applicant to demonstrate that **none** of the similar apartment developments have **any** of these exceptional features.<sup>9</sup> The Applicant's demonstration that many of the similar apartment complexes do not offer any of these exceptional features and none of them offer all of them is sufficient to demonstrate that the project overall includes exceptional features that are uncommon, rare, better than average and superior to similar developments.

Second, WCC questions the relevancy of the similar apartment developments that were used for comparison because some of them are not in the City or on properties zoned R-2. MMC 19.311.3.C requires a comparison to "similar developments constructed under **regular zoning**," not within the City or in the same base zone. Regardless, five of the existing apartments the Applicant used for comparison are located within the City and zoned R-2. Letter from Scott Wyse, dated November 10, 2020, p.6. Neither WCC nor any of the neighbors provided a single example of a similar apartment development with the same or similar exceptional features.

Third, WCC and other parties claim that only those exceptional features provided as part of the first phase of the PD can be considered. While most of these exceptional features will in fact be provided as part of the first phase of the PD, MMC 19.311.3.C does not limit the comparison to the first phase only. The PD is an overall plan that must be judged based on the development proposed in all phases. There is nothing in MMC 19.311.3.C or MCC 19.311 generally supporting this narrow view that only considers the benefits of the first phase.

## **2. The project complies with the open space requirements.**

MMC 19.311.3.E requires open space be set aside for "scenic, landscaping, or open recreational purposes within the development." It specifically requires at least one-third of the gross site area devoted to "open space and/or outdoor recreational areas" and at least half of the required open space and/or recreational areas must be of the same general character as the area containing the dwelling units. MMC 19.311.3.E. The project exceeds these requirements.

The Applicant is proposing 54% open space. This is well in excess of the 33% PD requirement and does not even account for the outdoor recreational areas which will also be provided (for example, the community pool). The buildings are surrounded by woods in the back and landscaped areas in the front, all of which will be in the "same general character as the area containing the dwelling units" and will be provided for "scenic, landscaping, or open recreational

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<sup>9</sup> WCC mischaracterizes the standard as requiring exceptional amenities "**none of which** are found in similar developments" or "not found **at all** in those similar developments." Letter from Michael Robinson, dated November 17, 2020, p.1 & 4. (Emphasis added). The actual standard is exceptional amenities "not found in similar developments constructed under regular zoning." The additional language Mr. Robinson included in his standard demonstrates that the actual code language does not mean what he claims it means.

purposes.” Letter from Scott Wyse, dated November 17, 2020, p.7. Therefore, the project complies with the open space requirements.

As explained at the Planning Commissions December 8, 2020 hearing, the Applicant does not believe it is necessary or prudent to require a conservation easement or deed dedication to further preserve the open space. Staff Report, p.67, Condition 4.b. Such a condition is unusual and unnecessary. MMC 19.311.11.B provides that the City can adopt an ordinance applying the PD Zone and adopt the “approved final development plan and program as the standards and requirements for said zone.” The approved final development plan and program will include the approved open space. Any variations to the approved final development plan and program must be reviewed and approved by the City pursuant to MMC 19.311.15. All approved development is subject to the compliance and enforcement provisions in MMC 19.106. Therefore, it is unnecessary to require a conservation easement or deed dedication when the open space will be approved as part of the final plan. The Applicant respectfully requests that the Planning Commission not adopt Condition 4.b.

WCC argues that the open space requirements need to be evaluated based on the larger 10.8-acre parcel because the Applicant allegedly is “requesting that the entire 10.8 acres of the subject property be zoned PD.” Letter from Michael Robinson, dated December 1, 2020, p.2. WCC is wrong about the scope of the PD. The 10.8-acre property contains three parcels, only one (Parcel 2) of which is proposed for the PD and it is 6.77 acres in size. Parcel 1 is developed with the Dunbar Woods apartments and Parcel 3 is reserved for future development. Staff Report, p.1. WCC’s claim that Staff believes the PD applies to the entire 10.8-acre property is clearly wrong. The Staff Report explains: “The 10.8-acre subject property at 10415 SE Waverly Ct is made up of **three parcels** and is currently developed with the Dunbar Woods apartments. As part of this proposal, the applicant is adjusting the boundaries of the site to establish Dunbar Woods on its own lot, **use 6.77 acres for the planned development**, and establish a third parcel for a future development (see Figure 1).” Staff Report, p.1. (Emphasis added).

WCC also incorrectly asserts that the Applicant failed to provide sufficient “public open space” which it claims is required under MMC 19.505.3.D and MMC 19.311. Neither MMC 19.505.3.D nor MMC 19.311.3.E require the Applicant to provide open space available to the public. MMC 19.311.3.E expressly defines “open space” as an area set aside for purposes of the development, not the public: “the land area to be set aside and used for scenic, landscaping, or open recreational purposes **within the development**.” (Emphasis added). The reference to public open space in MMC 19.505.3.D refers to “common space” for the development, not open space available for general public use. MMC Table 19.505.3.D.2. The project will clearly include significant common space for the development, including large outdoor community gardens, swimming pool, walking trails, kitchen/catering space, wine cellar, permanent picnic tables, and community meeting rooms.” Application Narrative, p.14. Additionally, adjacent neighbors have requested that the Applicant not allow general public use of the open space and trails to minimize the pedestrian traffic, and the Applicant agreed that they will be limited to the project residents.



**3. The project addresses a public purpose and provides public benefits and/or amenities beyond those permitted in the base zone.**

MMC 19.311.9.I requires the Applicant to demonstrate the project “addresses a public purpose and provides public benefits and/or amenities beyond those permitted in the base zone.” The project clearly serves a public purpose and provides public benefits and/or amenities beyond those permitted in the base zone. The project serves a public purpose and benefit by providing additional multi-family housing, which the 2016 Housing Needs Analysis identifies is needed, and the PD allows for more housing units than the R-2 zone. Staff Report, p.9-10. The project will provide substantial amenities for its residents and expand the amenities for the existing six communities of Waverley Greens Apartments, including new community centers and outdoor amenities for the residents to garden, swim, eat, celebrate, meet, organize, and educate themselves. The project includes relocating and enlarging the community garden, which is an extremely popular amenity and creating walkable paths through the forested areas. The project maximizes the density while at the same time allowing for a significantly smaller development footprint and less impervious area than similarly sized apartment developments. As noted above, the project includes exceptional amenities that are not found in similar multi-family apartment developments. These public amenities are not required under the base zone and the Applicant is only able to provide them as part of this project using the more flexible PD approach.

WCC erroneously argues that the project must demonstrate a public purpose or benefit that relates to the City of Milwaukie as a whole. Although the additional housing units, exceptional design and amenities, and smaller development footprint do provide a public purpose and benefit that serves the City as a whole, MMC 19.311.9.I is not intended to be limited to those attributes that serve the entire City. Nothing in MMC 19.311.9.I or 19.311 in general support such a broad application of this requirement. WCC’s reliance on the meaning of “public” in the terms “public area requirements,” “public facilities” and “public park” is misguided because these are different defined terms and apply to City owned property and facilities, which is clearly different than a public purpose or benefit provided as part of a privately owned development.

**4. The project complies with the Willamette Greenway approval criteria.**

MMC 19.401.6 sets forth the approval criteria for development within the WG overlay zone. The key criteria applicable to this project include: (A) whether the land has been committed to an urban use; (B) compatibility with the scenic, natural, historic, economic, and recreational character of the river; (C) protection of views both toward and away from the river; (D) landscaping, aesthetic enhancement, open space, and vegetation between the activity and the river, to the maximum extent practicable; and (L) a vegetation buffer plan meeting the conditions of MMC 19.401.8. As explained by the Applicant and Staff, the project complies with all of these criteria. Application Narrative, p.11-13; Staff Report, p.12-15.

Some of the neighbors questioned the project’s compliance with these criteria based solely on the fact the Applicant is proposing development within the WG overlay zone area. The WG overlay zone does not prohibit development. The property is zoned R-2, has the existing Dunbar Woods apartments located on the property from which it is to be partitioned and is adjacent to other multi-family apartment complexes, and therefore is clearly committed to an urban use. Although the project proposes to increase the density, it does so with a significantly smaller development

footprint and less impervious area than similarly sized apartment developments. The project as proposed will retain a significant portion of the natural vegetation (40%) and provides a significant amount of open space (54%). The vegetation buffer plan in MMC 19.401.8 only apply to the “land area between the river and a location 25 ft upland from the ordinary high water line,” which is an area well outside the property boundaries. MMC 19.401.8.A. The project is set back from the Willamette River by approximately 770 to 1,000 feet, is buffered by the WCC golf course and multiple existing multi-family developments which are closer and more exposed to the river, and therefore it will have no impact on the river itself.

Some neighbors claim that the project does not comply because it will impact the views to and from the river due to the increased height, but the evidence shows otherwise.<sup>10</sup> By maintaining the existing forest between the A-1 and A-2 buildings and the river, and carefully orienting the new development, the view of the buildings from the river and the neighboring homes will be minimal, as is shown by the visual simulations the Applicant has provided. The buildings will be less visible from the river than many of the surrounding uses that are closer to the river. Staff Report, p.14. The project will also provide new opportunities for views to the river for the residents in the A-1 and A-2 buildings and through the creation of recreational paths in the forest area. Overall, the project will increase the opportunities for visual enjoyment of the river and its surrounding environment while minimally affecting the views from and/or across the river.

#### **5. The project is consistent with the Comprehensive Plan.**

The Applicant and City Staff initially addressed compliance with the relevant provisions of the 2020 Comprehensive Plan since it is the most recent Comprehensive Plan. Application Narrative, p.13-14. After it was noted that the Application was filed before the 2020 Comprehensive Plan went into effect, the Applicant addressed compliance with the relevant goals and policies in the prior Comprehensive Plan (1989). Memorandum from Phil Krueger, YGH Architecture, dated November 10, 2020, p.7-14. Therefore, the Applicant demonstrated the project is consistent with both the 1989 and 2020 Comprehensive Plans. Staff agrees that the project is consistent with the Comprehensive Plan. Staff Report, p.8-12 & Attachment 1.

The Applicant will rely on the detailed responses to the Comprehensive Plan goals and policies in its November 10 post-hearing submission and the Staff Report, but it is important to emphasize some underlying reasons why the project is consistent with the Comprehensive Plan. The project complies with the Residential goals and policies because the Comprehensive Plan designates the property high density residential development on this site. Additionally, the 2016 Housing Needs Analysis identifies a need for additional housing and anticipates 30% of the new housing to be multi-family housing. Staff Report, p.9-10. The project complies with the Neighborhood goals and policies because the Comprehensive Plan identifies the Waverly

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<sup>10</sup> WCC complained that the A-1 and A-2 buildings will be visible from its driving range. Neither the WG overlay zone criteria nor any other provisions in the MMC are designed to protect the views from golf course driving ranges. Regardless, the Applicant is proposing to retain the forest area between the property and the WCC so any visual impacts will be mitigated. At their closest point, the A-1 and A-2 buildings are 190 feet and 99 feet from WCC's property. That large buffer area will remain densely populated by tall trees and shrubs.

Heights residential area as a “mix of large single family homes and high density apartments” and the project provides substantial buffers, screening and setbacks to the adjacent properties to minimize the impacts. Staff Report, p.12. The project complies with the Willamette Greenway and Open Space goals and policies because it will protect a substantial portion of the natural resources and provide large open space areas by use of a significantly smaller development footprint and less impervious area than required by the zoning code or similarly sized apartment developments.

WCC’s challenge to the project’s consistency with the Comprehensive Plan is based predominately on its mischaracterization of how the Comprehensive Plan is intended to apply to specific development projects. Most of the Comprehensive plan goals and policies cited by WCC are general policies establishing policy direction for the City to implement through the zoning code or other planning provisions, and therefore are not approval standards. Comprehensive Plan policies and purpose statements that set out goals, objectives or policies to be achieved through the zoning code or other provisions, or that contain language that is merely aspirational, such as those that “encourage” a particular action or result, or indicate a certain result is “desirable,” are not mandatory approval criteria. *Bennett v. City of Dallas*, 96 Or App 645, 647-49, 773 P2d 1340 (1989); *Burlison v. Marion County*, 52 Or LUBA 216, 218-219 (2006); *Angel v. City of Portland*, 21 Or LUBA 1, 13-14 (1991). If the language of the provision is not stated in mandatory terms such as “shall”, it is not a mandatory approval standard. *Wolffgram v. Douglas County*, 54 Or LUBA 54, 63 (2007); *Neuharth v. City of Salem*, 25 Or LUBA 267, 277-78 (1993). WCC does not identify any mandatory Comprehensive Plan goals and policies with measurable standards with which the project does not comply.<sup>11</sup>

WCC also erroneously asserts that the project is inconsistent with Comprehensive Plan goals and policies even though it complies with the zoning code provisions that implement these goals and policies. For example, the project complies with the Comprehensive Plan goals and policies that require natural resources be protected, preserved or maintained by retaining far more of the existing natural resources and providing significantly more open space than required under the applicable approval criteria. As previously explained, the project exceeds many of the applicable zoning code requirements that are specifically designed to protect the natural resources,

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<sup>11</sup> WCC also challenged the project’s compliance with the Statewide Planning Goals. The Statewide Planning Goals generally do not directly apply to decisions made pursuant to an acknowledged comprehensive plan or land use regulations. *Baxter v. Monmouth City Council*, 51 Or App 853, 858, 627 P2d 500 (1981) (once LCDC acknowledges a comprehensive plan and implementing ordinances, land use decisions are governed by applicable criteria in that plan and those ordinances); *Byrd v. Stringer*, 295 Or 311, 316–317, 666 P2d 1332 (1983) (statewide planning goals are necessarily met if the county’s land use decision comports with the acknowledged comprehensive plan and implementing ordinances). The City’s Comprehensive Plan is an acknowledged plan and the Applicant’s compliance with the Comprehensive Plan demonstrates compliance with the Statewide Planning Goals. WCC does not identify any specific Statewide Planning Goal provision that imposes different or additional requirements beyond those in the Comprehensive Plan, other than to claim without citing any legal authority that Goal 10 prohibits higher end housing. There is nothing in Goal 10 that supports WCC’s claim that it prohibits higher-end housing throughout the State unless there is a specific need for it identified in the comprehensive plan.

minimize effects on surrounding uses and ensure the development is laid out and designed in a suitable manner. The Applicant's compliance with the more specific and measurable zoning code criteria is evidence of compliance with the more general Comprehensive Plan provisions these zoning code criteria are intended to implement.

Some parties questioned whether the project complies with the Comprehensive Plan because the project does not include affordable housing units. The mere fact that the 2016 Housing Needs Analysis identifies a need for more affordable housing units does not mean the Applicant or any other residential developer is limited to developing affordable housing units. There is nothing in the MMC, the Comprehensive Plan or the 2016 Housing Needs Analysis that **require** the Applicant or any other residential developer to provide affordable housing units. Affordable housing is provided through public, regulatory and/or tax incentives, not zoning mandates that limit or force developers to develop affordable housing units.

#### **6. The project complies with the discretionary design guidelines.**

In response to questions raised about whether the Applicant is pursuing the discretionary or objective design process, the Applicant's clarified that the project is pursuing the discretionary design guidelines process set forth in MMC Table 19.505.3.D since the PD already requires Type IV Development Review. Memorandum from Phil Krueger, YGH Architecture, dated November 10, 2020, p.1. The Applicant has provided detailed responses for each of the discretionary design guidelines and has demonstrated compliance with these discretionary standards. Memorandum from Phil Krueger, YGH Architecture, dated November 10, 2020, p.1-4. Staff agrees with the Applicant's analysis of the discretionary design guidelines. Staff Report, p.42-46. None of the neighbors have challenged the project's compliance with the discretionary design guidelines.

One question was raised regarding the color choices the Applicant intends to use for the buildings, expressing a concern that the Applicant may use the color white for the base color of the buildings based on one the renderings. The Applicant does not intend to use white as the base color. The applicant intends to use more natural colors that will blend in with the surrounding natural environment.

#### **7. The project is compatible with the surrounding properties.**

Several neighbors claim the project is incompatible with the Waverly Heights single-family subdivision, which is zoned R-10, because it proposes multi-family residential apartments. Many of these neighbors argue that the project should be limited to single-family residences or include a mix of single-family and multi-family residences. There are several flaws with this assertion.

The property is specifically planned and zoned for high density residential. It is designated high density under the Comprehensive Plan and zoned R-2, which is a medium to high density residential zone intended to accommodate multi-family residential uses. Application Narrative, p.13; MMC 19.302. The zoning of the subject property controls the allowed uses, not the zoning of the adjacent properties.

The project is compatible with the surrounding area. There are several properties immediately to the south and east that are similarly planned and zoned for high density residential and already have dense multi-family apartments or condominiums located on them. The Comprehensive Plan identifies the Waverly Heights residential area as a “mix of large single family homes and high density apartments.” Staff Report, p.12. The project is clearly compatible with the overall surrounding uses and cannot be judged based solely on a comparison to the Waverly Heights single-family subdivision.

The R-2 zone expressly contemplates multi-family residential development adjacent to single-family residences and the project exceeds the transition measures required in those instances. MMC 19.302.5.I provides the transition measures required for multi-family development that abuts a R-10-, R-7-, or R-5-zoned property, demonstrating that it is proper to develop multi-family residential adjacent to single-family residential so long as the transition measures are satisfied. The project substantially exceeds the transition measures. The transition measures require the building height to be limited to the height limit for the adjacent lower density residential zone for all those buildings within: (1) 25 feet of the adjacent property/zone; or (2) 15 feet if the adjacent property/zone lies within, or on the edge of, a right-of-way. In this case, the closest building is 49 feet from adjacent R-10 zoned property and 82 feet from the closest single-family residence. Staff Report, p.6-7.

The Applicant did not ignore the single-family zoning area as some neighbors suggested. The project provides significantly greater buffers, screening and setbacks to the adjacent properties than the 5 to 15-foot setbacks required under the R-2 zoning. MMC Table 19.302.4. The four closest residences will be 218 feet, 200 feet, 143 feet and 82 feet from the closest buildings and the A-2 building will be at least 99 feet from the WCC property line. Staff Report, p.6. The Applicant is maintaining the forest areas adjacent to the residences and WCC, which will provide a significant physical and visual buffer between the properties. The Applicant continues to meet with adjacent neighbors in an attempt to further address their concerns and has made a concession to them to increase the buffer area by agreeing to move the A-2 building six feet further from the property line.

Some parties claim that the project is incompatible because it will purportedly decrease the property values of the nearby Waverly Heights single-family residences. The City cannot consider a development's effect on property values unless there is a specific requirement in the City code to do so. *Hill v. City of Portland*, 66 Or LUBA 250, 258-59 (2012). There is nothing in the applicable approval criteria that requires the consideration of impacts on property values of surrounding uses. Additionally, there is insufficient evidence to demonstrate that the project will in fact cause a decrease in property values on the surrounding properties. Even if there were a specific requirement in the City code to consider property values (which there is not), generalized claims of effects on property values are insufficient – there must be substantial evidence demonstrating that the development will have a negative effect on the property values in this specific instance. *Johnson v. City of Eugene*, 42 Or LUBA 353, 366-67 (2002). The alleged effect on property values is speculative and unlikely given that there are already several existing multi-family apartments in the immediate area. If the City were to conclude otherwise, it would be extremely difficult to develop a multi-family residential project anywhere in the City that is not well away from single-family residences.

**8. The project does not violate historic resource or preservation requirements.**

Some neighbors allege the project violates the historic resources or preservation requirements because Waverly Heights is designated as a historic neighborhood. Although some properties in Waverly Heights are designated as historic resources, the entire subdivision is not designated as historic. Regardless, the project does not conflict with any historic resource or preservation requirements.

MMC 19.403 provides the Historic Preservation overlay zone requirements that govern historic resources. The historic preservation standards apply almost exclusively to the property where the historic resource is located and not adjacent or surrounding properties. To the extent these standards address adjacent properties at all, they are limited to commercial and industrial uses and not multi-family residential uses. MMC 19.403.5.E.10 provides: “An appropriate buffer or screen, as provided under Subsection 19.504.6, may be required when a **new commercial or industrial improvement or use** is proposed on or adjacent to a designated resource, or within or adjacent to an historic district.” (Emphasis added). Therefore, the project does not violate historic resource or preservation requirements.

**9. The project complies with the PD phasing requirements.**

Several neighbors criticized the Applicant’s proposal to develop the project in three phases. Some neighbors questioned the Applicant’s commitment to construct all three phases, believe the City should force the Applicant to commit to a specific phasing schedule and/or claim the City should only consider the amenities proposed for the first phase. These claims are inconsistent with the applicable PD code provisions.

MMC 19.311.17 specifically allows a PD applicant to develop the project in phases. MMC 19.311.17.A allows for a phased development over a seven-year period. The Applicant is proposing a three phased development over the time period allowed under MMC 19.311.17.A. MMC 19.311.17 does not require an applicant to commit to a specific construction schedule, but the Applicant provided additional information about the timing of the three construction phases in response to inquiries from the neighbors.<sup>12</sup> In response to concerns raised about blasting associated with the construction project, which will be limited, the Applicant is willing to provide reasonable advanced notice of scheduled blasting to any of the surrounding residents who request such notice. The Applicant would not have gone to the time, effort and expense of designing and proposing a three-phase PD if the Applicant did not intend to develop all three phases. MMC 19.311 does not limit the evaluation of the PD to the first phase. The PD is an overall plan that must be judged based on the development proposed in all phases.

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<sup>12</sup> The Applicant estimates that each phase of construction will last about a year, with external construction (grading, framing, and exterior envelope) taking about six months and internal construction taking six months. Letter from Scott Wyse, dated November 17, 2020, p.9.

**10. The Applicant measured the height of the buildings consistent with MMC 19.202.2.B.**

Some neighbors questioned the Applicant's methodology for measuring the height of the A-1 and A-2 buildings. The Applicant measured the height of the buildings consistent with MMC 19.202.2.B.

MMC 19.202.2.B sets forth the standards for measuring the exterior height of buildings. MMC 19.202.2.B.1 provides for two base points for property on sloped property such as the subject property. Base point 1 is the elevation of the highest point of the property and base point 2 is the elevation at the lowest point of the property. If the highest point of the property is more than 10 feet higher than the lowest point, which is the case here, then the base point 2 is the elevation 10 feet above the lowest point. Measurements to the top of the building depend on the type of roof. MMC 19.202.2.B.2. In this case the roof is a pitched roof with a pitch 12/12 or less, which means the measurement is based on its average height of the roof as measured to its highest gable height. MMC 19.202.2.B.2.c.

The Applicant measured the A-1 and A-2 buildings consistent with MMC 19.202.2.B. The Applicant measured the buildings using both base points and the average height of the roof as measured to its highest gable height per MMC 19.202.2.B.2.c. The measurement for base point 1 (highest elevation) is approximately 43 feet and the measurement for base point 2 (10 feet above the lowest elevation) is approximately 52 feet. Application Narrative, p.8. Staff agrees with these measurements. Staff Report, p.6.

Although the Applicant is proposing the PD in part to allow the A-1 and A-2 buildings to exceed the allowed height, it is important to note that it is only necessary to address the WG overlay zone height limit. The R-2 zone allows for a height of 3 stories or 45 ft, but it permits an additional story if an additional 10% of site area is retained beyond the minimum required which the project does in this case. MMC Table 19.302.4 & 19.302.5.E. Therefore, the allowed height under the R-2 zone is 4 stories or 55 feet. The A-1 and A-2 buildings comply with the R-2 height limits under both base point 1 and 2. The PD only seeks to exceed the WG overlay zone height limit.

**11. The project complies with the privacy and lighting requirements.**

Some neighbors claim the project should not be allowed on privacy grounds because some of the buildings exceed the height limit, the balconies and windows will allegedly provide a line of sight into adjacent properties and the lights will shine from the windows at night. The Applicant designed the project to minimize the privacy effects on the adjacent properties and the project complies with the relevant code requirements.

To begin with, it is important to note that the applicable code provisions do not limit the size or number of balconies or windows. Therefore, there is nothing in the MMC that prohibits the Applicant from proposing large balconies and windows.

The A-1 and A-2 buildings are the only buildings that exceed the WG overlay zone height limit and the balconies and windows in those buildings are oriented toward the river, not adjacent residential properties. Additionally, the A-1 and A-2 buildings comply with the R-2 height limit,

and the WG overlay zone height limit they exceed is not designed to provide privacy protections for adjacent properties.

The Applicant designed the project to minimize the privacy effects on the adjacent properties in a way that complies with the approval criteria. MMC Table 19.505.3.D.12 addresses privacy considerations and requires multi-family development projects to consider the privacy and sight lines to adjacent residential properties, and “be oriented and/or screened to maximize the privacy of surrounding residences.” The project complies with these requirements. As previously noted, the A-1 and A-2 buildings are oriented toward the river, not adjacent residential properties, and the B-1 and B-2 buildings comply with the height limits. The project provides significant setbacks from adjacent residential properties – ranging from 218 feet, 200 feet, 143 feet and 82 feet – and the Applicant agreed to move the A-2 building an additional six feet away from the property line.<sup>13</sup> The project includes an extensive natural vegetative buffer along all sides of the property that are adjacent to residential properties which will screen the project from the adjacent residences. At the December 8, 2020 hearing, the Applicant submitted visualizations that show the views from adjacent properties to the north of the project which show that there will not be direct lines of sight that would significantly affect the privacy of neighbors.

Although some neighbors complained about light shining from the windows at night and the need to address light pollution, none of them identify any relevant standards in the code. The City’s zoning code does not restrict the size or number of windows due to alleged light pollution.

## **12. The project complies with the transportation standards.**

Several neighbors expressed concerns about the traffic to and from the project and the Applicant’s potential use of Lava Drive for construction access. The project satisfies the applicable transportation standards and the Applicant clarified that it will not use Lava Drive for construction access.

MMC 19.311.9.F and 19.704 provide the transportation requirements. MMC 19.311.9.F requires the project to be “consistent with the functional classification, capacity, and level of service of the transportation system.” MMC 19.704 provides the standards for the traffic evaluation.

The Applicant addressed the transportation standards and demonstrated that the project is consistent with the functional classification, capacity, and level of service of the transportation system. The Applicant submitted a formal Traffic Impact Study (“TIS”) prepared by a traffic engineer that concluded the project is consistent with the functional classification, capacity, and level of service of the transportation system and no offsite mitigation is required. The City Engineer and the City’s on-call traffic consultant (DKS) provided the Applicant the scoping for the TIS, reviewed the TIS for compliance and agreed with its conclusions and recommendations. Staff Report, p.52-53. The Oregon Department of Transportation (“ODOT”) also reviewed the

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<sup>13</sup> The Applicant is utilizing the discretionary design guideline path for the project, but it is noteworthy that the objective design guidelines only place limits on windows “within 30 ft of windows on adjacent residences” and in those cases requires the windows be offset, not eliminated or reduced in size. MMC Table 19.505.3.D.12. None of the adjacent residences are even close to 30 feet from the proposed buildings.



TIS. Staff Report, p.53. The fact that all of the traffic engineers that reviewed the TIS agree it complies with the requirements is substantial evidence the project satisfies the applicable transportation standards and will not create adverse traffic conditions.

The Applicant clarified that access for the construction of the proposed buildings will be from Waverley Court and the portion of Lava Drive to the west of its intersection with Waverley Court will not be used for construction. Email from Scott Wyse, dated November 10, 2020. It is possible that a portion of Lava Drive may be used for the transportation of some shrubs and trees being removed from the site, but any such activities on Lava Drive will be limited and of short duration so as to minimally disturb any residents of condominiums at Shoreside East.

### **13. The Applicant's tree removal plan is consistent with the MMC and Comprehensive Plan.**

Although WCC admits the property does not fall within the vegetation buffer area of the WG overlay zone and is not subject to any requirement to retain trees, WCC erroneously states that the Applicant's proposed tree removal is inconsistent with the Comprehensive Plan and the purpose of the WG overlay zone. Letter from Michael Robinson, dated October 27, 2020, p.7-8. WCC is wrong for several reasons.

As WCC admits, the property does not fall within the vegetation buffer area addressed in MMC 19.401.8 and is not subject to any tree retention requirement. The vegetation buffer area applies to the "land area between the river and a location 25 ft upland from the ordinary high water line." MMC 19.401.8.A. There is no dispute the subject property is not within this area.

There is nothing in the WG overlay zone provision or any other section of the MMC that requires the Applicant to retain more trees than it is proposing in this case. WCC mentions the Comprehensive Plan but does not cite any specific provision to support its claim. WCC relies on the WG overlay zone purpose statement in MMC 19.401.1, but purpose statements are not approval criteria unless there is specific language stating that they are intended to be mandatory approval criterion. *Jones v. City of Grants Pass*, 64 Or LUBA 103, 110 (2011); *SEIU v. City of Happy Valley*, 58 Or LUBA 261, 271-72, *aff'd*, 228 Or App 367, 208 P3d 1057, *rev den*, 347 Or 42 (2009). MMC 19.401.1 does not include any language indicating it is intended to be a mandatory approval criterion and it does not even mention the retention of trees. MMC 19.401.8 is intended to address the tree retention requirements, not MMC 19.401.1.

The Applicant is retaining a significant portion of the trees, far more than is required under the R-2 or WG overlay zoning requirements. As the Applicant's arborist explained, the vast majority of trees being removed are "dead, dying, in poor to very poor health and/or structural conditions." 10/27/20 Planning Commission Packet, Section 5.1, p.260. The WG overlay zone is not intended to protect dead, dying or trees in poor to very poor condition.

### **14. The Applicant is entitled to consolidate its applications and request a concurrent review and process pursuant to the City code, State law and City precedent.**

WCC raised two procedural objections related to the Applicant's consolidation of the various applications and request that they be concurrently reviewed and processed. First, WCC claims

the Applicant is not allowed to process the preliminary development plan and final development plan applications concurrently. Second, WCC claims the Applicant is not allowed to process the limited land use applications (property line adjustment and design review) concurrently with the remaining applications under Oregon law. The City Staff and City attorney disagree with WCC's position. Staff Report, p.4-5. WCC is wrong and its position is inconsistent with the City code, State law and City precedent.

As explained in the Staff Report, an applicant is entitled to request that multiple applications be reviewed and processed concurrently so long as the consolidated applications are processed according to the highest numbered review type required for any part of the application. Staff Report, p.4-5. MMC 19.1001.6.B provides that "[w]hen multiple land use applications are required for a single proposal, the applicant may request, or the City may require, that the applications be processed concurrently or individually" and further states that "[t]he City shall generally allow applicants the choice of having multiple applications for a single proposal processed concurrently or individually." MMC 19.1001.6.B implements ORS 227.175(2) which requires all cities to "establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project." In this case, the Applicant elected to use the consolidate process allowed by MMC 19.1001.6.B and ORS 227.175(2) and have all of the applications reviewed and processed pursuant to the highest review type required of any of the applications – Type IV.

Neither MMC 19.1001.6.B nor MMC 19.311 preclude an applicant from utilizing this consolidation process for the preliminary and final development plan applications. Contrary to WCC's suggestion, the preliminary and final development plan applications are in fact separate applications and not merely two steps for the same land use application. MMC 19.311.5 and 19.311.7 require separate application filings for the preliminary and final development plan applications. As noted on the Application form, the Applicant paid two separate application fees for the preliminary (\$1,500) and final (\$5,000) development plan applications. There is **nothing** in MMC 19.311 that expressly requires an applicant to wait until after the preliminary planned development approval is obtained before it can file for the final development plan approval.

Nor does it make sense to force an applicant to process the preliminary development plan and final development plan applications separately because the preliminary development plan process is designed to benefit the applicant, not the public. Unlike a final development plan which requires public notice and a "public hearing per Section 19.1007," the preliminary development plan does not require either public notice or a public hearing. MMC 19.311.6.A & 19.311.10.A. The preliminary development plan merely requires a Planning Commission "meeting," the Planning Commission merely advises "the applicant whether, in its opinion, the provisions of this chapter have been satisfied, or advise of any deficiencies" and is not reviewed by the City Council. MMC 19.311.6.A. As Staff explained, the preliminary development plan process is designed to provide the Applicant preliminary input on the development project so the applicant can factor it in as part of the final development plan. Staff Report, p.4.

WCC is also wrong in claiming that ORS 227.175(2) precludes an applicant from processing limited land use applications (property line adjustment and design review) concurrently with the other types of land use applications. The Oregon Court of Appeals rejected a similar argument and concluded that ORS 227.175(2) establishes the minimum consolidation requirements for

cities and does not preclude cities from allowing broader consolidation rights. *North East Medford Neighborhood Coalition v. City of Medford*, 214 Or App 46, 53, 162 P3d 1059 (2007). MMC 19.1001.6.B applies to all applications and does not prevent an applicant from consolidating land use and limited land use applications. The PD process expressly allows an applicant to submit a land division preliminary plat, which is a limited land use application, “to be considered at the same time as the final development plan.” MMC 19.311.8.A. Therefore, the City code clearly allows an applicant to process limited land use applications concurrently with the other types of land use applications.

Finally, Staff and the Planning Commission have previously determined an applicant can apply for both preliminary and final planned development approval as a consolidated process and can combine a land division application with the planned development/zone change applications. The City adopted this position for the Kellogg Creek Planned Development (PD-2017-001), which proposed a 92-unit planned development that included a request for both preliminary and final planned development approval, zone change, subdivision and related approvals. We submitted a copy of the staff report to the City Council, dated August 29, 2017, in which both the Planning Commission and Staff recommended approval.<sup>14</sup> Memorandum from Phil Krueger, dated November 10, 2020, p.15 & Attachment.

### **Conclusion**

For the reasons set forth in this final written argument and the record, the Applicant respectfully requests that the Planning Commission recommend approval of the Application subject to the conditions of approval set forth in the Staff Report, with the exception of Condition 4.b. We appreciate your time and consideration of this matter.

Very truly yours,

HATHAWAY LARSON LLP

/s/

E. Michael Connors

EMC/ph

Cc: Walker Ventures, LLC  
YGH Architecture

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<sup>14</sup> The applicant subsequently withdrew the application on January 22, 2018, before the City Council could render its decision, but this application demonstrates there is City precedent for allowing an applicant to apply for both preliminary and final planned development approval and combine a land division (subdivision) application with the planned development/zone change applications.



# WAVERLEY GREENS APARTMENT COMMUNITIES



① **WAVERLEY & STUART HALL**  
Swimming Pool  
Covered Parking  
Solar Panels

② **DUNDEE**  
Swimming Pool  
Covered Parking  
Solar Panels  
Dog Run

③ **THE HIGHLANDS**  
Swimming Pool  
Covered Parking  
Solar Panels  
Basketball Court

④ **BANBURY**  
Covered Parking

⑤ **STONEHAVEN**  
Covered Parking  
Swimming Pool

⑥ **DUNBAR WOODS**  
Covered Parking  
Solar Panels

⑦ **WAVERLEY WOODS (PROPOSED)**  
Covered Parking  
Solar Panels  
Swimming Pool  
Community Center(s)  
Walking Path  
Community Garden



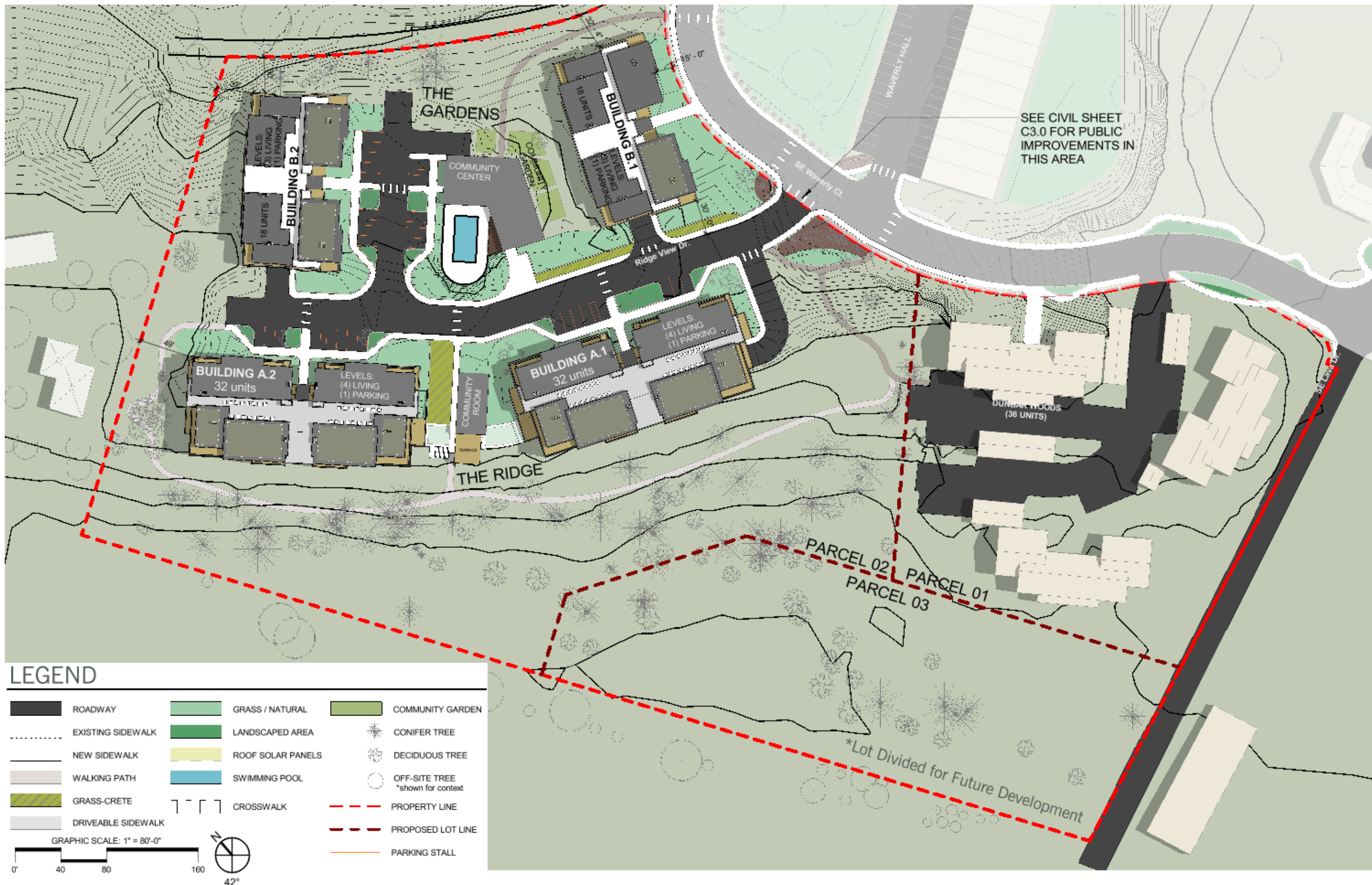








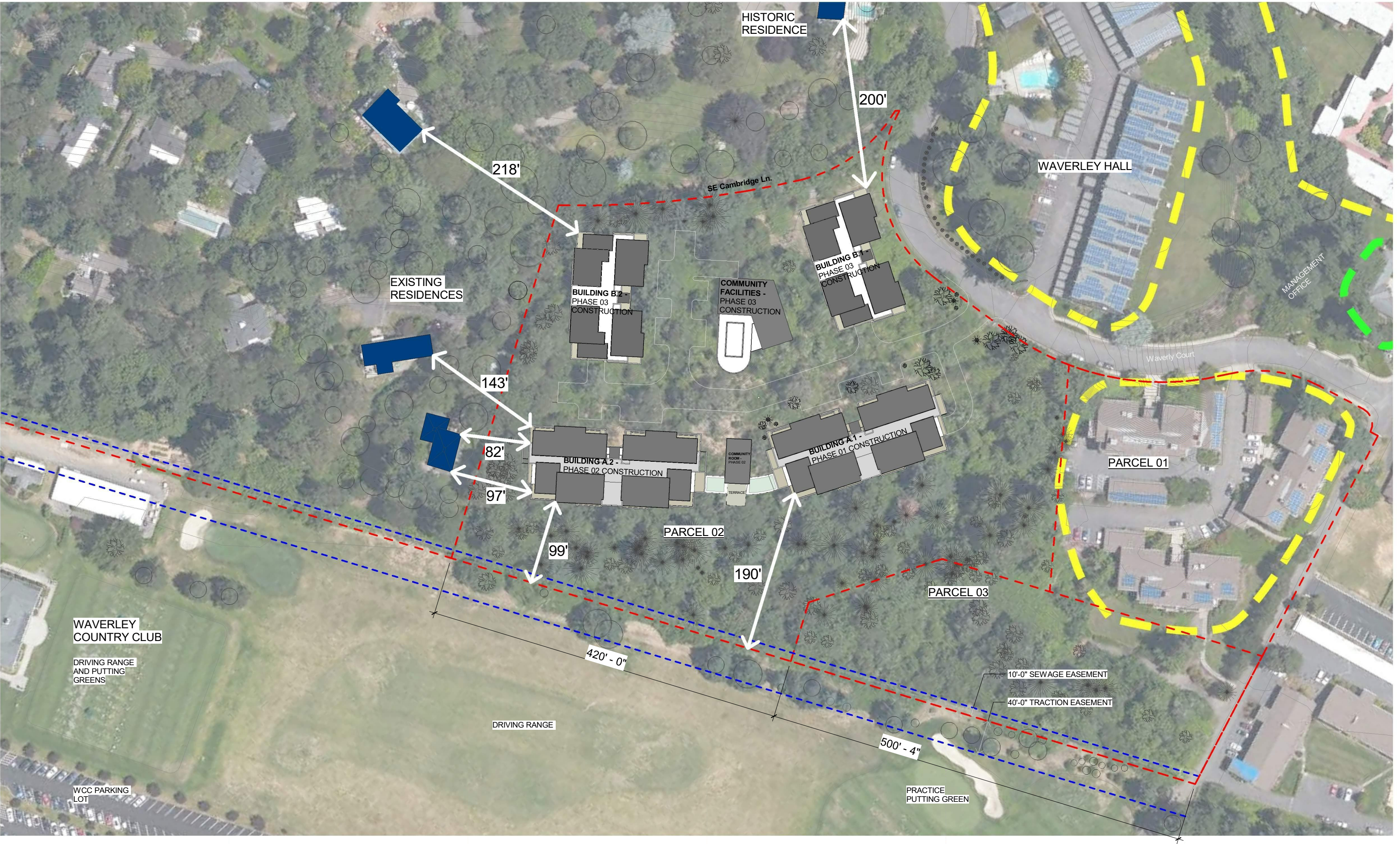




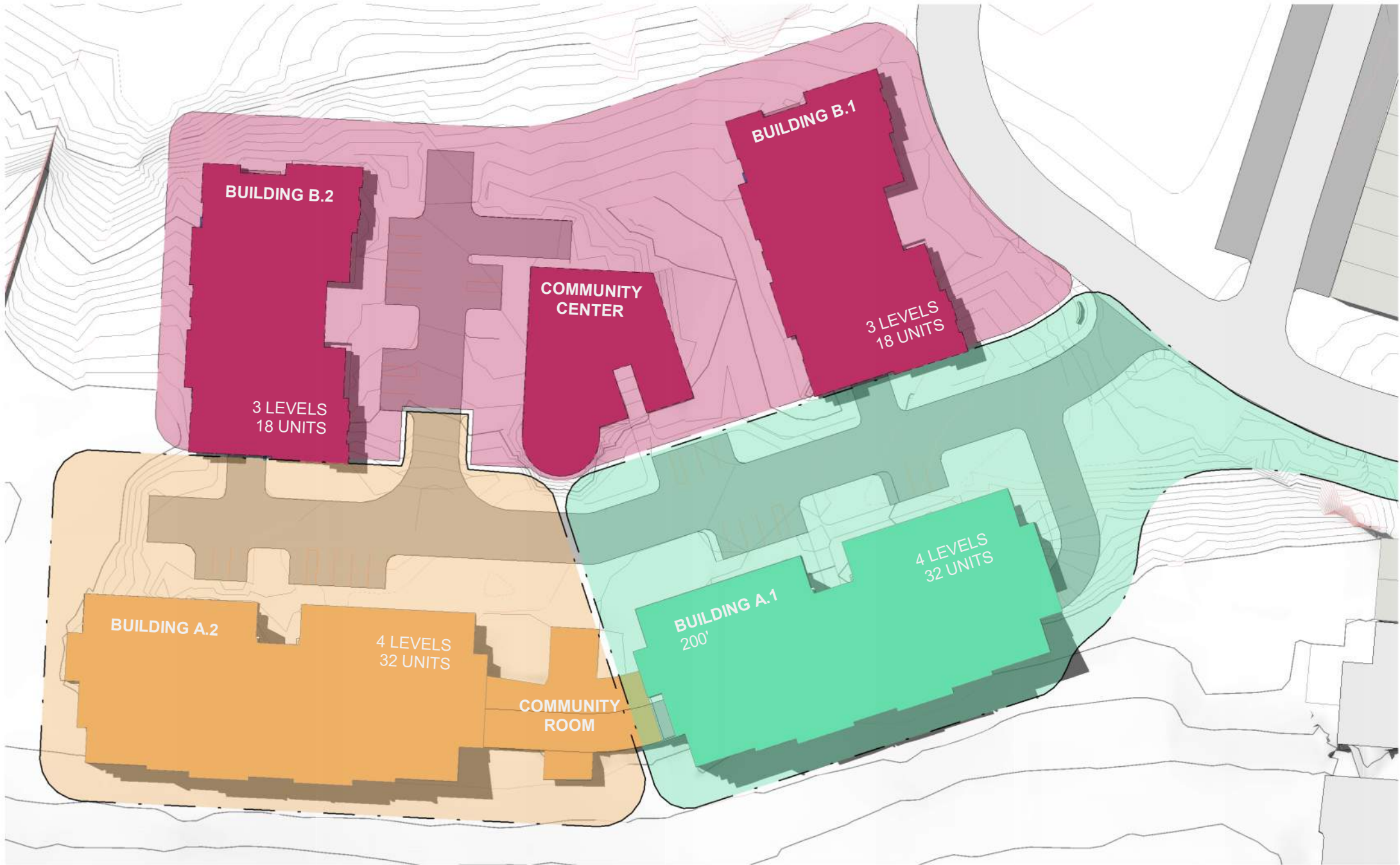












PHASE UNIT COUNTS

PHASING OPTION 01:

|           | 1 BR. | 2 BR. | 3 BR. | TOTAL |
|-----------|-------|-------|-------|-------|
| PHASE 01  | 8     | 24    | -     | 32    |
| PHASE 02* | 8     | 24    | -     | 32    |
| PHASE 03* | -     | 36    | -     | 36    |
| TOTAL     | 16    | 84    | 0     | 100   |

\* = ADDITION OF COMMUNITY CENTER WITHIN PHASE

BUILDING UNIT COUNTS

BUILDING TYPE A.1 (4 stories)

|    | 1 BR. | 2 BR. | 3 BR. | TOTAL |
|----|-------|-------|-------|-------|
| L4 | 2     | 6     | -     | 8     |
| L3 | 2     | 6     | -     | 8     |
| L2 | 2     | 6     | -     | 8     |
| L1 | 2     | 6     | -     | 8     |
|    | 8     | 24    | 0     | 32    |

BUILDING TYPE A.2 (4 stories)

|    | 1 BR. | 2 BR. | 3 BR. | TOTAL |
|----|-------|-------|-------|-------|
| L4 | 2     | 6     | -     | 8     |
| L3 | 2     | 6     | -     | 8     |
| L2 | 2     | 6     | -     | 8     |
| L1 | 2     | 6     | -     | 8     |
|    | 8     | 24    | 0     | 32    |

BUILDING TYPE B.1 (3 stories)






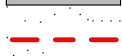
|    | 1 BR. | 2 BR. | 3 BR. | TOTAL |
|----|-------|-------|-------|-------|
| L3 | -     | 6     | -     | 6     |
| L2 | -     | 6     | -     | 6     |
| L1 | -     | 6     | -     | 6     |
|    | 0     | 18    | 0     | 18    |

BUILDING TYPE B.2 (3 stories)

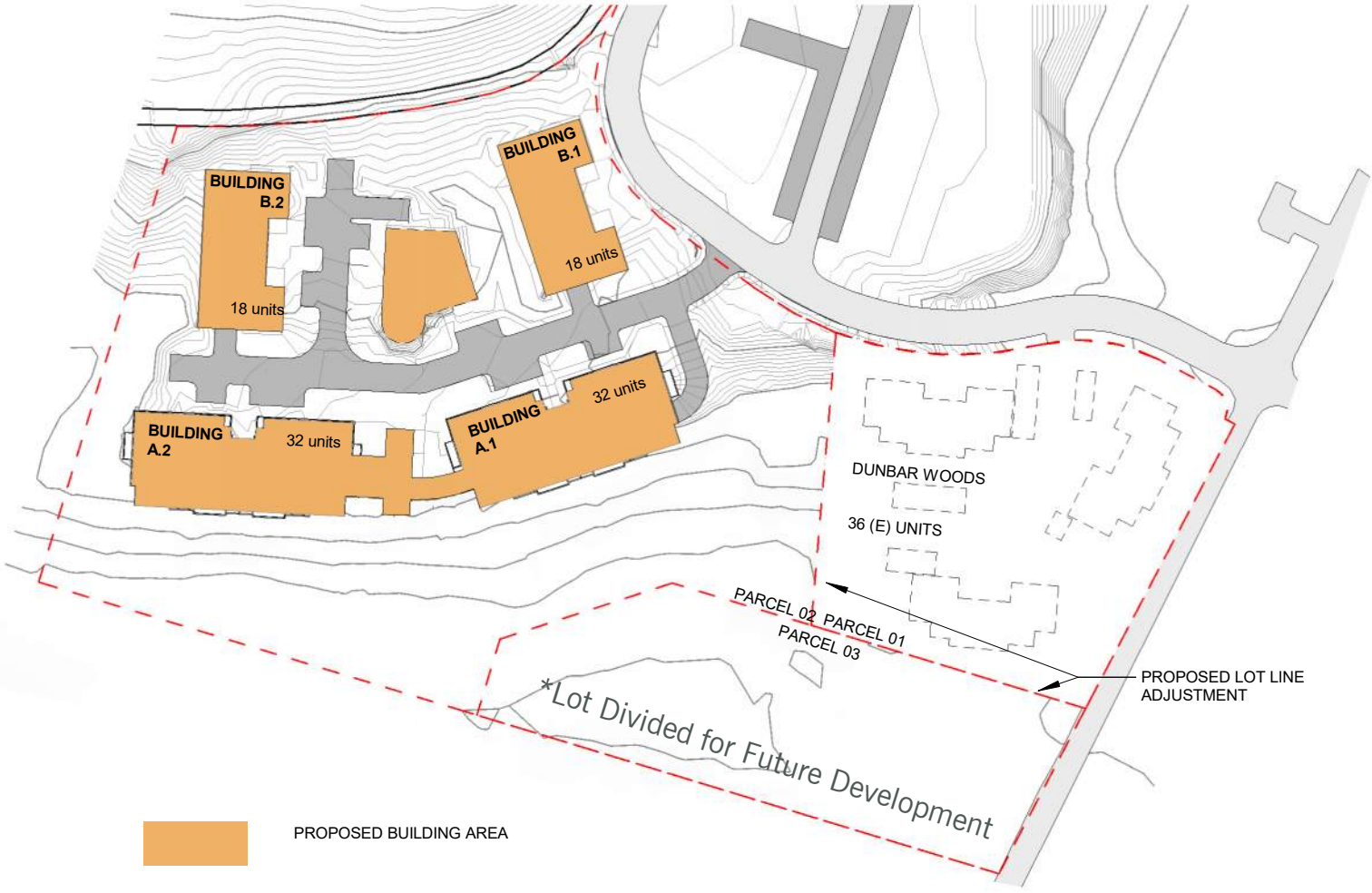
|    | 1 BR. | 2 BR. | 3 BR. | TOTAL |
|----|-------|-------|-------|-------|
| L3 | -     | 6     | -     | 6     |
| L2 | -     | 6     | -     | 6     |
| L1 | -     | 6     | -     | 6     |
|    | 0     | 18    | 0     | 18    |

1 PHASING PLAN  
NTS

LEGEND

|   |          |   |               |
|---|----------|---|---------------|
|  | PHASE 01 |  | EXISTING ROAD |
|  | PHASE 02 |  | NEW ROAD      |
|  | PHASE 03 |  | PROPERTY LINE |





1 UNIT DENSITY CALC  
1" = 160'-0"

2 LOT COVERAGE CALC  
1" = 160'-0"

|               | PARCEL AREA     | PARCEL UNITS | MINIMUM DENSITY | MAXIMUM DENSITY | (PD) 20% UNIT ADD | STEEP SLOPE AREA | STEEP BUILDING AREA | BUILDING AREA  | LOT COVERAGE |
|---------------|-----------------|--------------|-----------------|-----------------|-------------------|------------------|---------------------|----------------|--------------|
| PARCEL 01 (E) | 94,032 sq. ft.  | 36 (E)       | 25              | 37              | -                 | n/a              | -                   | 25,346 sq. ft. | 26.9%        |
| PARCEL 02     | 294,350 sq. ft. | 100 (N)      | 78              | 84              | 100               | 84,374 sq. ft.   | 13,026 sq. ft.      | 64,336 sq. ft. | 21.9%        |
| PARCEL 03     | 80,241 sq. ft.  | n/a          | 21              | 32              | n/a               | -                | -                   | n/a            | n/a          |
| TOTAL         | 468,623 sq. ft. | 136          | 124             | 153             | -                 | 84,374 sq. ft.   | 13,026 sq. ft.      | 89,682 sq. ft. | 23.1%        |

| 19.302.4 -C.1 - Density Requirements                |      |      |      |   |
|---|------|------|------|---|
| C. Other Standards                                  |      |      |      |   |
| 1. Density requirements (dwelling units per acre)   |      |      |      | Subsection 19.202.4 Density Calculations    |
| a. Minimum  | 11.6 | 11.6 | 25.0 | Subsection 19.302.5.F Residential Densities |
| b. Maximum  | 14.5 | 17.4 | 32.0 | Subsection 19.501.4 Density Exceptions      |
| 19.302.4 -B.4 - Lot Coverage                        |      |      |      |   |
| 4. Maximum lot coverage (percent of total lot area) | 40%  | 45%  | 50%  | Section 19.201 "Lot coverage" definition    |

**MINIMUM DENSITY CALCULATIONS FOR SITE**  
(PARCEL AREA / 43,560 sq. ft / AC) (11.6 units/ AC)

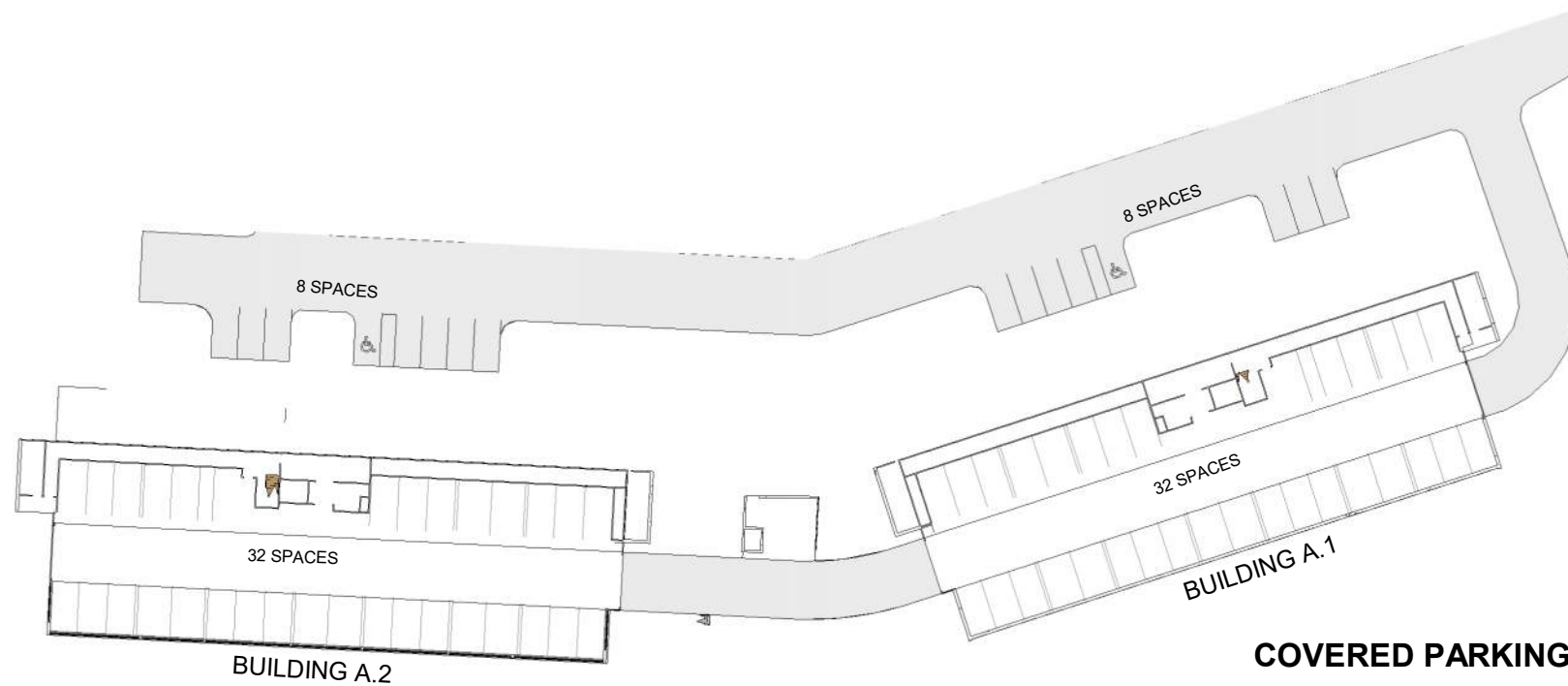
**MAXIMUM DENSITY CALCULATIONS FOR SITE**  
(PARCEL AREA - STEEP SLOPE AREA)  
/ (43,560 sq. ft / AC)) (17.6 units/ AC)

**PARCEL 01 LOT COVERAGE - 26.9%**  
PARCEL AREA = 94,032 sq. ft.  
BUILDING AREA = 25,346 sq. ft.

**PARCEL 02 LOT COVERAGE -21.9%**  
PARCEL AREA = 294,350 sq. ft.  
BUILDING AREA = 64,336 sq. ft.

**TOTAL LOT COVERAGE - 23.1%**  
PARCEL AREA = 388,382 sq. ft.  
BUILDING AREA = 89,682 sq. ft.





1 RIDGE BUILDINGS PARKING  
NTS

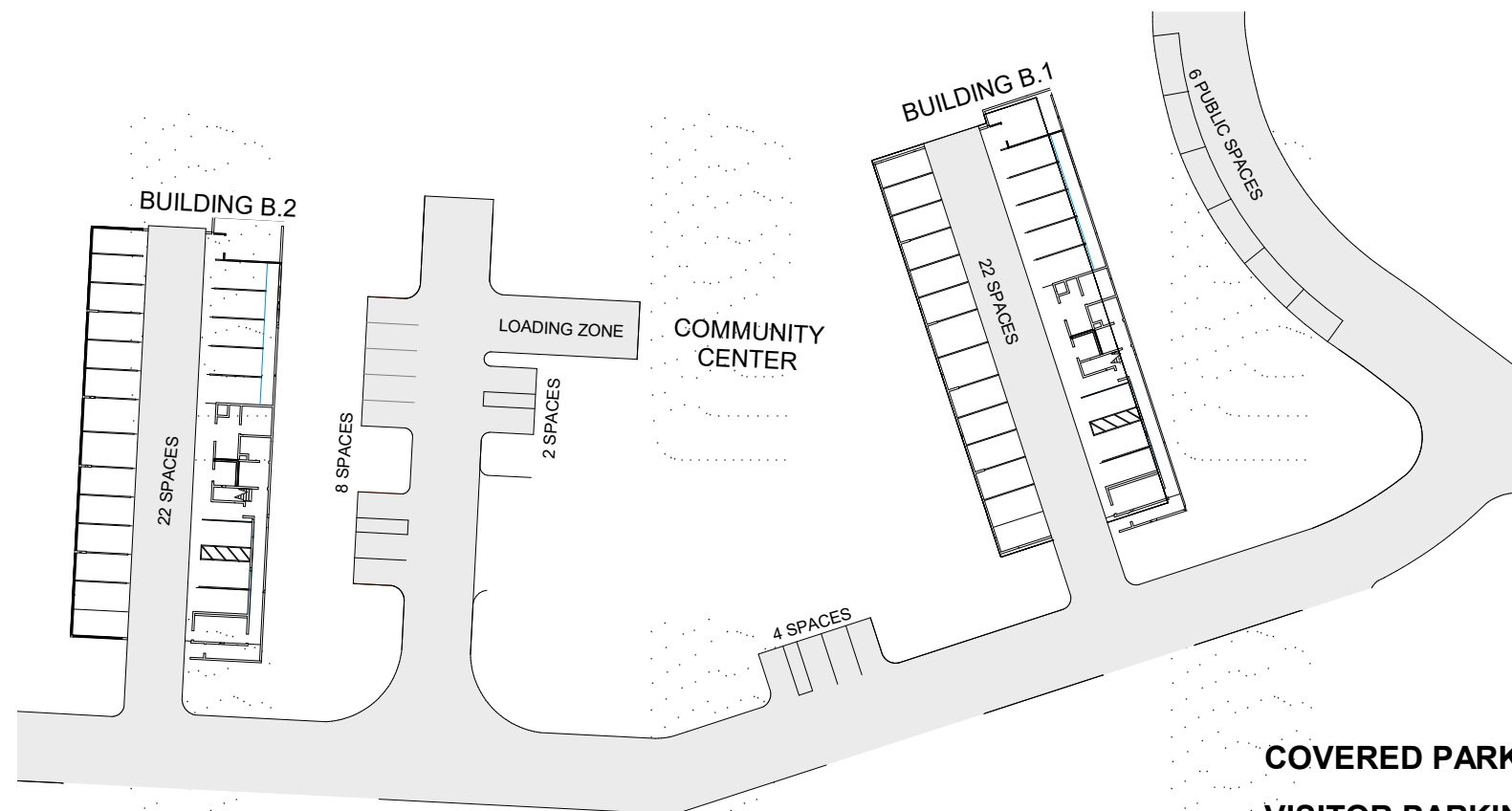
**COVERED PARKING 64 SPACES**  
**VISITOR PARKING 16 SPACES**  
**TOTAL PARKING 80 SPACES**

| Table 19.605.1<br>Minimum To Maximum Off-Street Parking Requirements                                   |                                |                             |
|--|--------------------------------|-----------------------------|
| Use  | Minimum Required               | Maximum Allowed             |
| A. Residential Uses  |                                |                             |
| 1. Single-family dwellings, including rowhouses and manufactured homes.                                | 1 space per dwelling unit.     | No maximum.                 |
| 2. Multifamily dwellings containing 3 or more dwelling units (includes senior and retirement housing). |                                |                             |
| a. Dwelling units with 800 sq ft of floor area or less and all units located in the DMU Zone.          | 1 space per dwelling unit.     | 2 spaces per dwelling unit. |
| b. Dwelling units with more than 800 sq ft of floor area.  | 1.25 spaces per dwelling unit. | 2 spaces per dwelling unit. |

| REQUIRED PARKING |            |               |            |
|------------------|------------|---------------|------------|
|                  | UNITS      | SPACES / UNIT | TOTAL      |
| RIDGE BUILDINGS  | 64         | 1.25          | 80         |
| GARDEN BUILDINGS | 36         | 1.25          | 45         |
| <b>TOTAL</b>     | <b>100</b> | <b>1.25</b>   | <b>125</b> |

| TOTAL PARKING COUNT       |            |           |            |
|---------------------------|------------|-----------|------------|
|                           | COVERED    | STREET    | TOTAL      |
| PHASE 01 - BLDG A.1       | 32         | 8         | 40         |
| PHASE 02 - BLDG A.2       | 32         | 8         | 40         |
| PHASE 03 - BLDG B.1 & B.2 | 44         | 14        | 58         |
| <b>SITE TOTAL</b>         | <b>108</b> | <b>30</b> | <b>138</b> |

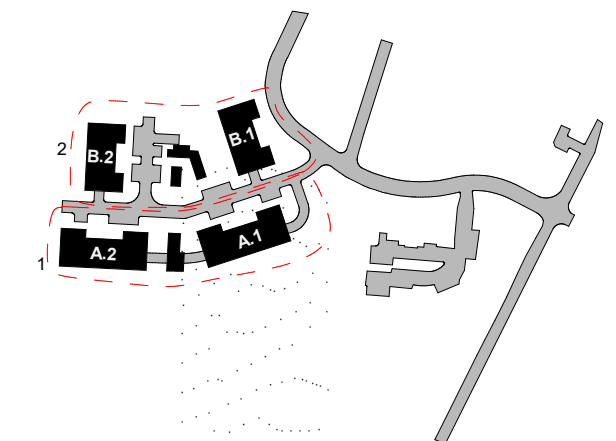
NOTE: 138 PROVIDED, 13 ABOVE MINIMUM REQUIRED PARKING COUNT

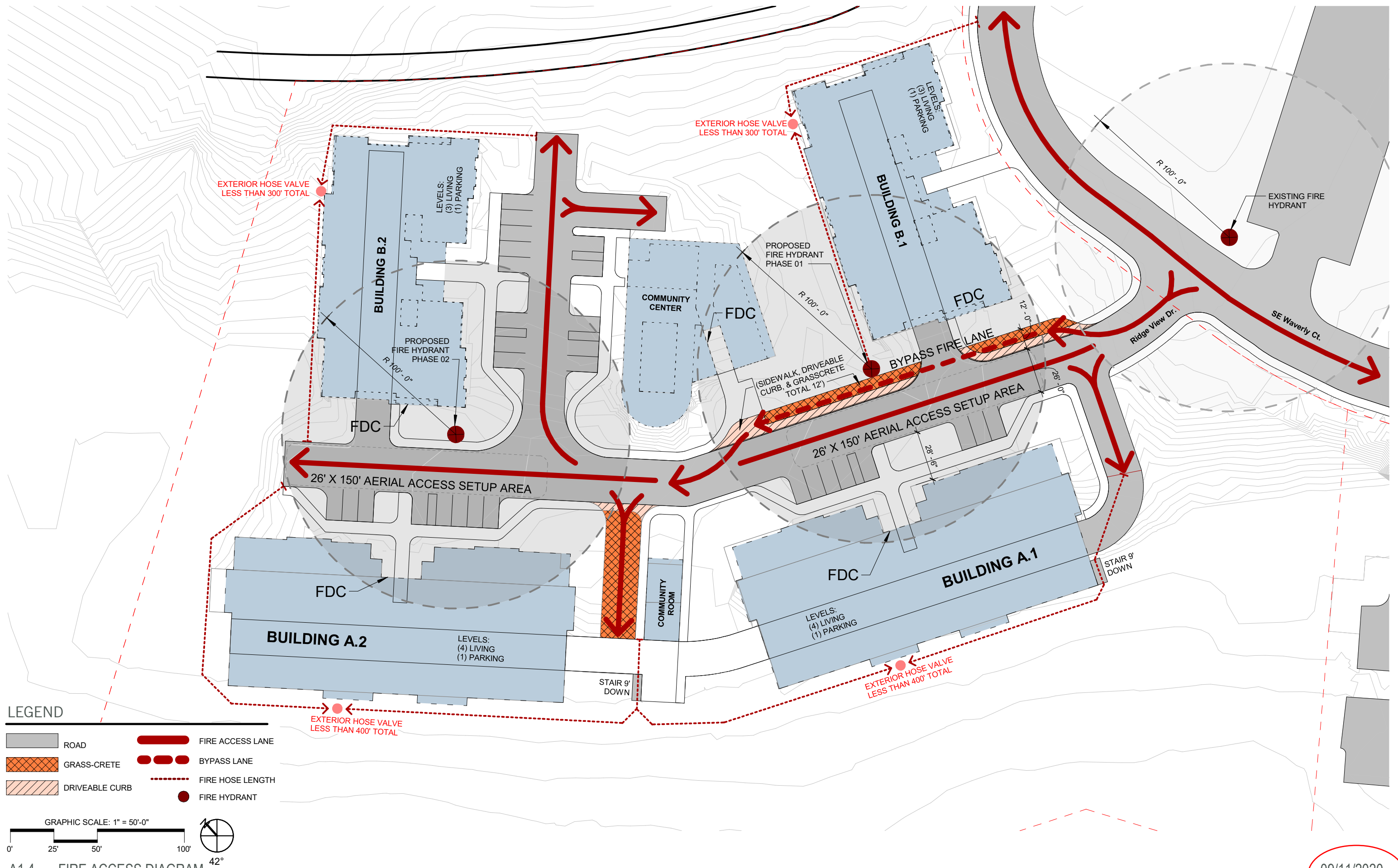


2 GARDEN BUILDINGS PARKING  
NTS

**COVERED PARKING 44 SPACES**  
**VISITOR PARKING 14 SPACES**  
**TOTAL PARKING 58 SPACES**

\*EXCLUDES 6 PUBLIC STREET PARKING SPACES





## LEGEND

- |  |                |   |                  |
|--|----------------|---|------------------|
|  | ROAD           |  | FIRE ACCESS LANE |
|  | GRASS-CRETE    |  | BYPASS LANE      |
|  | DRIVEABLE CURB |  | FIRE HOSE LENGTH |
|  |                |  | FIRE HYDRANT     |

GRAPHIC SCALE: 1" = 50'-0"

0' 25' 50' 100'



A1.4 - FIRE ACCESS DIAGRAM

Waverley Woods - Planned Development Preliminary Submission

09/11/2020

YGH Architecture



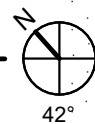


## 1 PRESERVED VEGETATED AREAS

1" = 100'-0"

### LEGEND

|  |   |  |                              |  |                                     |
|--|---|--|------------------------------|--|-------------------------------------|
|  | DEVELOPMENT SITE AREA ~294,350 SQ. FT.                      |  | STEEP AREA MAINTAINED FOREST |  | CONIFER TREE                        |
|  | MAINTAINED FORESTED AREA WITH WALKING PATHS 152,057 SQ. FT. |  | COMMUNITY GARDEN             |  | DECIDUOUS TREE                      |
|  | GRASS / NATURAL LANDSCAPING                                 |  | EXISTING BUILDINGS           |  | OFF-SITE TREE<br>*shown for context |
|  | LANDSCAPED AREA   |  | SWIMMING POOL                |  |                                     |
|  | PROPERTY LINE   |  | PARKING STALL                |  |                                     |

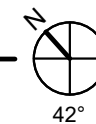


## 2 PEDESTRIAN CIRCULATION

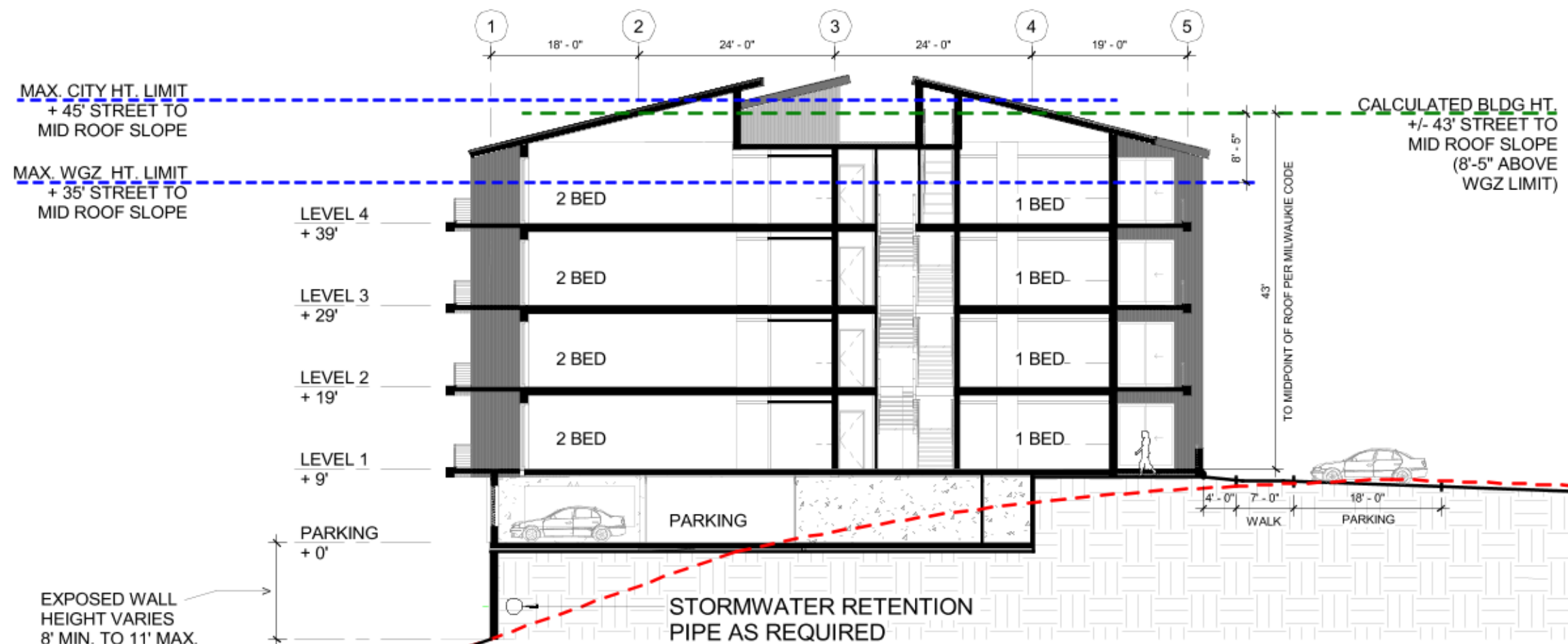
1" = 100'-0"

### LEGEND

|  |                     |  |                                     |
|--|---------------------|--|-------------------------------------|
|  | SIDEWALKS / PATHS   |  | CONIFER TREE                        |
|  | BUILDING FOOTPRINTS |  | DECIDUOUS TREE                      |
|  | EXISTING BUILDINGS  |  | OFF-SITE TREE<br>*shown for context |
|  | PARKING STALL       |  |                                     |
|  | PROPERTY LINE       |  |                                     |



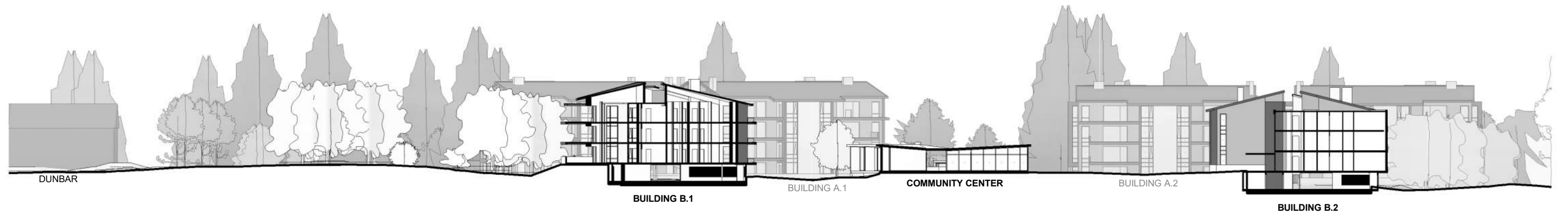




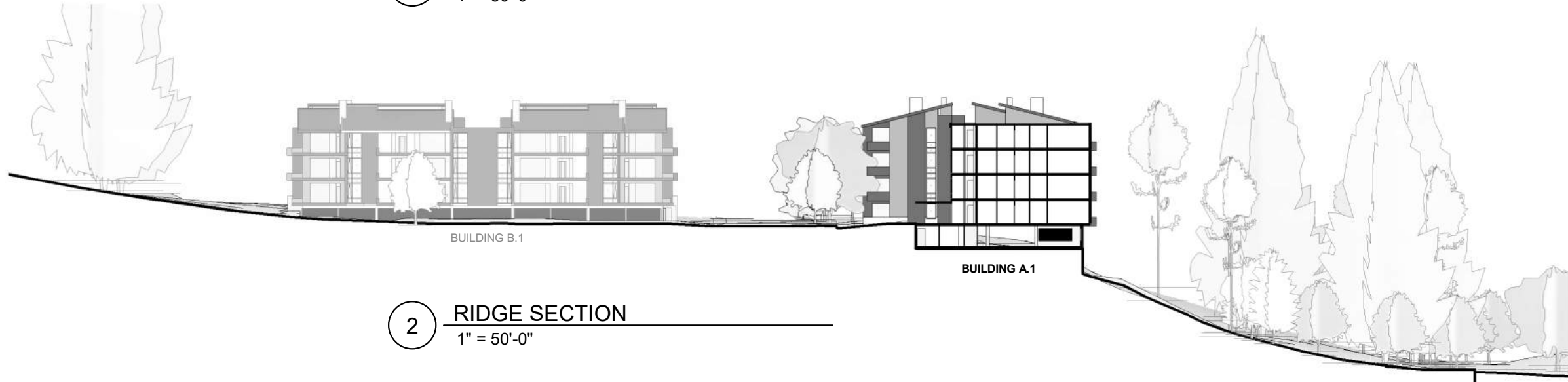
1 BUILDING A.1 (A.2 SIM) - SECTION DIAGRAM  
1/16" = 1'-0" EXISTING TOPOGRAPHY



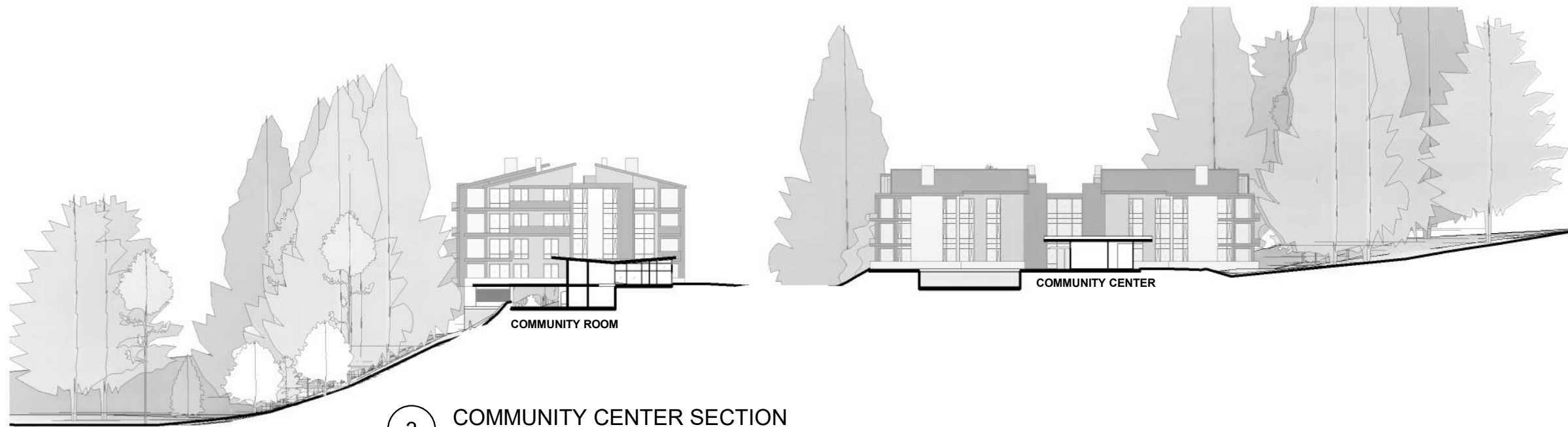
2 COMMUNITY FACILITIES SECTION  
1/32" = 1'-0"



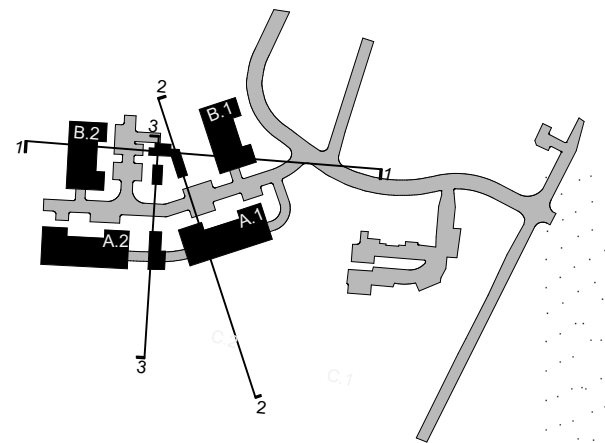
1 GARDEN SECTION  
1" = 50'-0"



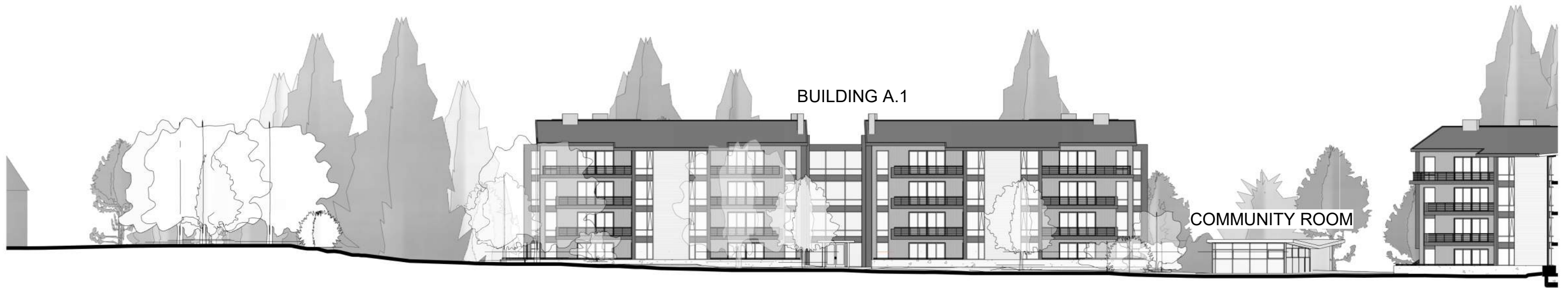
2 RIDGE SECTION  
1" = 50'-0"



3 COMMUNITY CENTER SECTION  
1" = 50'-0"





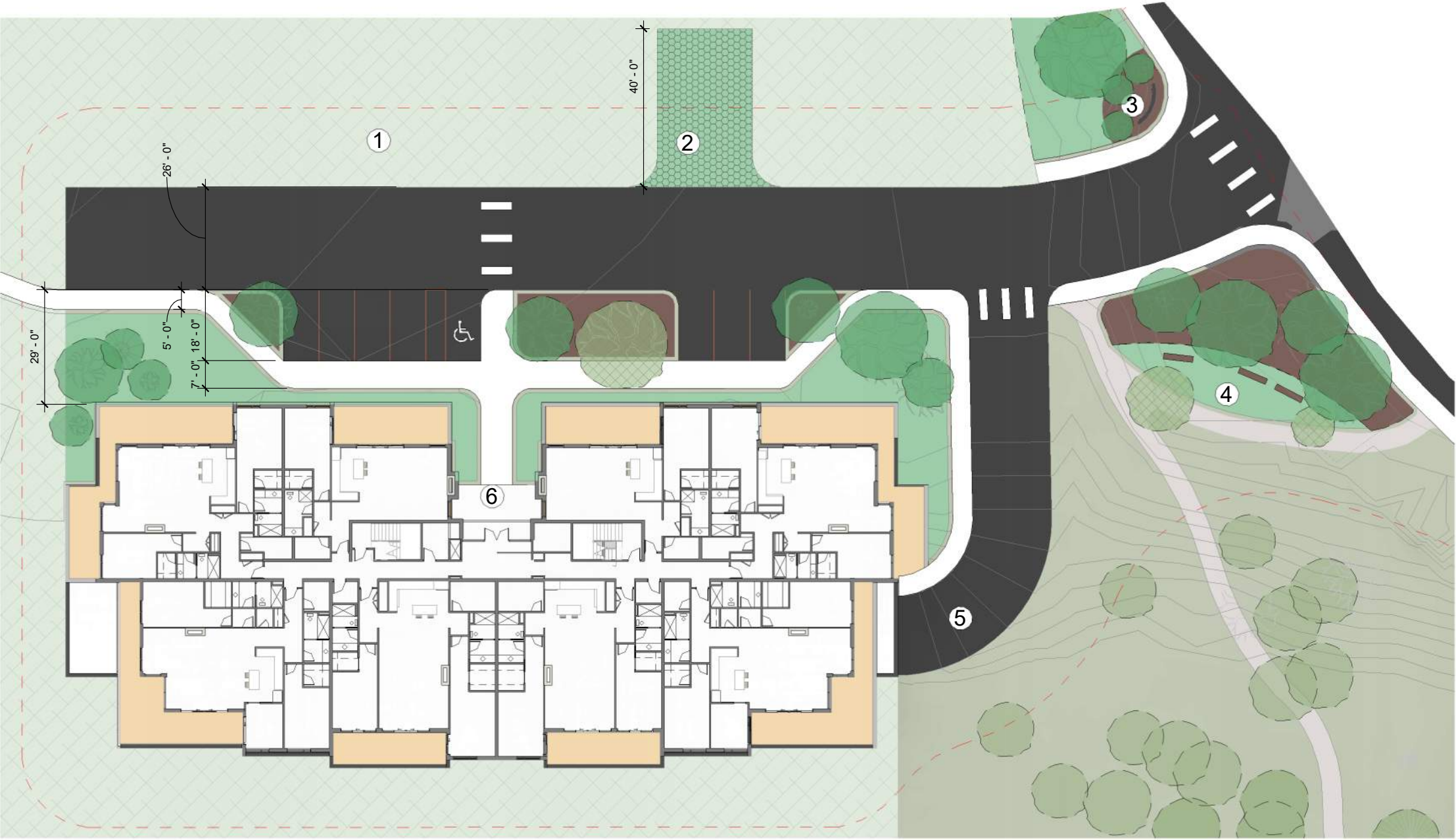


1 SITE ELEVATION - EAST  
1/32" = 1'-0"



2 SITE ELEVATION - WEST  
1/32" = 1'-0"





PHASE 01 TREE MANAGEMENT

| No.           | Species           | Health | No.                | Species              | Health |
|---------------|-------------------|--------|--------------------|----------------------|--------|
| REMOVED TREES |                   |        |                    |                      |        |
| 105           | Bigleaf Maple     | DEAD   | 370                | Bigleaf Maple        | POOR   |
| 106           | Bigleaf Maple     | POOR   | 371                | Hawthorn             | FAIR   |
| 107           | Bigleaf Maple     | POOR   | 372                | Hawthorn             | POOR   |
| 114           | Bigleaf Maple     | GOOD   | 373                | Hawthorn             | FAIR   |
| 115           | Bigleaf Maple     | FAIR   | 374                | Bigleaf Maple        | POOR   |
| 116           | Elm               | POOR   | 375                | Hawthorn             | POOR   |
| 117           | Oregon Ash        | POOR   | 377                | Hawthorn             | FAIR   |
| 122           | Oregon White Oak  | GOOD   | 378                | Douglas Fir - 20'    | FAIR   |
| 123           | Bigleaf Maple     | DEAD   | 379                | Bigleaf Maple        | DEAD   |
| 124           | Bigleaf Maple     | DEAD   | 380                | Bigleaf Maple        | POOR   |
| 127           | Douglas Fir - M   | GOOD   | 381                | Douglas Fir - S      | FAIR   |
| 128           | Douglas Fir - S   | FAIR   | 382                | Douglas Fir - 20'    | DEAD   |
| 129           | Bigleaf Maple     | FAIR   | 383                | Douglas Fir - 20'    | DEAD   |
| 130           | Bigleaf Maple     | POOR   | 386                | Douglas Fir - 20'    | POOR   |
| 131           | Oregon White Oak  | GOOD   | TOTAL: 70          |                      |        |
| 133           | Douglas Fir - 20' | POOR   | MAINTAINED TREES   |                      |        |
| 135           | Douglas Fir - 20' | GOOD   | 100                | Douglas Fir - M      | GOOD   |
| 136           | Douglas Fir - S   | FAIR   | 104                | Douglas Fir - M      | GOOD   |
| 137           | Douglas Fir - S   | GOOD   | 113                | black cottonwood     | GOOD   |
| 138           | Oregon White Oak  | FAIR   | 121                | Oregon White Oak     | GOOD   |
| 139           | Oregon White Oak  | FAIR   | 152                | Oregon White Oak     | GOOD   |
| 140           | Oregon White Oak  | FAIR   | 349                | Bigleaf Maple        | FAIR   |
| 141           | Oregon White Oak  | GOOD   | 350                | Bigleaf Maple        | FAIR   |
| 214           | Bigleaf Maple     | GOOD   | 356                | Bigleaf Maple        | GOOD   |
| 313           | Oregon White Oak  | GOOD   | 361                | Douglas Fir - 20'    | GOOD   |
| 325           | Oregon Ash        | GOOD   | TOTAL: 9           |                      |        |
| 326           | Hawthorn          | POOR   | NEW PROPOSED TREES |                      |        |
| 327           | Hawthorn          | FAIR   |                    | Bigleaf Maple        | NEW    |
| 329           | Hawthorn          | FAIR   |                    | Oregon White Oak     | NEW    |
| 330           | Hawthorn          | FAIR   |                    | Bigleaf Maple        | NEW    |
| 331           | Hawthorn          | FAIR   |                    | Oregon White Oak     | NEW    |
| 335           | Bigleaf Maple     | FAIR   |                    | Oregon White Oak     | NEW    |
| 336           | Hawthorn          | FAIR   |                    | Bigleaf Maple        | NEW    |
| 337           | Oregon Ash        | GOOD   |                    | Kousa Dogwood        | NEW    |
| 338           | Bigleaf Maple     | DEAD   |                    | Manzanita            | NEW    |
| 339           | Bigleaf Maple     | POOR   |                    | Bigleaf Maple        | NEW    |
| 340           | Bigleaf Maple     | POOR   |                    | Oregon White Oak     | NEW    |
| 341           | Hawthorn          | POOR   |                    | Manzanita            | NEW    |
| 342           | Bigleaf Maple     | POOR   |                    | Kousa Dogwood        | NEW    |
| 343           | Bigleaf Maple     | POOR   |                    | Kousa Dogwood        | NEW    |
| 344           | Bigleaf Maple     | FAIR   |                    | American Beech - 20' | NEW    |
| 345           | Bigleaf Maple     | FAIR   |                    | Kousa Dogwood        | NEW    |
| 346           | Bigleaf Maple     | POOR   |                    | Manzanita            | NEW    |
| 348           | Pacific Dogwood   | POOR   |                    | Kousa Dogwood        | NEW    |
| 351           | Bigleaf Maple     | POOR   |                    | Manzanita            | NEW    |
| 352           | Bigleaf Maple     | FAIR   |                    | Kousa Dogwood        | NEW    |
| 353           | Bigleaf Maple     | POOR   |                    | Oregon White Oak     | NEW    |
| 354           | Bigleaf Maple     | POOR   | TOTAL: 18          |                      |        |
| 355           | Hawthorn          | POOR   |                    |                      |        |
| 357           | Oregon Ash        | POOR   |                    |                      |        |
| 358           | Bigleaf Maple     | POOR   |                    |                      |        |
| 359           | Bigleaf Maple     | POOR   |                    |                      |        |
| 360           | Bigleaf Maple     | POOR   |                    |                      |        |
| 366           | Bigleaf Maple     | POOR   |                    |                      |        |
| 368           | Hawthorn          | POOR   |                    |                      |        |
| 369           | Bigleaf Maple     | POOR   |                    |                      |        |

LEGEND

- ROADWAY
- NEW SIDEWALK
- MULCHED LANDSCAPE AREA
- NATURAL GRASSES / LANDSCAPING
- OUTDOOR TERRACE
- PARKING STALL
- CROSSWALK
- PHASE 01 EXTENTS

CONIFER TREEDECIDUOUS TREENEW PHASE 01 TREEEXISTING PHASE 01 TREETREE OUTSIDE OF PHASE  
\*subject to limbing / clearing for view corridors

1

CONSTRUCTION LAY DOWN ZONE COVERED WITH GRASS BETWEEN PHASES

2

40' DEEP GRASSCRETE FIRELANE

3

ENTRY SIGNAGE / LANDSCAPING

4

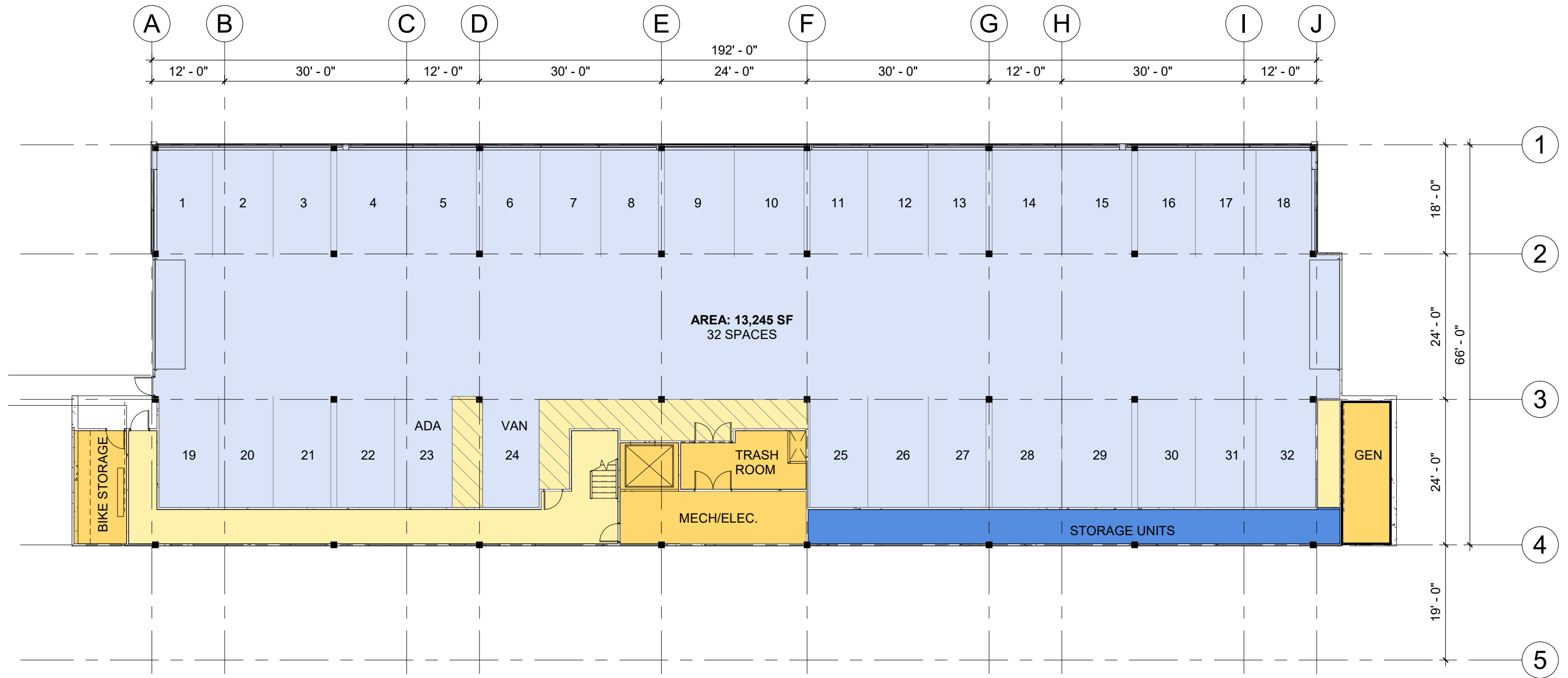
WALKING PATH LANDSCAPING WITH BENCHES

5

20' ROADWAY TO UNDERGROUND PARKING

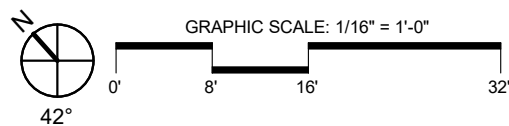
6

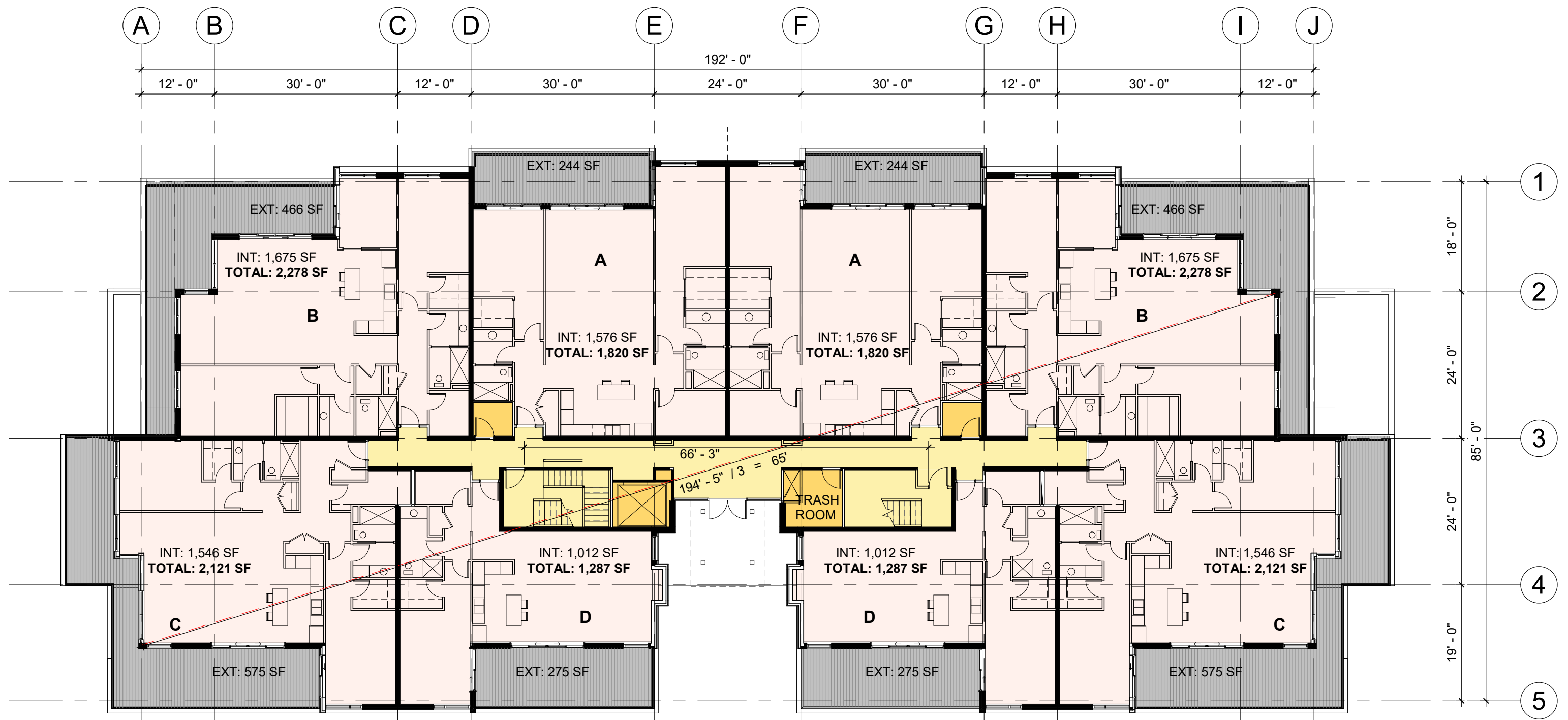
BUILDING A.1 ENTRY



# LEGEND

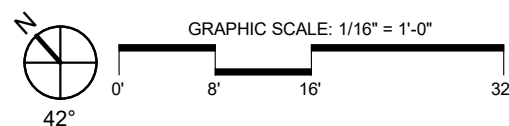
- STORAGE AREA - 498 SF
- INTERIOR PARKING AREA - 10,750 SF
- INTERIOR COMMON AREA - 1,062 SF
- SERVICE AREA - 878 SF
- TOTAL AREA - 13,188 SF

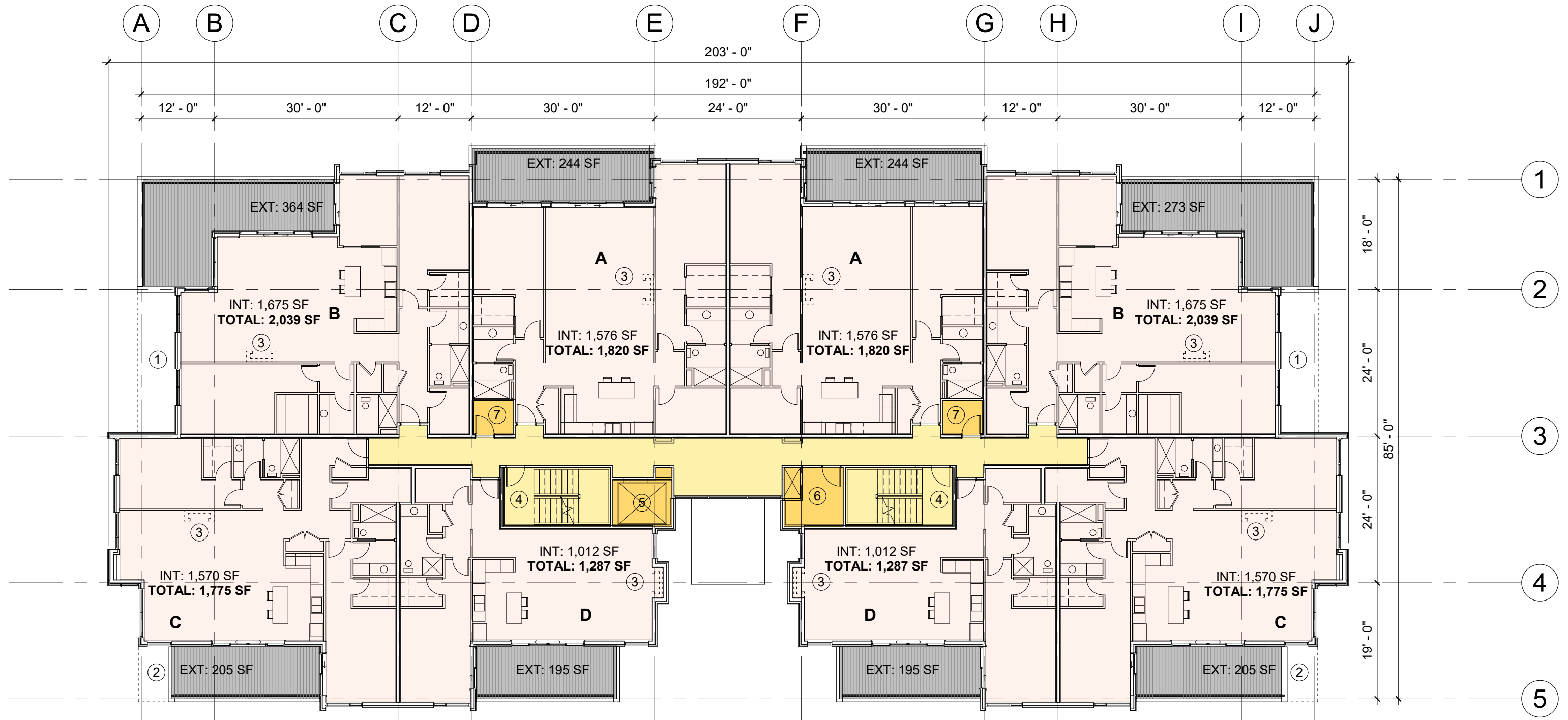




**LEGEND**

- EXTERIOR BALCONY AREA - 3,120 SF
- INTERIOR LIVABLE AREA - 11,618 SF
- INTERIOR COMMON AREA - 1,048 SF
- SERVICE AREA - 248 SF
- TOTAL AREA - 15,582 SF**



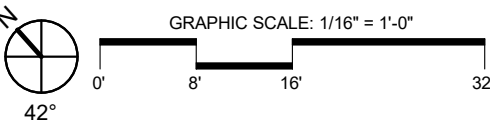


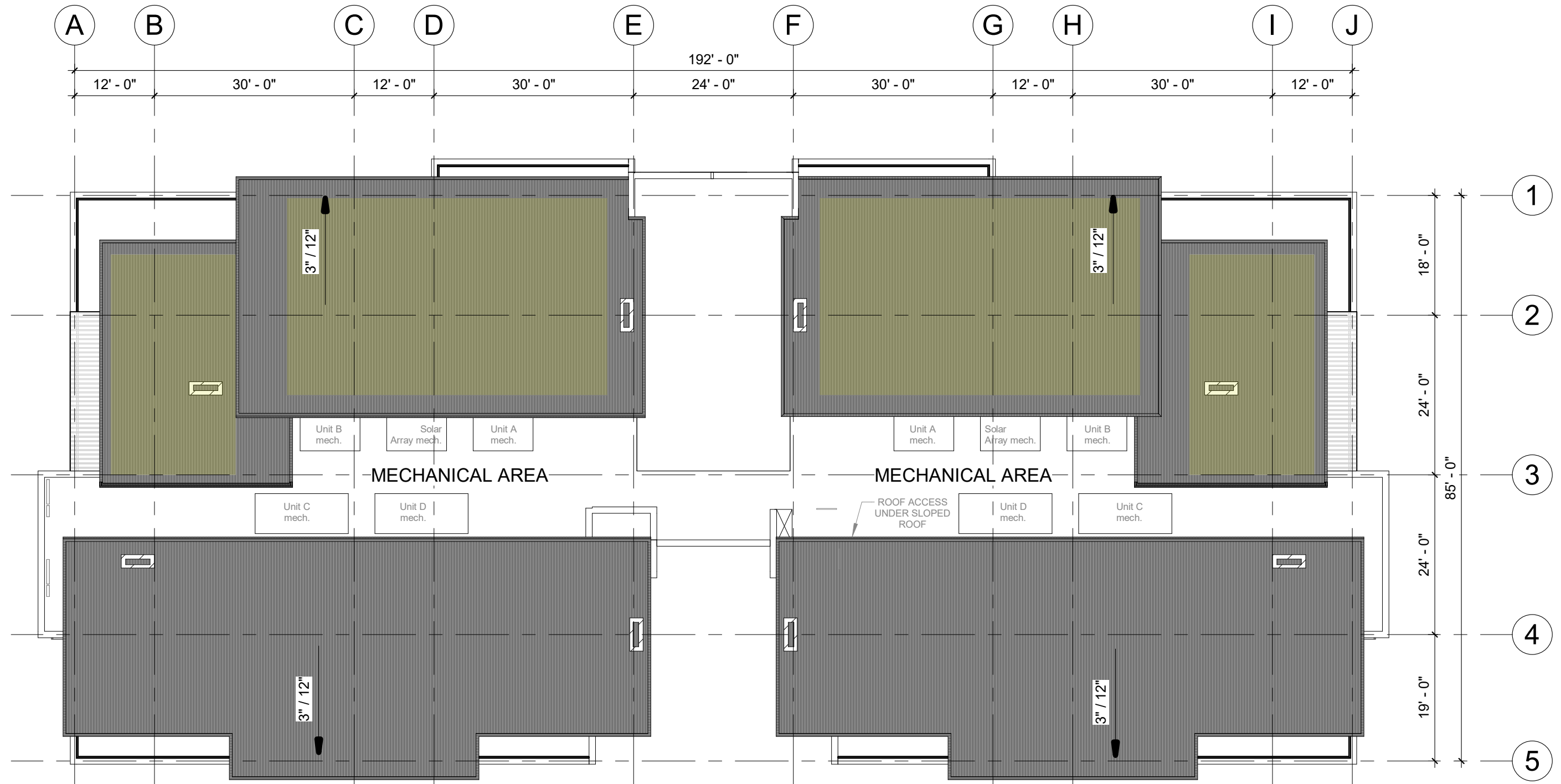
**LEGEND**

- EXTERIOR BALCONY AREA - 2,016 SF
- INTERIOR LIVABLE AREA - 11,666 SF
- INTERIOR COMMON AREA - 1,048 SF
- SERVICE AREA - 248 SF

**TOTAL AREA - 14,978 SF**

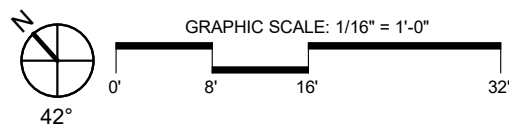
- NOTES**
- ADDITIONAL TERRACE AT LEVEL 3 AND 4
  - ADDITIONAL TERRACE AT LEVEL 4
  - GAS FIREPLACES AT LEVEL 4
  - EXIT STAIR
  - ELEVATOR TO ALL LEVELS
  - TRASH CHUTE / RECYCLE
  - MEP EQUIPMENT





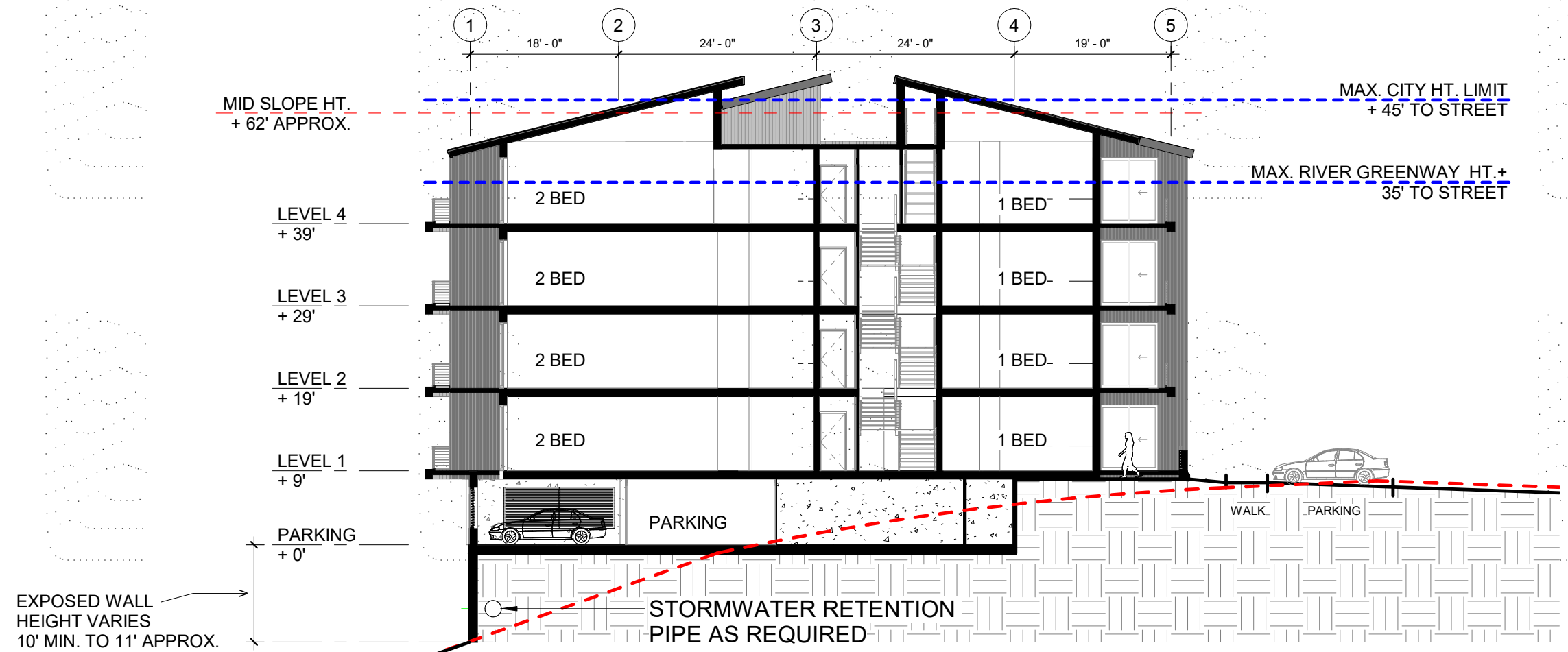
# LEGEND

- STANDING SEAM METAL ROOF
- SOLAR ARRAY



A3.4 - BUILDING A.1 ROOF LEVEL





1 BUILDING A.1 (A.2 SIM) - SECTION DIAGRAM  
 1/16" = 1'-0" --- EXISTING TOPOGRAPHY



2 COMMUNITY FACILITIES SECTION  
 1/32" = 1'-0"



ROOF  
40' - 0"

LEVEL 4  
30' - 0"

LEVEL 3  
20' - 0"

LEVEL 2  
10' - 0"

LEVEL 1  
0"

PARKING LEVEL  
-9' - 0"

## PRELIMINARY MATERIALS AND COLORS



SITE AND PRECAST CONCRETE



METAL PANELS AND MULLIONS



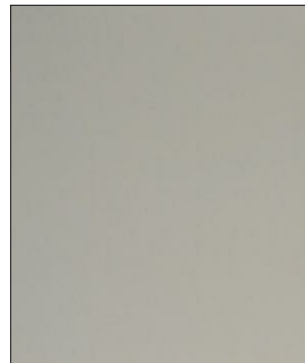
GLAZING



VERTICAL FIBER PANELS



HORIZONTAL TREATED  
WOOD SIDING



STANDING SEAM METAL ROOF

1 EAST  
1/16" = 1'-0"

45.6% GLAZING



ROOF  
40' - 0"

LEVEL 4  
30' - 0"

LEVEL 3  
20' - 0"

LEVEL 2  
10' - 0"

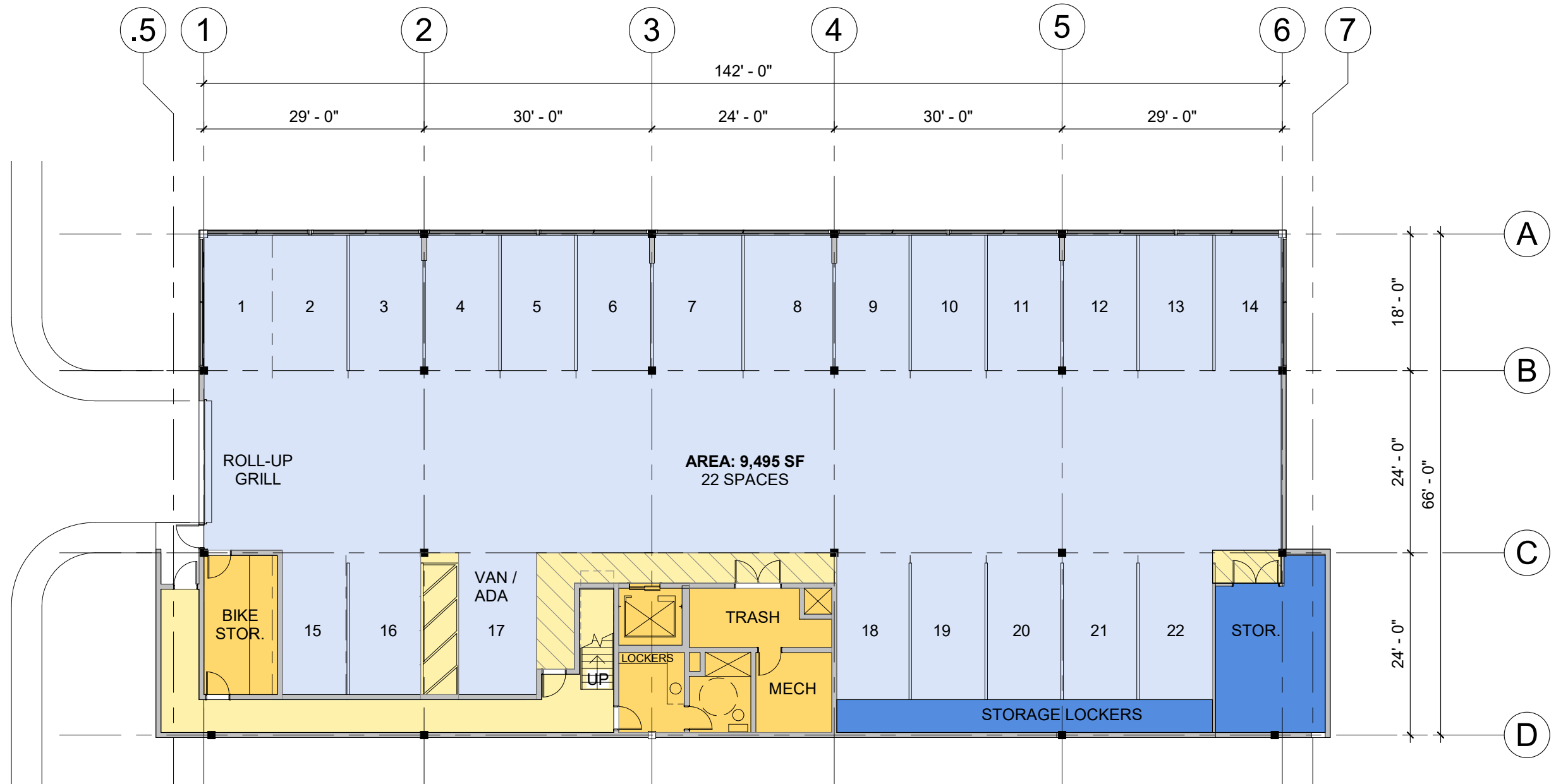
LEVEL 1  
0"

PARKING LEVEL  
-9' - 0"

2 SOUTH  
1/16" = 1'-0"

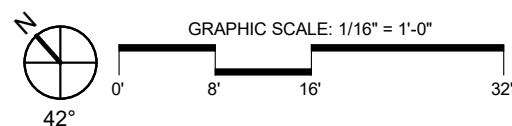
40.9 % GLAZING

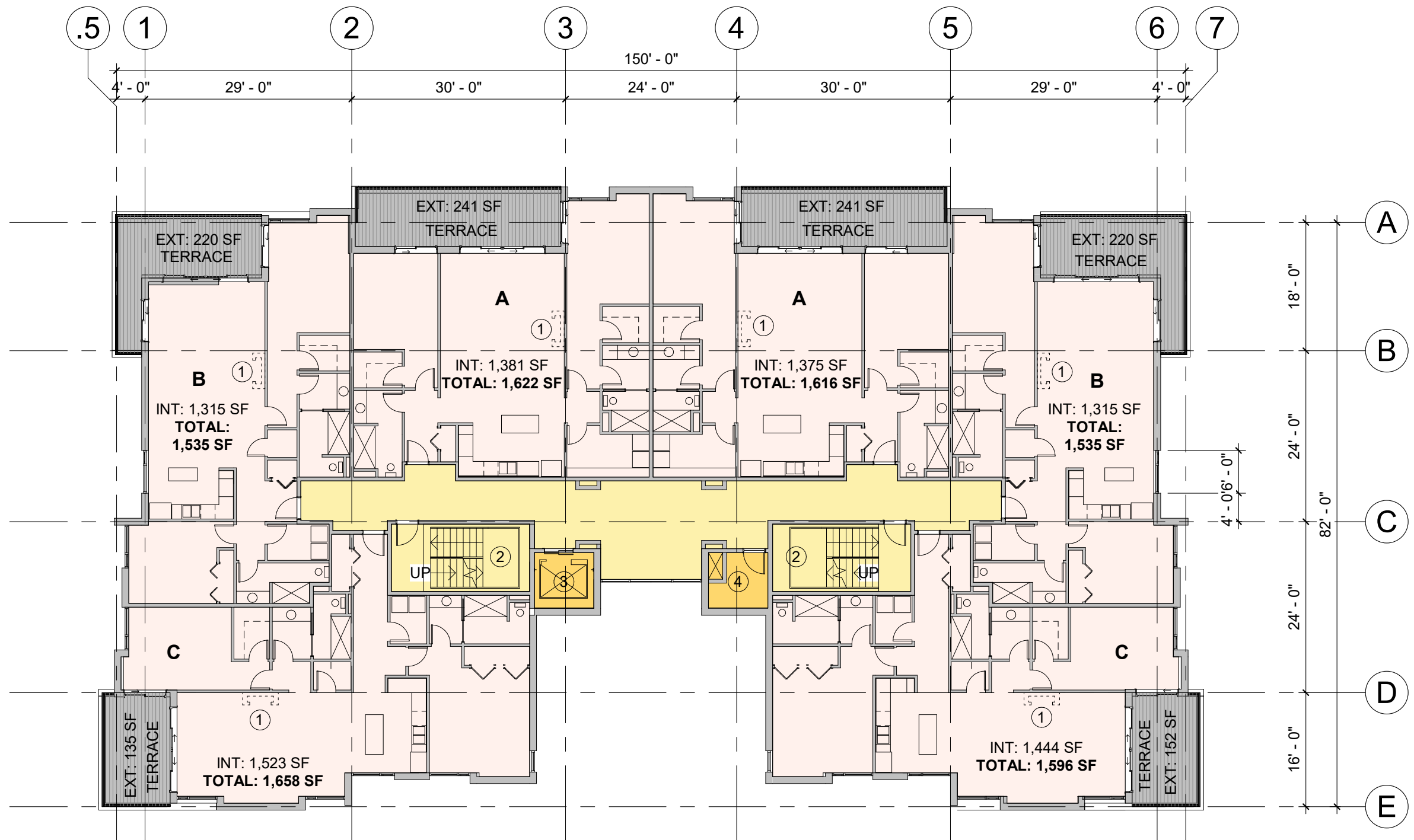




# LEGEND

- STORAGE AREA - 468 SF
- INTERIOR PARKING AREA - 7,464 SF
- INTERIOR COMMON AREA - 824 SF
- SERVICE AREA - 716 SF
- TOTAL AREA - 9,495 SF



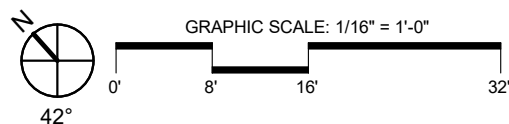


### LEGEND

- EXTERIOR BALCONY AREA - 1,362 SF
- INTERIOR LIVABLE AREA - 8,666 SF
- INTERIOR COMMON AREA - 1,147 SF
- SERVICE AREA - 127 SF
- TOTAL AREA - 11,302 SF**

### NOTES

- ① GAS FIREPLACES AT LEVEL 3
- ② EXIT STAIR
- ③ ELEVATOR TO ALL LEVELS
- ④ TRASH CHUTE / RECYCLE





1 SOUTH ELEVATION  
1/16" = 1'-0"

#### PRELIMINARY MATERIALS AND COLORS



SITE AND PRECAST CONCRETE



METAL PANELS AND MULLIONS



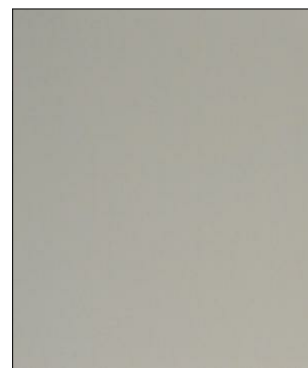
GLAZING



VERTICAL FIBER PANELS



HORIZONTAL TREATED WOOD SIDING

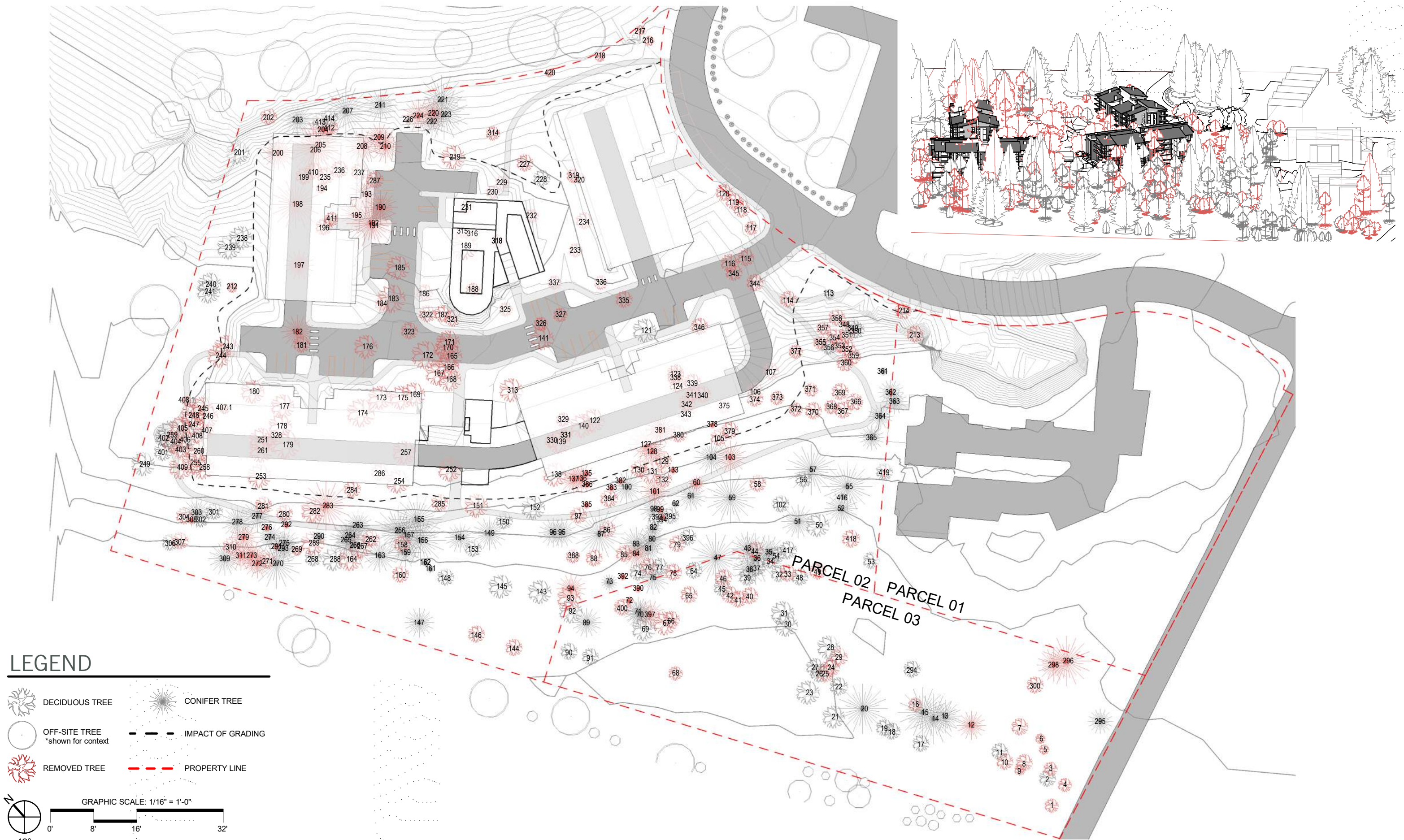


STANDING SEAM METAL ROOF



2 WEST ELEVATION  
1/16" = 1'-0"







| No.           | Species           | Health |
|---------------|-------------------|--------|
| REMOVED TREES |                   |        |
| 1             | Hawthorn          | FAIR   |
| 3             | Hawthorn          | GOOD   |
| 4             | Hawthorn          | GOOD   |
| 5             | Scouler's willow  | POOR   |
| 6             | Scouler's willow  | POOR   |
| 7             | Bigleaf Maple     | POOR   |
| 8             | Bigleaf Maple     | POOR   |
| 9             | Crabapple         | POOR   |
| 10            | Bigleaf Maple     | POOR   |
| 12            | Douglas Fir - S   | FAIR   |
| 16            | Hawthorn          | FAIR   |
| 24            | Elm               | FAIR   |
| 25            | Elm               | FAIR   |
| 29            | Elm               | FAIR   |
| 33            | Bigleaf Maple     | POOR   |
| 40            | Bigleaf Maple     | FAIR   |
| 41            | Bigleaf Maple     | GOOD   |
| 42            | Bigleaf Maple     | POOR   |
| 44            | Bigleaf Maple     | POOR   |
| 46            | Bigleaf Maple     | FAIR   |
| 49            | Bigleaf Maple     | POOR   |
| 58            | Bigleaf Maple     | POOR   |
| 60            | Grand Fir         | DEAD   |
| 65            | Bigleaf Maple     | POOR   |
| 66            | Bigleaf Maple     | FAIR   |
| 67            | Oregon White Oak  | FAIR   |
| 68            | Hawthorn          | FAIR   |
| 72            | Douglas Fir - 20' | DEAD   |
| 76            | Bigleaf Maple     | POOR   |
| 78            | Bigleaf Maple     | POOR   |
| 79            | Bigleaf Maple     | POOR   |
| 84            | Douglas Fir - S   | FAIR   |
| 85            | Bigleaf Maple     | POOR   |
| 86            | Bigleaf Maple     | POOR   |
| 88            | Bigleaf Maple     | POOR   |
| 93            | Oregon White Oak  | FAIR   |
| 94            | Douglas Fir - S   | POOR   |
| 97            | Bigleaf Maple     | POOR   |
| 99            | Douglas Fir - 20' | POOR   |
| 101           | Douglas Fir - S   | POOR   |
| 103           | Douglas Fir - M   | GOOD   |
| 105           | Bigleaf Maple     | DEAD   |
| 106           | Bigleaf Maple     | POOR   |
| 107           | Bigleaf Maple     | POOR   |
| 114           | Bigleaf Maple     | GOOD   |
| 115           | Bigleaf Maple     | FAIR   |
| 116           | Elm               | POOR   |
| 117           | Oregon Ash        | POOR   |
| 118           | Bigleaf Maple     | GOOD   |
| 119           | Bigleaf Maple     | GOOD   |
| 120           | Bigleaf Maple     | FAIR   |
| 122           | Oregon White Oak  | GOOD   |
| 123           | Bigleaf Maple     | DEAD   |
| 124           | Bigleaf Maple     | DEAD   |
| 127           | Douglas Fir - M   | GOOD   |
| 128           | Douglas Fir - S   | FAIR   |
| 129           | Bigleaf Maple     | FAIR   |
| 130           | Bigleaf Maple     | POOR   |
| 131           | Oregon White Oak  | GOOD   |
| 132           | Bigleaf Maple     | POOR   |
| 133           | Douglas Fir - 20' | POOR   |
| 135           | Douglas Fir - 20' | GOOD   |
| 136           | Douglas Fir - S   | FAIR   |
| 137           | Douglas Fir - S   | GOOD   |
| 138           | Oregon White Oak  | FAIR   |
| 139           | Oregon White Oak  | FAIR   |
| 140           | Oregon White Oak  | FAIR   |
| 141           | Oregon White Oak  | GOOD   |
| 144           | Bigleaf Maple     | FAIR   |
| 146           | Bigleaf Maple     | FAIR   |
| 151           | Oregon White Oak  | GOOD   |

| No. | Species          | Health |
|-----|------------------|--------|
| 158 | Bigleaf Maple    | POOR   |
| 160 | Bigleaf Maple    | FAIR   |
| 164 | Oregon White Oak | POOR   |
| 165 | Oregon White Oak | GOOD   |
| 166 | Oregon White Oak | GOOD   |
| 167 | Oregon White Oak | POOR   |
| 168 | Oregon White Oak | FAIR   |
| 169 | Oregon White Oak | FAIR   |
| 170 | Oregon White Oak | DEAD   |
| 171 | Oregon White Oak | GOOD   |
| 172 | White Oak        | FAIR   |
| 173 | Oregon White Oak | FAIR   |
| 174 | White Oak        | FAIR   |
| 175 | Oregon White Oak | FAIR   |
| 176 | Oregon White Oak | GOOD   |
| 177 | Oregon White Oak | FAIR   |
| 178 | Oregon White Oak | GOOD   |
| 179 | White Oak        | GOOD   |
| 180 | Oregon White Oak | FAIR   |
| 181 | Bigleaf Maple    | DEAD   |
| 182 | Douglas Fir - M  | FAIR   |
| 183 | White Oak        | POOR   |
| 184 | Hawthorn         | FAIR   |
| 185 | Oregon White Oak | FAIR   |
| 186 | Bigleaf Maple    | POOR   |
| 187 | Bigleaf Maple    | POOR   |
| 188 | Hawthorn         | POOR   |
| 189 | White Oak        | GOOD   |
| 190 | Douglas Fir - M  | GOOD   |
| 191 | Douglas Fir - S  | GOOD   |
| 192 | Douglas Fir - L  | GOOD   |
| 193 | Douglas Fir - M  | GOOD   |
| 194 | Scouler's willow | FAIR   |
| 195 | Douglas Fir - M  | GOOD   |
| 196 | Bigleaf Maple    | GOOD   |
| 197 | Douglas Fir - S  | GOOD   |
| 198 | Douglas Fir - L  | GOOD   |
| 199 | Bigleaf Maple    | GOOD   |
| 200 | Douglas Fir - M  | GOOD   |
| 202 | Bigleaf Maple    | POOR   |
| 204 | Douglas Fir - S  | FAIR   |
| 205 | Douglas Fir - L  | GOOD   |
| 206 | Douglas Fir - L  | GOOD   |
| 208 | Douglas Fir - M  | GOOD   |
| 209 | Douglas Fir - S  | POOR   |
| 210 | Douglas Fir - M  | FAIR   |
| 212 | Sweet Cherry     | FAIR   |
| 213 | Bigleaf Maple    | DEAD   |
| 214 | Bigleaf Maple    | GOOD   |
| 216 | Sweet Cherry     | GOOD   |
| 217 | Sweet Cherry     | FAIR   |
| 218 | Sweet Cherry     | FAIR   |
| 219 | Oregon White Oak | GOOD   |
| 220 | Douglas Fir - S  | DEAD   |
| 224 | Douglas Fir - M  | GOOD   |
| 227 | Bigleaf Maple    | POOR   |
| 229 | Oregon Ash       | GOOD   |
| 230 | Oregon Ash       | GOOD   |
| 231 | Bigleaf Maple    | GOOD   |
| 232 | Oregon Ash       | GOOD   |
| 233 | Oregon Ash       | FAIR   |
| 234 | Bigleaf Maple    | POOR   |
| 235 | Bigleaf Maple    | FAIR   |
| 236 | Bigleaf Maple    | FAIR   |
| 237 | Bigleaf Maple    | POOR   |
| 243 | Oregon White Oak | GOOD   |
| 244 | Oregon White Oak | GOOD   |
| 245 | Oregon White Oak | GOOD   |
| 246 | Oregon White Oak | FAIR   |
| 247 | Oregon White Oak | FAIR   |
| 248 | Oregon White Oak | GOOD   |
| 251 | Oregon White Oak | FAIR   |
| 252 | Oregon White Oak | FAIR   |

| No. | Species           | Health |
|-----|-------------------|--------|
| 253 | Oregon White Oak  | FAIR   |
| 254 | Oregon White Oak  | GOOD   |
| 255 | Oregon White Oak  | FAIR   |
| 257 | Oregon White Oak  | FAIR   |
| 258 | Oregon White Oak  | POOR   |
| 260 | Oregon White Oak  | FAIR   |
| 261 | Oregon White Oak  | FAIR   |
| 262 | Bigleaf Maple     | DEAD   |
| 267 | Oregon White Oak  | POOR   |
| 269 | Sweet Cherry      | GOOD   |
| 271 | Bigleaf Maple     | POOR   |
| 272 | Douglas Fir - S   | POOR   |
| 273 | Douglas Fir - S   | DEAD   |
| 276 | Douglas Fir - 20' | DEAD   |
| 279 | Douglas Fir - S   | FAIR   |
| 280 | Bigleaf Maple     | POOR   |
| 281 | Bigleaf Maple     | FAIR   |
| 282 | Oregon White Oak  | POOR   |
| 283 | Douglas Fir - L   | GOOD   |
| 284 | Bigleaf Maple     | FAIR   |
| 285 | Bigleaf Maple     | GOOD   |
| 286 | Bigleaf Maple     | FAIR   |
| 287 | Bigleaf Maple     | POOR   |
| 289 | Oregon White Oak  | DEAD   |
| 291 | Douglas Fir - 20' | FAIR   |
| 292 | Douglas Fir - 20' | POOR   |
| 296 | Douglas Fir - L   | POOR   |
| 298 | Douglas Fir - M   | FAIR   |
| 300 | Bigleaf Maple     | POOR   |
| 304 | Bigleaf Maple     | POOR   |
| 307 | Bigleaf Maple     | GOOD   |
| 308 | Douglas Fir - 20' | POOR   |
| 310 | Bigleaf Maple     | GOOD   |
| 311 | Douglas Fir - S   | FAIR   |
| 313 | Oregon White Oak  | GOOD   |
| 314 | Hawthorn          | POOR   |
| 315 | Oregon Ash        | GOOD   |
| 316 | Oregon Ash        | GOOD   |
| 318 | Hawthorn          | POOR   |
| 319 | Hawthorn - 25'    | GOOD   |
| 320 | Crabapple         | POOR   |
| 321 | Bigleaf Maple     | POOR   |
| 322 | Bigleaf Maple     | FAIR   |
| 323 | Bigleaf Maple     | FAIR   |
| 325 | Oregon Ash        | GOOD   |
| 326 | Hawthorn          | POOR   |
| 327 | Hawthorn          | FAIR   |
| 328 | Hawthorn          | POOR   |
| 329 | Hawthorn          | FAIR   |
| 330 | Hawthorn          | FAIR   |
| 331 | Hawthorn          | FAIR   |
| 335 | Bigleaf Maple     | FAIR   |
| 336 | Hawthorn          | FAIR   |
| 337 | Oregon Ash        | GOOD   |
| 338 | Bigleaf Maple     | DEAD   |
| 339 | Bigleaf Maple     | POOR   |
| 340 | Bigleaf Maple     | POOR   |
| 341 | Hawthorn          | POOR   |
| 342 | Bigleaf Maple     | POOR   |
| 343 | Bigleaf Maple     | POOR   |
| 344 | Bigleaf Maple     | FAIR   |
| 345 | Bigleaf Maple     | FAIR   |
| 346 | Bigleaf Maple     | POOR   |
| 348 | Pacific Dogwood   | POOR   |
| 351 | Bigleaf Maple     | POOR   |
| 352 | Bigleaf Maple     | FAIR   |
| 353 | Bigleaf Maple     | POOR   |
| 354 | Bigleaf Maple     | POOR   |
| 355 | Hawthorn          | POOR   |
| 357 | Oregon Ash        | POOR   |
| 358 | Bigleaf Maple     | POOR   |
| 359 | Bigleaf Maple     | POOR   |
| 360 | Bigleaf Maple     | POOR   |

| No.   | Species           | Health |
|-------|-------------------|--------|
| 366   | Bigleaf Maple     | POOR   |
| 367   | Bigleaf Maple     | POOR   |
| 368   | Hawthorn          | POOR   |
| 369   | Bigleaf Maple     | POOR   |
| 370   | Bigleaf Maple     | POOR   |
| 371   | Hawthorn          | FAIR   |
| 372   | Hawthorn          | POOR   |
| 373   | Hawthorn          | FAIR   |
| 374   | Bigleaf Maple     | POOR   |
| 375   | Hawthorn          | POOR   |
| 377   | Hawthorn          | FAIR   |
| 378   | Douglas Fir - 20' | FAIR   |
| 379   | Bigleaf Maple     | DEAD   |
| 380   | Bigleaf Maple     | POOR   |
| 381   | Douglas Fir - S   | FAIR   |
| 382   | Douglas Fir - 20' | DEAD   |
| 383   | Douglas Fir - 20' | DEAD   |
| 384   | Elm               | FAIR   |
| 385   | Douglas Fir - 20' | DEAD   |
| 386   | Douglas Fir - 20' | POOR   |
| 388   | Hawthorn          | FAIR   |
| 390   | Douglas Fir - 20' | DEAD   |
| 392   | Douglas Fir - 20' | DEAD   |
| 394   | Douglas Fir - 20' | POOR   |
| 397   | Douglas Fir - S   | FAIR   |
| 400   | Bigleaf Maple     | DEAD   |
| 403   | Elm               | GOOD   |
| 404   | Oregon White Oak  | DEAD   |
| 405   | Oregon White Oak  | GOOD   |
| 407   | Hawthorn          | FAIR   |
| 407.1 | Sweet Cherry      | FAIR   |
| 408   | Hawthorn          | FAIR   |
| 408.1 | Sweet Cherry      | FAIR   |
| 409   | Oregon White Oak  | POOR   |
| 410   | Bigleaf Maple     | DEAD   |
| 411   | Hawthorn          | GOOD   |
| 412   | Bigleaf Maple     | POOR   |
| 418   | Elm               | DEAD   |
| 420   | purple leaf plum  | POOR   |

TOTAL: 256

### MAINTAINED TREES

|    |                  |      |
|----|------------------|------|
| 2  | Bigleaf Maple    | GOOD |
| 11 | Bigleaf Maple    | GOOD |
| 13 | Douglas Fir - M  | FAIR |
| 14 | Douglas Fir - L  | GOOD |
| 15 | Douglas Fir - L  | FAIR |
| 17 | Bigleaf Maple    | GOOD |
| 18 | Bigleaf Maple    | GOOD |
| 19 | Bigleaf Maple    | GOOD |
| 20 | Douglas Fir - L  | GOOD |
| 21 | Red Oak          | GOOD |
| 22 | Elm              | GOOD |
| 23 | Oregon White Oak | GOOD |
| 26 | Elm              | GOOD |
| 27 | Elm              | GOOD |
| 28 | Oregon White Oak | FAIR |
| 30 | Oregon White Oak | GOOD |
| 31 | Oregon White Oak | GOOD |
| 32 | Bigleaf Maple    | GOOD |
| 34 | Bigleaf Maple    | GOOD |
| 35 | Douglas Fir - M  | GOOD |
| 36 | Douglas Fir - L  | GOOD |
| 37 | Bigleaf Maple    | N/A  |
| 38 | Douglas Fir - M  | GOOD |
| 39 | Bigleaf Maple    | FAIR |
| 43 | Douglas Fir - M  | GOOD |
| 45 | Bigleaf Maple    | FAIR |
| 47 | Douglas Fir - L  | GOOD |
| 48 | Bigleaf Maple    | FAIR |
| 50 | Oregon White Oak | GOOD |
| 51 | Douglas Fir - M  | GOOD |
| 52 | Douglas Fir - M  | GOOD |

| No. | Species           | Health |
|-----|-------------------|--------|
| 53  | Bigleaf Maple     | FAIR   |
| 54  | Bigleaf Maple     | GOOD   |
| 55  | Douglas Fir - L   | GOOD   |
| 56  | Bigleaf Maple     | GOOD   |
| 57  | Douglas Fir - L   | GOOD   |
| 59  | Douglas Fir - L   | GOOD   |
| 61  | Douglas Fir - S   | FAIR   |
| 62  | Douglas Fir - 20' | GOOD   |
| 64  | Bigleaf Maple     | FAIR   |
| 69  | Oregon White Oak  | GOOD   |
| 70  | Douglas Fir - S   | GOOD   |
| 71  | Douglas Fir - S   | GOOD   |
| 73  | Grand Fir         | GOOD   |
| 74  | Bigleaf Maple     | FAIR   |
| 75  | Douglas Fir - M   | GOOD   |
| 77  | Bigleaf Maple     | GOOD   |
| 80  | Douglas Fir - S   | GOOD   |
| 81  | Douglas Fir - S   | FAIR   |
| 82  | Grand Fir         | GOOD   |
| 83  | Douglas Fir - M   | GOOD   |
| 87  | Douglas Fir - L   | GOOD   |
| 89  | Douglas Fir - S   | GOOD   |
| 90  | Bigleaf Maple     | GOOD   |
| 91  | Bigleaf Maple     | GOOD   |
| 92  | Oregon White Oak  | FAIR   |
| 95  | Douglas Fir - S   | GOOD   |
| 96  | Douglas Fir - S   | GOOD   |
| 98  | Douglas Fir - S   | GOOD   |
| 100 | Douglas Fir - M   | GOOD   |
| 102 | Bigleaf Maple     | FAIR   |
| 104 | Douglas Fir - M   | GOOD   |
| 113 | black cottonwood  | GOOD   |
| 121 | Oregon White Oak  | GOOD   |
| 143 | Oregon White Oak  | GOOD   |
| 145 | Oregon White Oak  | GOOD   |
| 147 | Douglas Fir - S   | GOOD   |
| 148 | Bigleaf Maple     | FAIR   |
| 149 | Douglas Fir - M   | FAIR   |
| 150 | Bigleaf Maple     | GOOD   |
| 152 | Oregon White Oak  | GOOD   |
| 153 | Bigleaf Maple     | GOOD   |
| 154 | Douglas Fir - S   | GOOD   |
| 155 | Douglas Fir - L   | GOOD   |
| 156 | Douglas Fir - L   | GOOD   |
| 157 | Douglas Fir - L   | GOOD   |
| 159 | Douglas Fir - S   | GOOD   |
| 161 | Douglas Fir - 20' | GOOD   |
| 162 | Douglas Fir - 20' | GOOD   |
| 163 | Douglas Fir - M   | GOOD   |
| 201 | Oregon White Oak  | GOOD   |
| 203 | Douglas Fir - M   | GOOD   |
| 207 | Douglas Fir - L   | GOOD   |
| 211 | Douglas Fir - M   | GOOD   |
| 221 | Douglas Fir - L   | GOOD   |
| 222 | Douglas Fir - S   | GOOD   |
| 223 | Douglas Fir - L   | GOOD   |
| 226 | Douglas Fir - 20' | FAIR   |
| 228 | Bigleaf Maple     | GOOD   |
| 238 | Oregon White Oak  | GOOD   |
| 239 | Oregon White Oak  | FAIR   |
| 240 | Oregon White Oak  | FAIR   |
| 241 | Oregon White Oak  | GOOD   |
| 249 | Oregon White Oak  | GOOD   |
| 256 | Douglas Fir - L   | GOOD   |
| 259 | White Oak         | FAIR   |
| 263 | Douglas Fir - S   | GOOD   |
| 264 | Douglas Fir - S   | GOOD   |
| 265 | Douglas Fir - M   | GOOD   |
| 266 | Douglas Fir - L   | GOOD   |
| 268 | Bigleaf Maple     | FAIR   |
| 270 | Douglas Fir - L   | GOOD   |
| 274 | Douglas Fir - S   | GOOD   |
| 275 | Douglas Fir - S   | GOOD   |

| No. | Species           | Health |
|-----|-------------------|--------|
| 277 | Douglas Fir - M   | GOOD   |
| 278 | Douglas Fir - M   | GOOD   |
| 288 | Oregon White Oak  | GOOD   |
| 290 | Grand Fir         | GOOD   |
| 293 | Douglas Fir - S   | GOOD   |
| 294 | Bigleaf Maple     | FAIR   |
| 295 | shore pine        | GOOD   |
| 301 | Bigleaf Maple     | FAIR   |
| 302 | Bigleaf Maple     | FAIR   |
| 303 | Douglas Fir - S   | FAIR   |
| 306 | Bigleaf Maple     | FAIR   |
| 309 | Douglas Fir - M   | GOOD   |
| 349 | Bigleaf Maple     | FAIR   |
| 350 | Bigleaf Maple     | FAIR   |
| 356 | Bigleaf Maple     | GOOD   |
| 361 | Douglas Fir - 20' | GOOD   |
| 362 | shore pine        | FAIR   |
| 363 | shore pine        | FAIR   |
| 364 | shore pine        | FAIR   |
| 365 | shore pine        | GOOD   |
| 393 | Elm               | GOOD   |
| 395 | Bigleaf Maple     | FAIR   |
| 396 | Bigleaf Maple     | FAIR   |
| 401 | Elm               | FAIR   |
| 402 | Elm               | FAIR   |
| 406 | Oregon White Oak  | FAIR   |
| 413 | Bigleaf Maple     | GOOD   |
| 414 | Bigleaf Maple     | GOOD   |
| 416 | Pacific Dogwood   | FAIR   |
| 417 | Elm               | GOOD   |
| 419 | Bigleaf Maple     | GOOD   |

TOTAL: 135

GRAND TOTAL: 391



APPROXIMATE PHASE 1 EARTHWORK (1:1)  
CUT: 1,170 CY      FILL: 3,780 CY      NET: - 2,610 CY



DATE: 7/16/2020



111 SW Fifth Ave., Suite 2500  
Portland, OR 97204  
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F: 503.224.4681  
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## LEGEND

- STORM DRAIN
- SANITARY SEWER
- DOMESTIC WATER
- FIRE PROTECTION
- NATURAL GAS
- ELECTRIC

Typical minimum  
construction setback  
radius of .5 feet per  
inch of DBH

Typical root protection  
zone radius of 1 foot  
per inch of DBH

Poor condition

All trees within grading and  
construction footprint to be removed

PARKING: 105.0  
LEVEL 1: 114.0

Invasive sweet cherry

BUILDING A.2  
PARKING: 99.0  
LEVEL 1: 108.0

Project arborist to  
oversee excavation  
for sewer in tree  
protection zone

CONNECT TO EXISTING 8"  
SANITARY SEWER

EXISTING FIRE  
HYDRANT 100' RADIUS

CONNECT TO EXISTING  
PUBLIC STREET CATCHBASIN

CONNECT TO EXISTING WATER  
MAIN FOR DOMESTIC WATER  
CONNECT TO EXISTING WATER  
MAIN FOR FIRE PROTECTION

CONNECT TO EXISTING GAS LINE

CONNECT TO EXISTING  
ELECTRIC SYSTEM

EXISTING FIRE  
HYDRANT 100' RADIUS

APPROXIMATE LOCATION OF  
EXISTING 15" STORM DRAIN

Project arborist to  
oversee excavation  
for storm in tree  
protection zone

CONNECT TO EXISTING 15"  
STORM DRAIN STUB

PROPOSED 15" PUBLIC STORM  
DRAIN EASEMENT OVER EXISTING  
STORM DRAIN SYSTEM

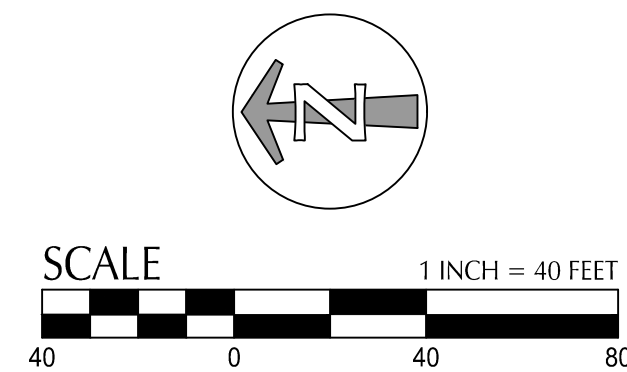
PROPOSED 15" PUBLIC STORM  
DRAIN EASEMENT OVER EXISTING  
STORM DRAIN SYSTEM

EXISTING FIRE  
HYDRANT 100' RADIUS

Attachment 3

## UTILITIES

DATE: 7/16/2020



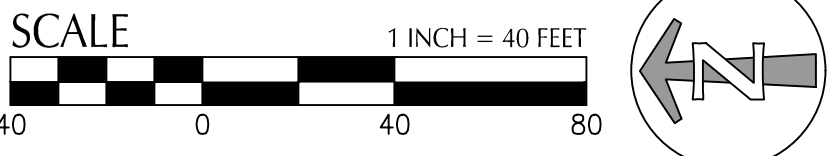
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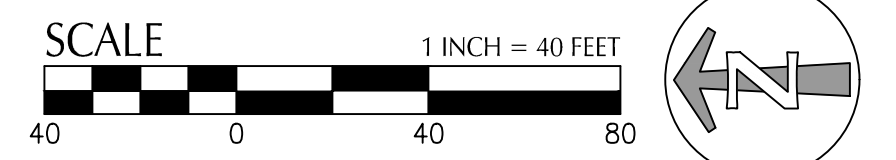
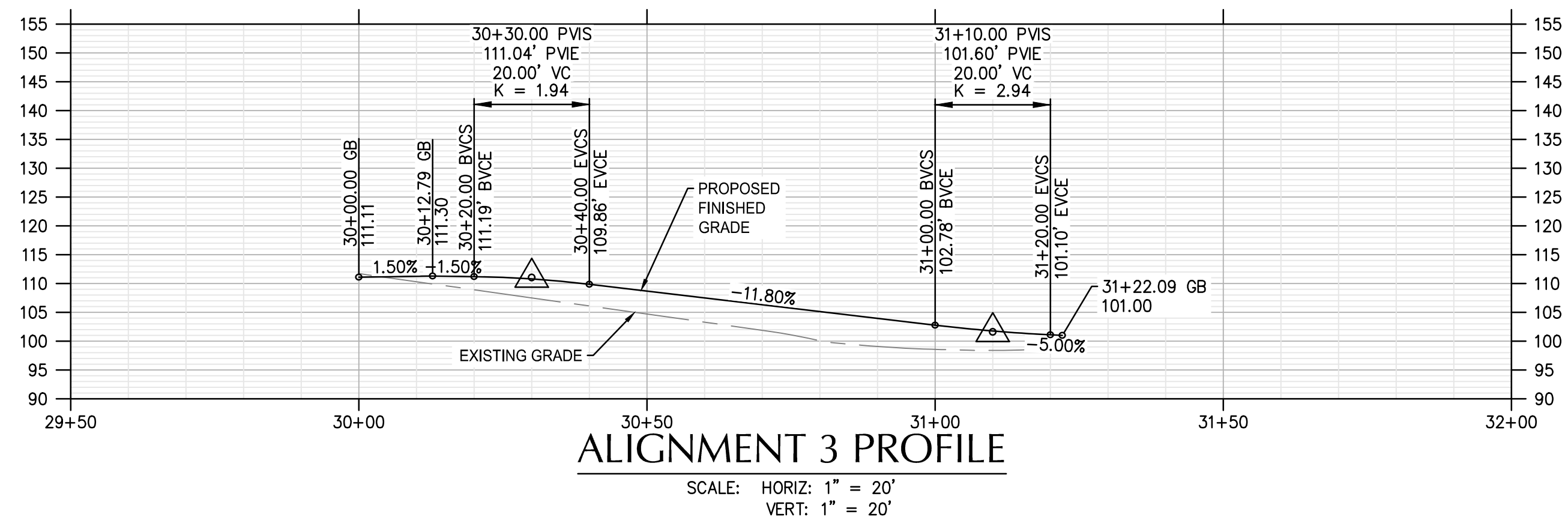
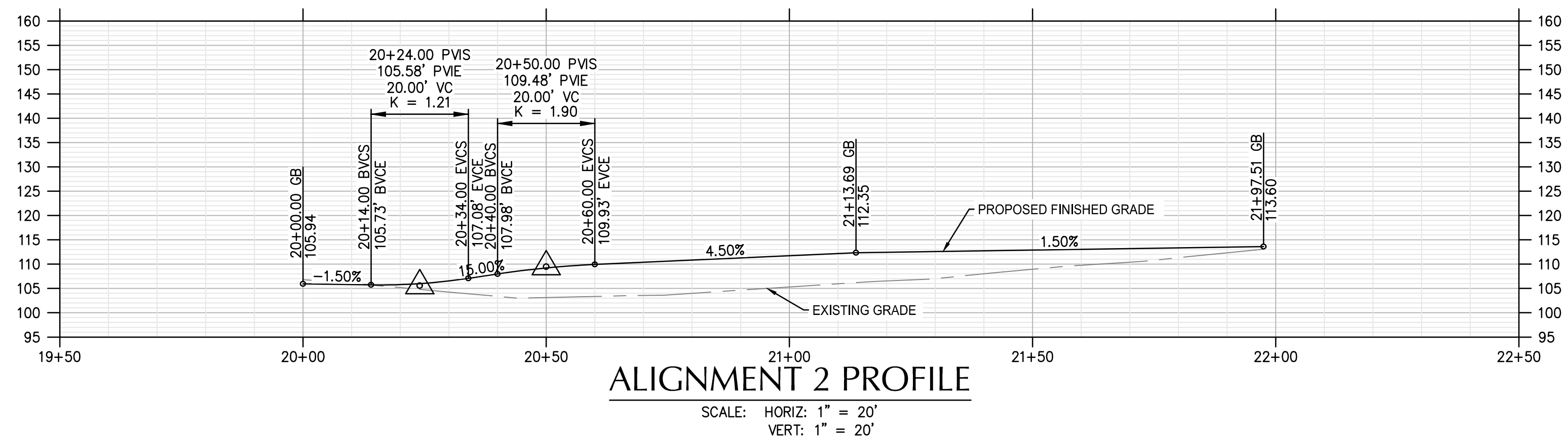
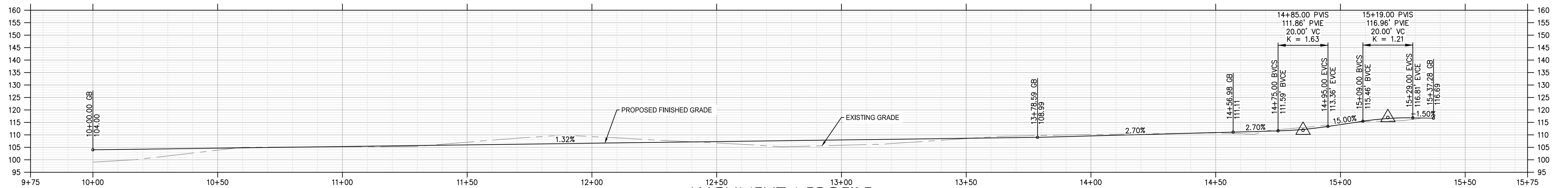
APPROXIMATE MASTER PLAN EARTHWORK (1:1)  
CUT: 5,620 CY    FILL: 12,900 CY    NET: - 7,280 CY

APPROXIMATE PHASE 1 EARTHWORK (1:1)  
CUT: 1,170 CY    FILL: 3,780 CY    NET: - 2,610 CY



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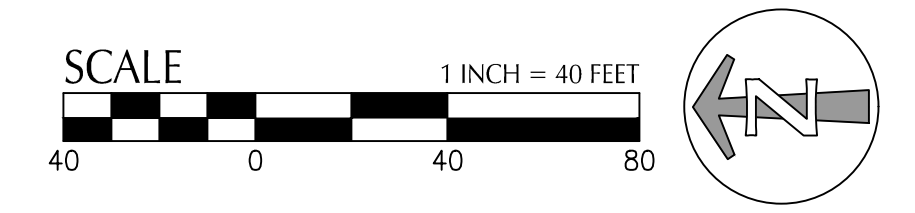
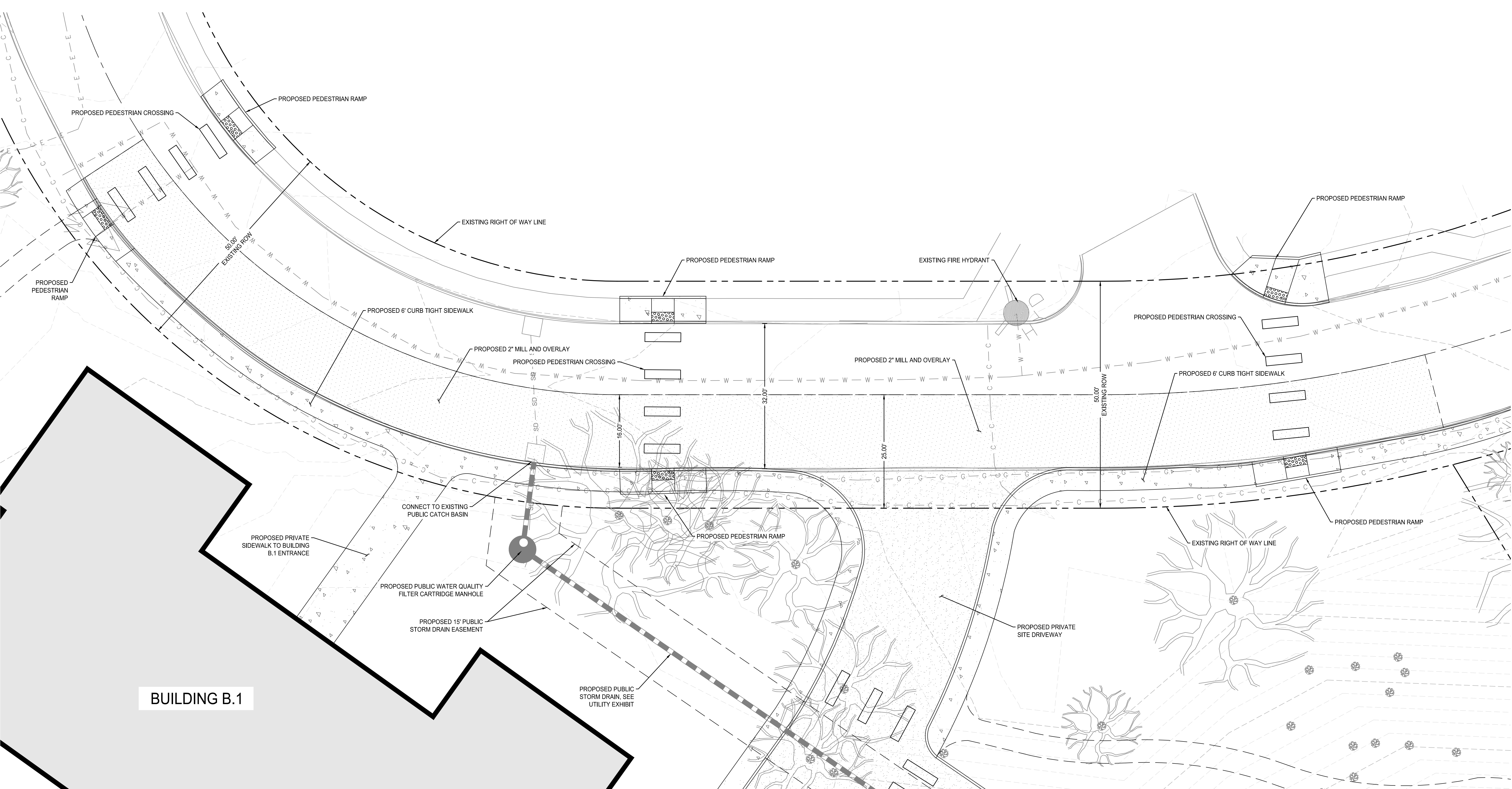




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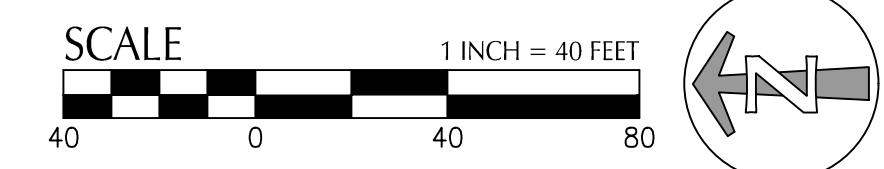
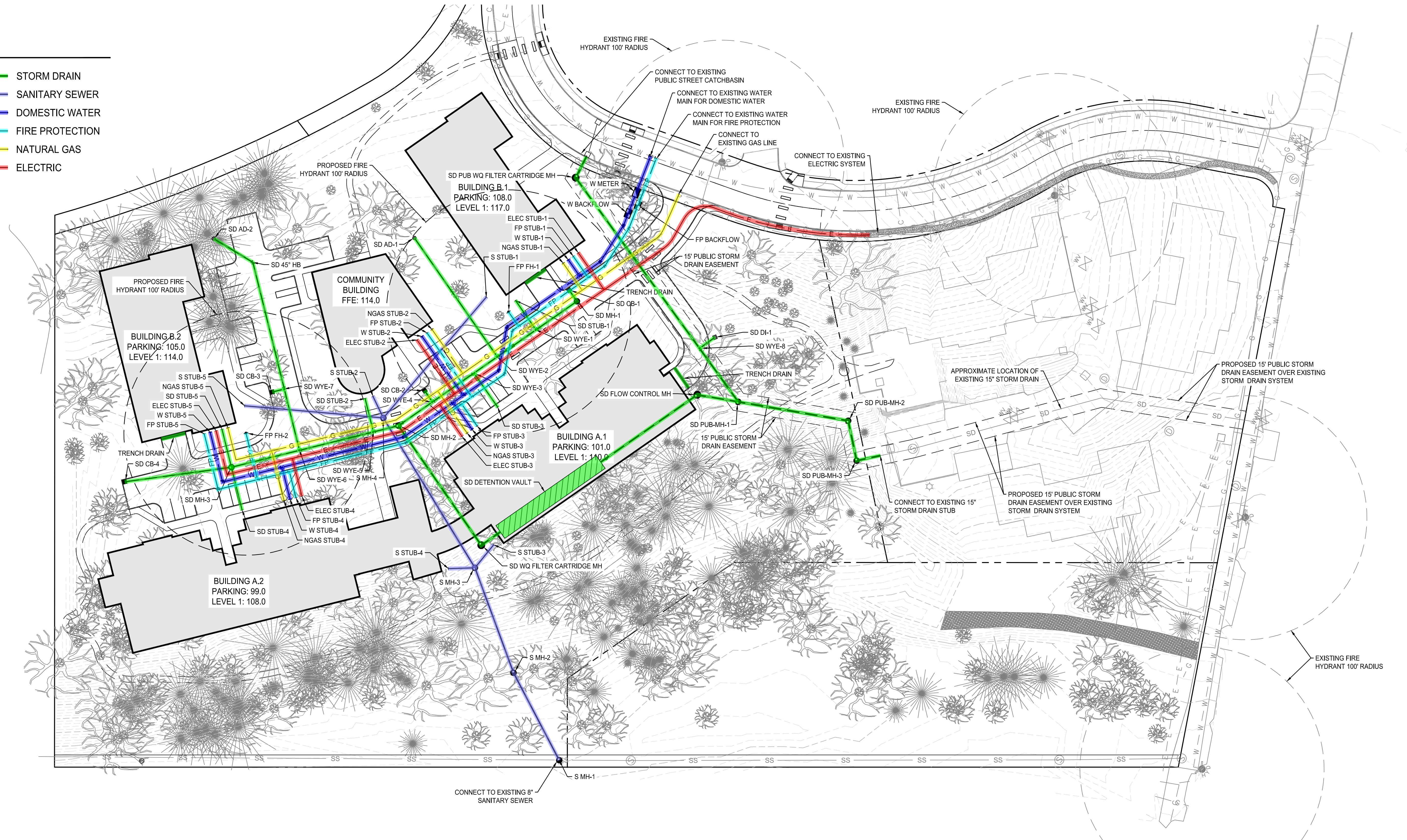


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# LEGEND

- STORM DRAIN
- SANITARY SEWER
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- FIRE PROTECTION
- NATURAL GAS
- ELECTRIC



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**Conditions of Approval**  
**Master File # PD-2020-001**

Waverly Woods, 10415 SE Waverly Ct

1. Applicant must construct the project in compliance with all Public Works Standards and the requirements identified in Other Requirements.

2. Building Permit Submittal

The applicant must submit a Type I Development Review application with final plans for construction of the project. The purpose of the Type I Development Review is to confirm that the final construction plans are substantially consistent with the land use approval. The final construction plans must address the following:

- a. Final plans submitted for construction permit review must be in substantial conformance with plans approved by this action, which are the plans stamped received by the City on August 4, 2020 and further revised in submittals received on November 10, 2020, except as otherwise modified by these conditions.
- b. Provide a narrative describing all actions taken to comply with these conditions of approval.
- c. Provide a narrative describing any changes made after the issuance of this land use decision that are not related to these conditions of approval.
- d. Final plans submitted for construction permit review must include details of the bike stall dimensions to confirm that the applicable standards are met.
- e. Final plans submitted for construction permit review must include a photometric plan showing compliance with lighting standards.
- f. Final plans submitted for construction permit review must include details of the perimeter fence that must be repaired and/or replaced and must be maintained in good condition.
- g. Final plans submitted for construction permit review must include a final landscaping plan that must include additional buffer plantings along the north-western boundary adjacent to the Waverly Heights neighborhood to mitigate visual impacts to neighboring properties.
- h. Final plans submitted for construction permit review must include all amenities associated with that building, including pathways, view overlook areas, community gardens, etc.

3. Prior to issuance of development permits, the following must be resolved:

- a. Prior to commencement of any earth-disturbing activities, the applicant must obtain an erosion control permit from the City.
- b. Prior to commencement of any earth-disturbing activities, tree protection measures must be in place and maintained throughout construction. Tree protection fencing is

required to be installed a minimum of 10 ft from the trunk of the existing trees on the site. Fencing must be maintained throughout the duration of construction and will be inspected. No disturbance is permitted within the fenced area. Tree protection measures must comply with those outlined in the arborist report submitted by Teragan & Associates, Inc. dated July 18, 2020. Verification from a certified arborist that all tree protection measures have been properly installed is required.

4. Prior to final occupancy of Building A-1, the following must be resolved, unless otherwise noted:
  - a. Verification from a certified arborist that the proposed tree removal, preservation, and new plantings as approved have been completed as required, to be submitted and updated prior to final occupancy of each building.
  - b. To ensure that the proposed open space will be permanent, deeds or dedication of easements of development rights to the City are required, including instruments and documents guaranteeing the maintenance of the open space. Failure to maintain open space or any other property in a manner specified in the development plan and program shall empower the City to enter said property in order to bring it up to specified standards. In order to recover such maintenance costs, the City may, at its option, assess the real property and improvements within the planned development. The identified protected forest open space area must maintain the City's minimum tree canopy goals.
  - c. Public Improvements as shown on the plans received by the City on August 4, 2020, except as otherwise modified by these conditions:
    - (1) Where intersection site distance cannot be met, mitigation measures subject to City Engineer approval must be proposed.
    - (2) Sufficient asphalt repair work on SE Waverly Ct fronting the development will be verified during construction (current plans show 2-inch grind and overlay).
    - (3) Stormwater improvements must be reviewed and deemed compliant with MMC 12.02 and MMC 13.14, including locating assets where inspection and maintenance activities can feasibly occur (current plans locate public manholes, including filter cartridge manhole, in locations not yet approved by the City).
  - d. Dedication/Easement Requirements as shown on the plans received by the City on August 4, 2020, except as otherwise modified by these conditions.
5. Expiration of Approval
  - a. As per MMC Subsection 19.311.16, if substantial construction or development on Phase 1, in compliance with the approved final development plan and program, has not occurred within 12 months of its effective date, the Planning Commission may initiate a review of the PD Zone and hold a public hearing to determine whether its continuation (in whole or in part) is in the public interest. Notification and hearing shall be in accordance with MMC Section 19.1007 Type IV Review. If found not to be,

the Planning Commission shall recommend to the City Council that the PD Zone be removed by appropriate amendment to the Zoning Ordinance and the property changed back to original zoning.

- b. As per MMC Subsection 19.311.17, the total time period of construction of all phases of this development shall not exceed 7 years, as measured from the date of approval of the final development plan until the date that building permit(s) for the last phase is (are) obtained. The required public infrastructure must be constructed in conjunction with or prior to each phase.



**ATTACHMENT 3**  
**Other Requirements**  
**Master File # PD-2020-001**  
Waverly Woods – 10415 SE Waverly Ct

The following items are not conditions of approval necessary to meet applicable land use review criteria. They relate to other development standards and permitting requirements contained in the Milwaukie Municipal Code (MMC) and Public Works Standards that are required at various points in the development and permitting process.

1. The level of use approved by this action shall be permitted only after issuance of a certificate of occupancy.
2. Limitations on Development Activity.  
  
Development activity on the site shall be limited to 7:00 a.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday and Sunday, as provided in MMC Subsection 8.08.070(I).
3. Landscaping Maintenance.  
  
As provided in MMC Subsection 19.606.2.E.3, required parking area landscaping shall be maintained in good and healthy condition.
4. Applicant must submit an access and water supply plan as required by the Clackamas Fire District #1 for full review and approval.
5. Final Development Plan and Program  
  
As per the requirements of MMC Subsection 19.311.12 through 19.311.15, no excavation, grading, construction, improvement, or building shall begin, and no permits therefor shall be issued, until the following items must be addressed regarding the final development plan and program:
  - a. Prior to the effective date of the ordinance adopting the final development plan and program and accompanying change to the zoning map, file with the City Recorder's office a final development plan and program that includes any modifications that were part of the final plan approved by City Council.
  - b. The City shall prepare a notice to acknowledge that the final development plan and program approved by City Council constitutes zoning for the subject property. The notice shall contain a legal description of the property and reference to the certified copy of the final development plan and program filed in the office of the City Recorder. The applicant shall record a copy of this acknowledgment notice in the County Recorder's office.
  - c. An application for approval of variations to the recorded final plan and program may be submitted in writing. Such variations may be approved by the City staff provided they do not alter dwelling unit densities, alter dwelling unit type ratios, change the

boundaries of the planned development, or change the location and area of public open spaces and recreational areas.

6. Prior to, or concurrent with, building permit submittal, the following must be resolved:
  - a. Submit full-engineered plans for construction of all required public improvements, which must be reviewed and approved by the City of Milwaukie Engineering Department.
  - b. Obtain a right-of-way permit for construction of all required public improvements listed in these recommended conditions of approval.
  - c. Pay an inspection fee equal to 5.5% of the cost of the public improvements; at time of plan submittal, a plan review fee of 1.5% is required, the balance of the 5.5% is required at time of issuance of the right-of-way permit.
  - d. Provide a payment and performance bond in the amount of 130 percent of the approved engineer's estimate or contractor's bid cost of the required public improvements.
7. Prior to final inspection, the following must be resolved:
  - a. Provide a final approved set of electronic PDF red-lined "As Constructed" drawings to the City of Milwaukie.
  - b. Install all underground utilities, including stubs for utility service, prior to surfacing any streets.
  - c. Clear vision areas shall be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection.
8. Prior to final acceptance, the following must be resolved:
  - a. Provide a final approved set of digitally signed, electronic PDF "As Constructed" drawings to the City of Milwaukie.
  - b. Provide a 2-year maintenance bond in the amount of 10 percent of the approved engineer's estimate or contractor's bid cost of the required public improvements.
9. Other Engineering Requirements.

Submit a final stormwater management plan to the City of Milwaukie Engineering Department for review and approval. The plan shall be prepared in accordance with Section 2 - Stormwater Design Standards of the City of Milwaukie Public Works Standards. In the event the stormwater management system contains underground injection control devices, submit proof of acceptance of the storm system design from the Department of Environmental Quality.

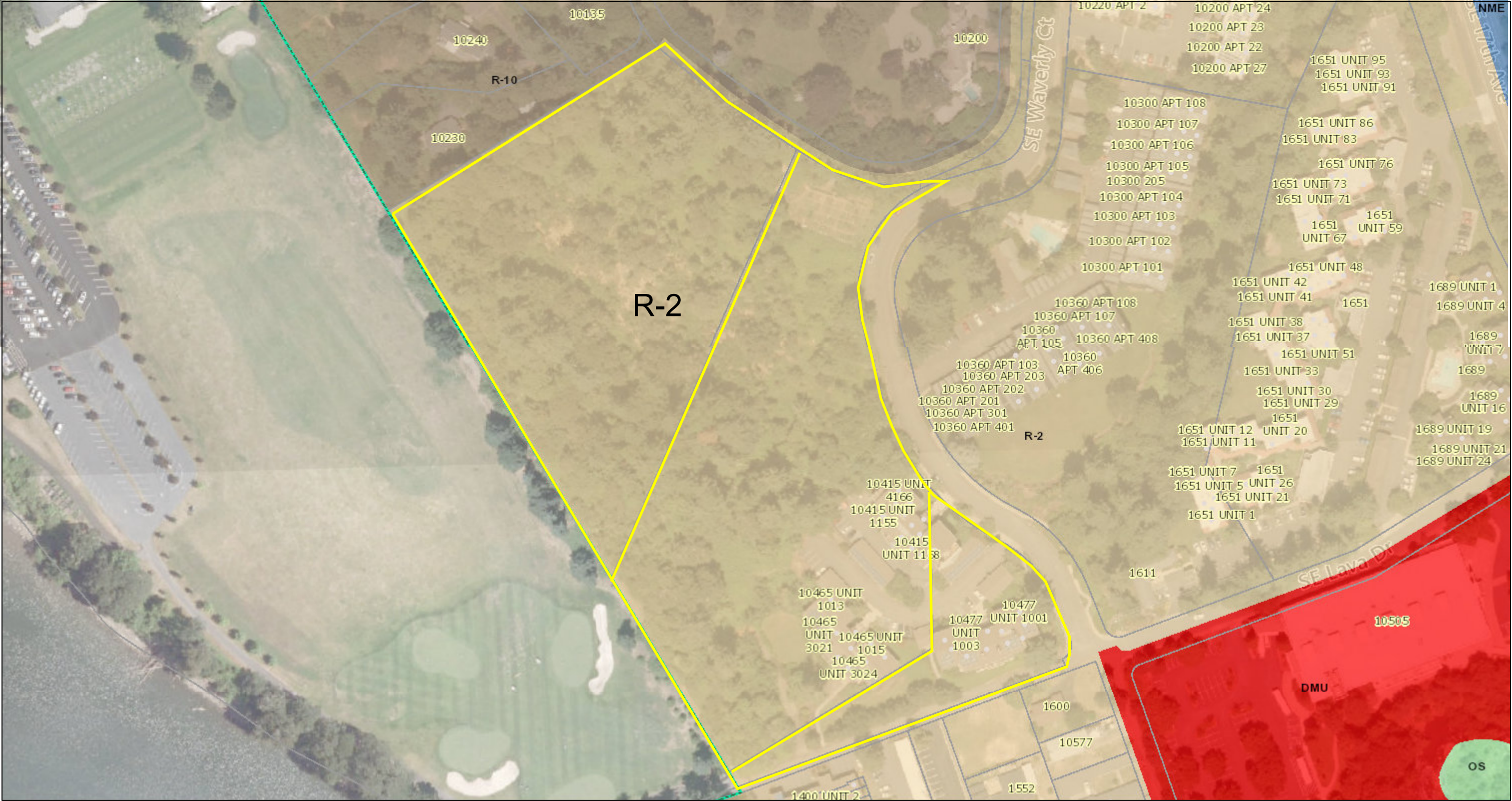
The stormwater management plan shall demonstrate that the post-development runoff does not exceed pre-development runoff, inclusive of any existing stormwater management facilities serving the development site.

The stormwater management plan shall demonstrate compliance with water quality standards in accordance with the City of Portland Stormwater Management Manual.

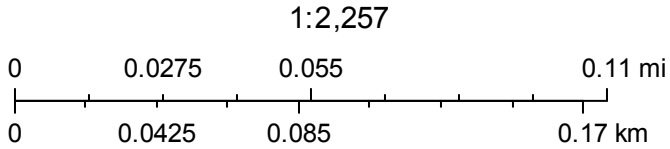
Development/building permits will not be issued for construction until the stormwater management plan has been approved and deemed compliant with MMC 12.02 and MMC 13.14 by the City of Milwaukie.



# Existing Zoning



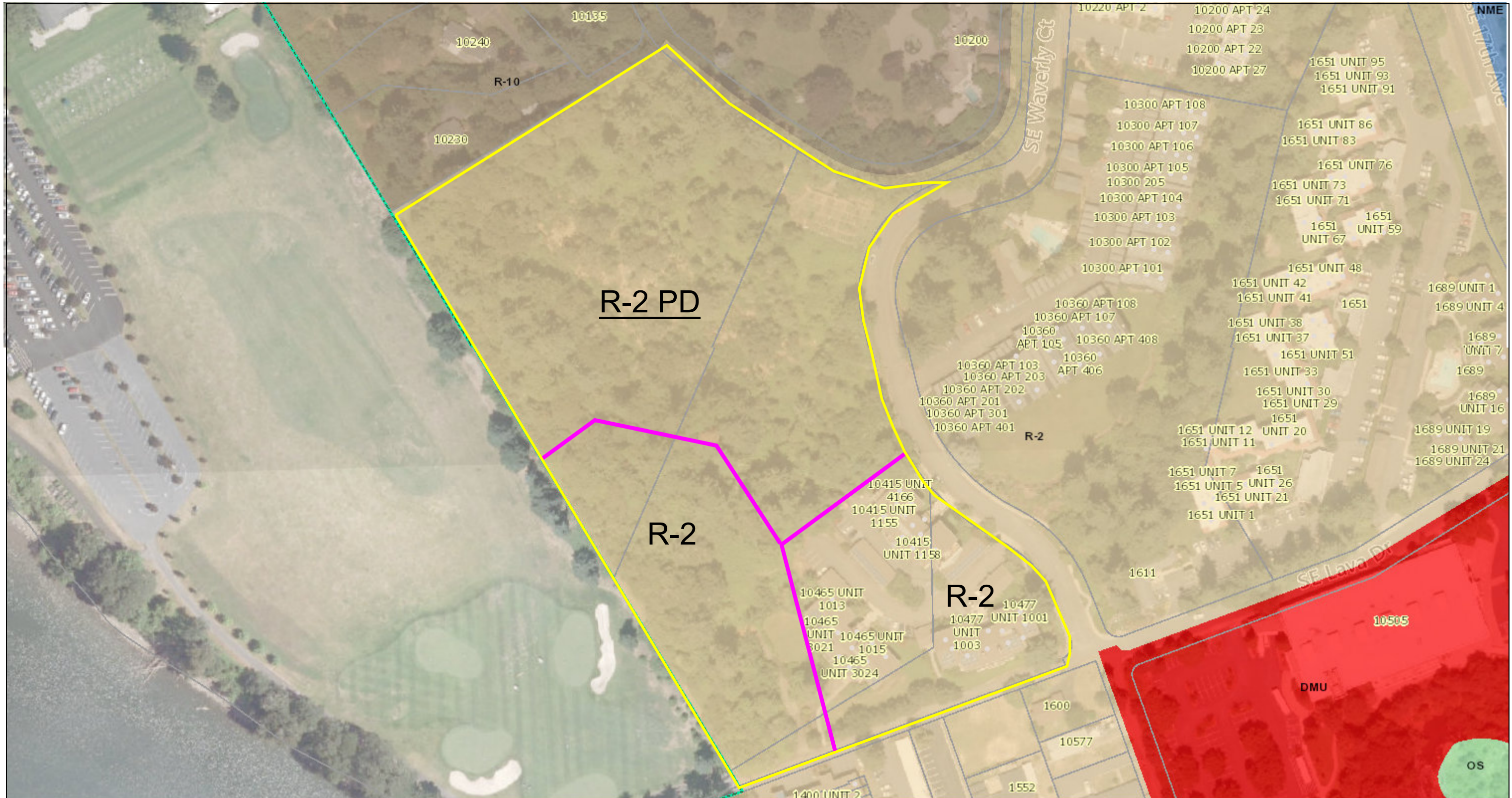
Site Map



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community  
City of Milwaukie Oregon  
City of Milwaukie GIS  
Data Resource Center/Metro



## Proposed Zoning



# Site Map



1:2,257

Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS  
user community  
City of Milwaukie Oregon  
City of Milwaukie GIS  
Data Resource Center/Metro

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**Milwaukie City Council  
Final Decision and Order**

**Master File #PD-2020-001  
Waverly Woods Planned Development**

**1. Overview**

Scott Wyse, on behalf of Walker Ventures LLC (Applicant) filed its Planned Development application package on August 4, 2020 and it was deemed complete on September 14, 2020. The submittal (master land use file #PD-2020-001) included applications for Planned Development, Zoning Map Amendment, Property Line Adjustment, Willamette Greenway Review, and Transportation Facilities Review.

The following provisions of the Milwaukie Municipal Code (MMC) apply:

- MMC Section 19.1007 Type IV Review
- MMC Section 19.311 Planned Development Zone (PD)
- MMC Section 19.302 Medium and High Density Residential Zones (including R-2)
- MMC Section 19.902 Amendments to Maps and Ordinances
- MMC Title 17 Land Division
- MMC Section 19.401 Willamette Greenway
- MMC Chapter 19.500 Supplementary Development Regulations
- MMC Chapter 19.600 Off-Street Parking and Loading
- MMC Chapter 19.700 Public Facility Improvements
- MMC Section 19.905 Conditional Uses

Public hearings were conducted pursuant to the provisions of MMC Section 19.1007 Type IV Review. The Milwaukie Planning Commission (Commission) opened a public hearing on October 27, 2020; where it was continued to December 8; and continued again to January 12, 2021, when the Commission approved a recommendation for approval by the City Council.

The Milwaukie City Council (Council) opened a public hearing on March 2, 2021. The hearing commenced with a staff report presented by Vera Kolias, Senior Planner. The Council heard a presentation by the applicant team and took public testimony.

After deliberations, a motion was made by Councilor Angel Falconer and seconded by Council President Kathy Hyzy to approve the applications and adopt the Findings and Conditions prepared by City staff. The motion passed with 5 votes in favor and 0 votes opposed.

**2. The Record**

The record was finalized at the March 2, 2021, Council hearing. The record includes the entire file from master file #PD-2020-001.



### 3. Findings and Conditions

The City Council hereby adopts as its findings of fact in support of its decision approving the final development plan and program amendments for master land use file #PD-2020-001 the Recommended Findings of Fact attached as Exhibit A, the Council Staff Report, dated February 7, 2021, and the applicant's Final Written Argument, dated December 15, 2020. To the extent there are any conflicts between the applicant's Final Written Argument and the Recommended Findings of Fact and/or the Council Staff Report, the Recommended Findings of Fact and/or the Council Staff Report shall be controlling.

The Council also adopts conditions of approval, and other requirements included with the February 16, 2021 staff report for master file #PD-2020-001.

### 4. Order

The Council adopted Ordinance 2200 to approve the Final Development Plan and Program for the Planned Development and accompanying Zoning Map Amendment.

The Council concludes that the Property Line Adjustment, Willamette Greenway Review, and Transportation Facilities Review components of master file #PD-2020-001 are approved based on the Record and Findings and Conditions noted above.



Mark Gamba, Mayor

Milwaukie City Council

March 2, 2021

Date

Appeals of Type IV decisions are handled by the Oregon Land Use Board of Appeals (LUBA) at: 550 Capitol Street NE, Suite 235, Salem, Oregon 97301-2552, 503-373-1265, <http://luba.state.or.us>. They can provide information regarding the timeline for filing an appeal and the proper forms and procedures.

Only persons who submitted comments or made an appearance of record at a public hearing on this application have standing to appeal the decision by filing a written appeal.

This decision is effective upon the signing of this Final Order.