22500 Salamo Road
West Linn, Oregon 97068
http://westlinnoregon.gov

WEST LINN
CITY COUNCIL MEETING
NOTES
May 16, 2022

Call to Order [6:00 pm/5 min]

Council Present:
Council President Rory Bialostosky, Councilor Mary Baumgardner, and Councilor Todd Jones.

Council Absent:
Mayor Jules Walters and Councilor Bill Relyea.

Staff Present:
City Manager Jerry Gabrielatos, City Recorder Kathy Mollusky, Public Works Director Lance Calvert, Deputy City Manager John Williams, and City Attorney Maureen Bayer.

Approval of Agenda [6:05 pm/5 min]
Councilor Mary Baumgardner moved to approve the May 16, 2022, West Linn City Council Meeting Agenda, removing Agenda Item 8, Committee for Community Involvement Joint Meeting, until a time all Council members were present. Councilor Todd Jones seconded the motion.

Ayes: Council President Rory Bialostosky, Councilor Mary Baumgardner, and Councilor Todd Jones.

Nays: None.
The motion carried 3 - 0

Public Comments [6:10 pm/10 min]
Public Comment - Madeline Brown
There were none.

Jewish American Heritage Month Proclamation [6:20 pm/5 min]
Proclamation
Councilor Baumgardner read the Proclamation declaring May 2022 as Jewish American Heritage Month.

Scheduled Presentations to the Council [6:25 pm/60 min]
Tax Increment Finance District Feasibility Study Results
TIF Information
Presentation
Public Comment - Rebecca Hollenbeck
Public Comment - Shatrine Krake
Deputy City Manager Williams noted the City was exploring tax increment financing (TIF) and other funding sources for the Waterfront Project, and Staff would present Council with initial project visioning and guiding principles later in the year. The request for quotation (RFQ) authorized by Council had received great response and the assembled consultant team was in attendance. The team had conducted an in-depth feasibility study and would be explaining the study's results.

Elaine Howard, Elaine Howard Consulting, noted she regularly partnered with Nick Popenuk on urban renewal projects and both had worked on over 100 projects throughout the State of Oregon. She presented a memorandum summarizing the Scope of Work in Phase 1 (Page 3), giving an overview of the feasibility study and reviewing a map of the proposed TIF District boundary. The meeting packet contained a list of potential projects from existing Master Plans and staff input that could be undertaken to improve the Study Area, Pages 9 to 13. Ms. Howard noted that not all of these projects could qualify for TIF.

Nick Popenuk, Tiberius Solutions, presented the results of the financial analysis for the study area (Page 14), discussing the criteria used to forecast growth in property values for the potential TIF District, the projected yearly tax increment revenues over a 20- to 30-year timeframe at 5% growth rate based on documented growth rates in the county (Exhibit 3), and the financial capacity of the proposed TIF District.

The consultant team responded to Councilor questions as follows:

- In the Financial Capacity summary (Exhibit 4), the total potential expenditure was for the entire five-year period.
- TIF was property tax revenue generated from existing tax rates and did not result in increased taxes for residents. Tax revenue growth resulting from appreciation of existing properties and boosted property values from new construction would go to the Urban Renewal Area, instead of the county or city, and TIF was most successful when overlapping taxing districts forego tax revenue in favor of investing in renewal areas to add new assessed value.
- A county assessor would establish a new tax code area specific to the Urban Renewal Area boundary and create a new tax rate to be applied to all city-wide properties. Tax bills for all taxing districts would be slightly reduced and the new tax rate added, with the collected tax revenue transmitted to the urban renewal agency for the new area's dedicated account.
- TIF was a unilateral City-led process and approval was not required from the overlapping taxing districts.
- How long overlapping taxing districts were willing to forego their base increase while hoping for future payoff could be a factor in determining the length of TIF commitment. The overlapping taxing districts advocated for a limit on the duration, although there was no requirement to do so. It was helpful to understand how many years it would take for the City to achieve a certain level of maximum indebtedness, but the figure would be the statutorily required limit.
- Many overlapping taxing districts had experience with urban renewal and TIF financing, and interaction with those districts was important in creating the TIF District. Cooperation would start after the meeting should Council give its approval to move forward.
- The Study Area was largely vacant, but there existed a historic downtown. In deciding how to spend infrastructure funds, it was prudent for the City not to implement plans that would displace current downtown businesses. The gentrification issue had been raised in the request for proposal (RFP) as it was an important issue to the City, and the consultant team, which included ECONorthwest, would have a plan outlined with a process for the City to follow when involving and dealing with equity issues while it adopted expenditure plans.
- A lot of gentrification problems experienced by urban renewal areas in the past had been fueled by eminent domain and condemnation, where the City would forcibly take land away from private homeowners or businesses to put a new business in their place, but that was no longer a concern as legal cases over the last decade had removed that power.
- Regarding planning and protections for the large, unoccupied natural area, Ms. Howard replied City Council and the community would be vetting projects to make sure they addressed the City's objectives.

Mr. Popenuk continued with the presentation and made the following key points:

- Taxing districts with low tax rates, like Vector Control, would experience less foregone revenue compared to taxing districts like Clackamas County and Tualatin Valley Fire & Rescue (TVF&R). Often, the City, County, and TVF&R were the ones most impacted and that the City needed to work closely with when putting together a potential plan.
- Any local changes to the amount of property tax revenue generated for school districts did not result in a direct impact to the level of funding in the school district due to the state's equalization formula. TIF reduced the amount of local property tax revenue, but that did not have any direct reduction in school funding.
- Newly created TIF Districts only affected permanent rate levies, and local option levies and general obligation bonds that did not get backfilled by the State School Fund would be unaffected. New construction and increased property values would directly lead to positive benefits for any local option levy that the School District had.
- If there was any housing created and new students went to the School Districts, the Districts would receive more money because they had a higher per-pupil property ratio.

Ms. Howard continued with the presentation and noted part of the process of developing an urban renewal plan was creating an urban renewal agency. According to the statute, a review by an agency was the first step in reviewing an urban renewal plan, and the consultant team had drafted a potential ordinance for establishing an urban renewal agency for review by City Council during June's meeting, and legal counsel had reviewed it. She presented the recommended next steps, with the immediate next step being City Council deciding on whether to proceed with the preparation of an Urban Renewal Plan and report and associated documents. A decision to proceed would be followed by creating an Urban Renewal Agency, establishing an Advisory Committee, writing an Urban Renewal Plan and report, and review of the Advisory Committee, which would comprise key taxing districts. The adoption process of the Urban Renewal Plan would involve:

- Presenting it to the Urban Renewal Agency and to the Planning Commission for review of conformance to the Comprehensive Plan
- A required 45-day period with the taxing jurisdictions called Consult and Confer. The jurisdictions would be sent a copy of the Planning Report and any recommendations they provided had to be included in the City's consideration of the ordinance.
- A City Council hearing, with notices sent to all citizens, voters, property addresses, and utility customers. It would be a non-emergency ordinance that would have two readings, and the Plan would become effective 30 days after adoption.

Deputy City Manager Williams noted study guidelines like the district boundary, list of projects, and timeline could be modified during the evaluation process, when the community would provide input into creation of the Plan.

Council President Bialostosky mentioned City Council had received some emails from the business community. Rebecca Hollenbeck, Executive Director, Historic Willamette Main Street,

and Shatrine Krake, Executive Director, West Linn Chamber of Commerce, had extended their support for the TIF District.

The consultant team responded to Councilor questions as follows:

- There were two ways of structuring the TIF, a pay-as-you-go option where the developer would be reimbursed as the incremental taxes were generated or the City issuing bonds.
- Most urban renewal agencies had the backing of the cities because they got a better interest rate. The pay-as-you-go option had two approaches: a developer could be repaid for improvements made, or the City using the annual tax increment revenues annually as they came in. For the second approach, the City would not issue debt, but it would take a long time to fund a big project.
- Questions on different financing approaches were best answered at the time the City was funding a specific project, and it was not necessary to know the method of financing for the next 20 or 30 years when adopting an Urban Renewal Plan. The pay-as-you-go approach meant not using any method of financing, as opposed to anything having to do with interacting with private developers.
- A private developer providing the financing was a valid approach, but it would need a developer who thought they could make a high enough return on their investment. The approach was ideal for blighted areas without a lot of development happening on their own, and the City would be looking for ways to reduce their upfront costs.
- The potential projects on Page 7 that were based on the City's various infrastructure plans were suggestions that the City could implement.

Councilor Jones noted some suggested projects already had money set aside to implement them through other mechanisms. If the City established a TIF District, TIF could be used to do some of the projects, freeing up money set aside for other purposes. It might not take the City decades to pay the projected $34 million for the just-passed Willamette Falls Master Plan.

Deputy City Manager Williams agreed. He added that options for infrastructure finance were infrequent in the City of West Linn and there were very few sources of revenue. Having some additional options to finance projects would be incredibly helpful. TIF District funding would give abilities for high-visibility projects like Willamette Falls Drive, the Arch Bridge area, and some of the proposed work along the river.

Ms. Howard added that TIF could be used as leverage for applying for grants. During grant reviews, a better financial commitment from the City may get the grant reviewed faster and it was great to be able to leverage City resources with an additional funding source on infrastructure projects.

The consultant team and staff responded to Councilor questions as follows:

- Common or natural areas could be set aside within a TIF area. Oftentimes, there were natural areas, park areas, and other amenities created in urban renewal areas. For example, a successful Urban Renewal Area in Downtown Lake Oswego had created parks and other community access spaces. She added that urban renewal itself did not change zoning or Comprehensive Plan designations.
- Regarding the north side of West Linn being left out, the TIF District project had started in tandem with the Waterfront planning process and seen as providing infrastructure for the Waterfront project. More areas could be added to the TIF District if Council and the community wanted to do so, but only so much of a community could be done because of the geographic and finance limitations mentioned in the Memo.
- There is a statutory limitation for a city that was West Linn's size. The City could not have more than 25% of its assessed value or 25% of its acreage in an Urban Renewal Area. The Study Area was 5.51% of the City's acreage and 3.9% of the City's assessed value, so the City had the capacity to do more. Another key thing in understanding the acreage and assessed value ratio was the assessed value percentage being lower than the acreage percentage, meaning it was less developed than the rest of the City and an indicator of blight.
- Staff would soon start looking at the Hwy 43 Corridor area, and Council had allocated funds to look at the zoning and transportation connections. There was nothing to prevent the inclusion of blighted areas along Hwy 43 into the TIF District other than the political and financial considerations discussed.
- There are statutory and legal requirements, one is that an Urban Renewal Area be contiguous. For example, a “cherry-stem” on Hwy 43's right of way could be used to tie it into the TIF District. They have worked in a number of cities that had put together one urban renewal area with different competing interests and other cities that had formed two separate urban renewal areas because of different goals, political concerns, and to keep funds separate, and the City's choice would be based on the community and political input.
- Potential projects could happen in the Waterfront area, the Willamette Main Street District, a parking lot in the Downtown Area, and the underdeveloped area across from the old Albertsons Plaza. He noted there was an active property owner interested in developing the parking lot area around City Hall, who had shown Staff sketches of potential projects. These potential projects would need infrastructure, and funding sources for infrastructure would allow the City to partner with private developers to produce the development that the community wanted.
- The Urban Renewal Agency would be its own distinct legal entity and would have its own separate set of funds, and so there was no expected negative impact to the City's finances. It would be different if the Urban Renewal Agency did a formal borrowing and the City voluntarily chose to provide its full-faith-and-credit pledge behind it. The TIF boundary was limited in scope at 3% of the city's acreage and would not incur large sums of urban renewal debt in one borrowing. He also noted he had extensively done this type of work for cities across Oregon and had not encountered a jurisdiction that was unable to pay its debt service with its TIF.

- Previous urban renewal bonds had been issued based on the promise of future development and the city paying the debt service off of the increased increment. But bonds were now issued off of the existing revenue stream and, given Oregon's property tax assessment standards, TIF would go up 3% every year, with assessed value and real market value taken into account during a recession.
- The Urban Renewal Agency was made up of the Mayor and the four City Councilors, which ensured coordination and communication.

Council President Bialostosky, Councilor Jones, and Councilor Baumgardner gave their approval for Staff to present a TIF ordinance in June.

Erosion Control Presentation, DEQ Pre-Enforcement Notice and City Response

Erosion Control Information

Presentation

Public Works Director Calvert noted the presentation would give an update, answer questions, and give a little background information on erosion control in West Linn and Oregon and a follow-up on the Athey Creek School development project site on Dollar St.

Krista Reininga, Senior Water Resources Engineer, Brown and Caldwell, presented on Requirements Related to Construction Sites, highlighting the key features of the Oregon Department of Environmental Quality's (DEQ) stormwater requirements for the City, City requirements for construction sites, DEQ requirements for construction sites, and requirements for addressing illicit discharges. She noted that West Linn's Stormwater Management Plan laid out specific commitments on how the City would meet the DEQ's permit requirements, and the Plan had three main management practices (Page 7).

Maureen Bayer, Jordan Ramis, noted the City had received a Pre-Enforcement Notice on March 21st in relation to a stormwater event that occurred on the last day of February, where an inordinate amount of stormwater was hitting the construction site at the middle school. The notice was a warning that DEQ may decide to take some enforcement action based on the violations it had identified but there was no pending enforcement action against the City. She noted a review and analysis of the notice had revealed there was confusion with the different permits and some factual inaccuracies. Staff had responded to the notice in order to correct some of the factual and technical inaccuracies that had been noted. The goal of this response was to ensure the City was not held liable by DEQ for violations that had not occurred.

Staff answered questions from Council as follows:

- Staff's response letter had asked for DEQ to withdraw nearly all of the identified violations.
- The City had performed a greater level of protection of the environment by going out to the site and directing construction workers to correct erosion control failures that had occurred, instead of providing the required formal inspection notice.

- City staff turnover had led to some information gaps, but that had since been corrected by hiring new staff and training them. DEQ would look at the actual effect when assessing whether to move to the enforcement stage, as well as any corrective measures taken.
- City staff issued permits for all City development sites, including sites over five acres, and staff worked hard to ensure all sites met City standards and best management practices. The current case had an overlap of jurisdictional authority between the City and the State, who had their own process for sites over five acres.
- The erosion-control measures currently in place met all of the City's best management practices and standards and followed the Erosion Control Manual and process currently in place. The effects of intense April rain events on the middle school site had shown where the city's best management practices could get overwhelmed on large sites. The City had worked with the School District's contractor to beef up erosion-control measures by adding a substantial amount of installations with erosion-control fencing, Baker tanks, pumps, and diversion flows to mitigate sediment loss to river systems.

- Not everyone on a construction site was best educated. There were requirements for each development to submit certified erosion control and people associated with it, and the site had those people in place, as well as City staff. The response in the middle of an event and the follow-up after was important, and staff was working with the School District to get the right people on site who would follow through and ensure appropriate measures were taken.
- The 1200-C Permit that the developer had to get from DEQ had visual monitoring and reporting requirements and a section that stipulated training and certification for individuals by a certified erosion and sediment control or stormwater quality inspector.
- Construction companies are supposed to do visual monitoring. The City and DEQ had responsibility to enforce their permits and a frequency of inspection was required: an initial inspection, a final inspection before closing, and a random inspection in between. The City had sent somebody out to inspect because it was raining heavily on that day. There was a three-step enforcement process if a problem was detected. The first step was to work with the City to try and get the problem corrected, and then, if there was negligence, ramping up in terms of enforcement penalties.
- Staff was not personally aware of any self-reporting from the developer of any issues prior to the event or since then. Staff had increased their inspection frequency and random inspection rates, as well as requiring additional measures be taken, but Staff was not a part of what the developer reported directly to DEQ.
- The City had permit requirements to meet for construction sites, and if the City did the inspection and enforcement activities, they would be complying with their permit. Developers had visual monitoring reporting requirements, but they did not have to submit those because they had to be kept on site in case somebody asked for them.
- The violations mentioned in the DEQ's letter were not for the discharge of water as much as they were for management of the program. The City's responsibility was to manage the stormwater program, while the developer's responsibility was to keep the stormwater from leaving the site.

- The City is waiting for DEQ's response after presenting the recommended corrective actions on Page 8 of the Memo.

Public Works Director Calvert asked everyone to reach out to Staff if they saw something they thought was a violation or an issue, whether from the middle school site or any site in the city. All contact information was on the City's website, and it was Staff's goal to be responsive and to do enforcement in accordance with the City's permit requirements and all city and state requirements.

Council President Bialostosky added that one could also call the non-emergency dispatch for violations.

Business Meeting [7:25 pm/5 min]

Agenda Bill 2022-05-16-01: Second Reading - ORDINANCE 1735, RELATING TO THE AMENDMENT OF WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTER 2: DEFINITIONS, CHAPTER 25: OVERLAY ZONES – HISTORIC DISTRICT, CHAPTER 58: WILLAMETTE FALLS DRIVE COMMERCIAL DESIGN DISTRICT, AND CHAPTER 99: DECISION MAKING PROCEDURES QUASI-JUDICAL

ORD 1735 Information

Council President Bialostosky noted the previous week a minor modification had been made to change the definition of Demolition by Neglect to incorporate Staff's recommendation, resulting in a second reading.

City Manager Gabrielatos noted he had checked with Legal Counsel prior to the meeting and three Councilors were enough to pass the ordinance.

Council President Bialostosky added that the first reading had passed unanimously the previous Monday, on the 9th.

Councilor Jones commented the delineation in the definition helped.

Councilor Baumgardner mentioned that after reflecting on the previous week's discussion, she hoped for future Council discussion on the designation of historic districts and the potential emphasis on the history of people who had come to the city.

Councilor Todd Jones moved to approve the second reading for Ordinance 1735, relating to the amendment of West Linn Community Development Code Chapter 2: Definitions, Chapter 25: Overlay Zones – Historic District, Chapter 58: Willamette Falls Drive Commercial Design District, and Chapter 99: Decision Making Procedures Quasi-Judicial and approve the ordinance. Councilor Mary Baumgardner seconded the motion.

Ayes: Council President Rory Bialostosky, Councilor Mary Baumgardner, and Councilor Todd Jones.

Nays: None.

The motion carried 3 - 0

~~**7. Adjourn to Work Session [7:30 pm min]**~~

~~**8. Committee for Community Involvement Joint Meeting [7:30 pm/60 min]**~~

CCI Information

This item was removed from the agenda under Approval of Agenda.

Adjourn [8:30 pm]

Notes approved 9-12-22.

22500 Salamo Road
West Linn, Oregon 97068
http://westlinnoregon.gov

CITY COUNCIL AGENDA

Monday, May 16, 2022

5:00 p.m. – Executive Session – Bolton Room & Webex*

Per ORS 192.660(2)(d) To conduct deliberations with persons designated by the governing body to carry on labor negotiations.

6:00 p.m. – Special Meeting & Work Session – Council Chambers & Webex*

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1. Call to Order [6:00 pm/5 min]
2. Approval of Agenda [6:05 pm/5 min]
3. Public Comments [6:10 pm/10 min]
4. Jewish American Heritage Month Proclamation [6:20 pm/5 min]
5. Scheduled Presentations to the Council [6:25 pm/60 min]
    a. Tax Increment Finance District Feasibility Study Results
    b. Erosion Control Presentation, DEQ Pre-Enforcement Notice and City Response
6. Business Meeting [7:25 pm/5 min]
    a. Agenda Bill 2022-05-16-01: *Second Reading* - ORDINANCE 1735, RELATING TO THE AMENDMENT OF WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTER 2: DEFINITIONS, CHAPTER 25: OVERLAY ZONES – HISTORIC DISTRICT, CHAPTER 58: WILLAMETTE FALLS DRIVE COMMERCIAL DESIGN DISTRICT, AND CHAPTER 99: DECISION MAKING PROCEDURES QUASI-JUDICAL
7. Adjourn to Work Session [7:30 pm min]
8. Committee for Community Involvement Joint Meeting [7:30 pm/60 min]
9. Adjourn [8:30 pm]

**City Council and Planning Commission meetings will be conducted in a hybrid format with some Councilors, staff, presenters, and members of the public attending remotely via Webex and others attending in person. The public can watch all meetings online via https://westlinnoregon.gov/meetings or on Cable Channel 30.*

Submit written comments by email to City Council at citycouncil@westlinnoregon.gov or to Planning Commission at askthepc@westlinnoregon.gov. We ask that written comments be provided before noon on the day of the meeting to allow City Council and Planning Commission members time to review your comments.

To speak during the meeting, please complete the form located at: https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup by 4:00 pm the day of the meeting to be input into our system. Instructions on how to access the virtual meeting will then be provided to you by email prior to the meeting. If you miss the deadline and would like to speak at the meeting, please fill out the form and staff will send you a link as time allows.

If you require special assistance under the Americans with Disabilities Act, please call City Hall 48 hours before the meeting date, 503-657-0331.

When needed, the Council will meet in Executive Session pursuant to ORS 192.660(2).

PROCLAMATION

West Linn, Oregon

WHEREAS, in 1654 a small ship carrying 23 Jewish refugees sailed to the port of present-day New York City; and

WHEREAS, fleeing oppression and discrimination, these courageous women and men faced resistance from the colony's leaders; and

WHEREAS, they secured the right to remain and became the first Jewish communal presence to settle on American soil; and

WHEREAS, they expanded the frontier of religious freedoms that would help define the bedrock principles upon which this Nation was built; and

WHEREAS, we honor these 23 refugees and the centuries of successive generations of Jewish Americans who, shaped by encounters with prejudice, persecution, and the promise of a better tomorrow, have emboldened our Nation to stand up for justice, equality, and freedom; and

WHEREAS, Jewish Americans who, through their words and actions, embraced the opportunity and responsibility of citizenship knowing that democracy is not born, or sustained, by accident; and

WHEREAS, inspired by Jewish American communal leadership, our Nation's first President pledged that our Government will "give to bigotry no sanction, to persecution no assistance"; and

WHEREAS, inspired by Jewish American poetry, our shores have welcomed millions with the words "Give me your tired, your poor, your huddled masses yearning to be free;" and

WHEREAS, throughout our country's history, Jewish Americans have proudly served our Nation in uniform, in elected office, and on our Nation's highest courts; and

WHEREAS, they have made enormous contributions to America's cultural, scientific, artistic, and intellectual life, and they have marched, petitioned, and boarded buses to demand civil and political rights for all – from women's rights to voting rights, to workers' rights.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF WEST LINN, that May 2022 is

JEWISH AMERICAN HERITAGE MONTH

And we encourage all community members to visit JewishHeritageMonth.gov to learn more about the heritage and contributions of Jewish Americans.

DATED THIS 16TH DAY OF MAY, 2022

_____
MAYOR JULES WALTERS

ATTEST:

_____
KATHY MOLLUSKY, CITY RECORDER

City of West Linn

Work Session Agenda Report

Date Prepared:	May 12, 2022
For Meeting Date:	May 16, 2022
To:	Mayor Jules Walters and West Linn City Council
From:	John R. Williams, Deputy City Manager/Community Development Director JRW
Through:	Jerry Gabrielatos, City Manager JG
Subject:	Tax Increment Financing (TIF) District feasibility study and next steps

Purpose
Council review of TIF Feasibility Study and discussion of next steps.

Question(s) for Council:
Does the Council wish to continue moving forward with a TIF District in the Waterfront area? If so, what direction does Council have for how the process should take place?

Background & Discussion:
After Council discussions in October 2019, January 2020, and February 2021, Council directed staff to proceed with a TIF Feasibility Study and provided budget authority for this work in the current biennium. This work would assess the feasibility of creating a Tax Increment Financing District in the Waterfront Project area to fund infrastructure projects in keeping with City goals. The City issued an RFQ in October 2021 and hired a team of consultants comprising Elaine Howard Consulting, Tiberius Solutions, and ECONorthwest. The team has completed a financial analysis, essentially updating previous work presented to Council, and confirmed that a conservative revenue scenario shows promise for providing funds for needed work in this area.

The consultant team will be presenting their financial analysis on May 16 along with recommended next steps to create a District. Next steps would include robust outreach and communication with the West Linn community, area property owners, and impacted taxing agencies. Since under state law an Urban Renewal or TIF plan must be prepared and presented by a Redevelopment Agency, the most immediate next step would be a Council ordinance to authorize a Redevelopment Agency to do that work. The Agency would comprise the Mayor and Council acting in that capacity.

Council Options:
Should Council wish to move forward with this program, staff would welcome Council direction on the proposed process and timeline, with a particular focus on how best to engage the community.

Staff Recommendation:
Staff recommends Council move forward by authorizing staff to return with an enabling ordinance that is the next required step under state law, as will be explained by the consultant team. Although the vision for this area has not been finalized, any scenario will involve roadway improvements, utilities, pedestrian and bike facilities, and public amenities that complement/incentivize development. TIF could be a critical part of funding these needed improvements, particularly at a time when other funds are stretched very thin. TIF works best when established early because of the value capture mechanism, so

if Council wishes to move forward at any time, it should consider doing so now in order to maximize benefits.

Attachments/packet materials:

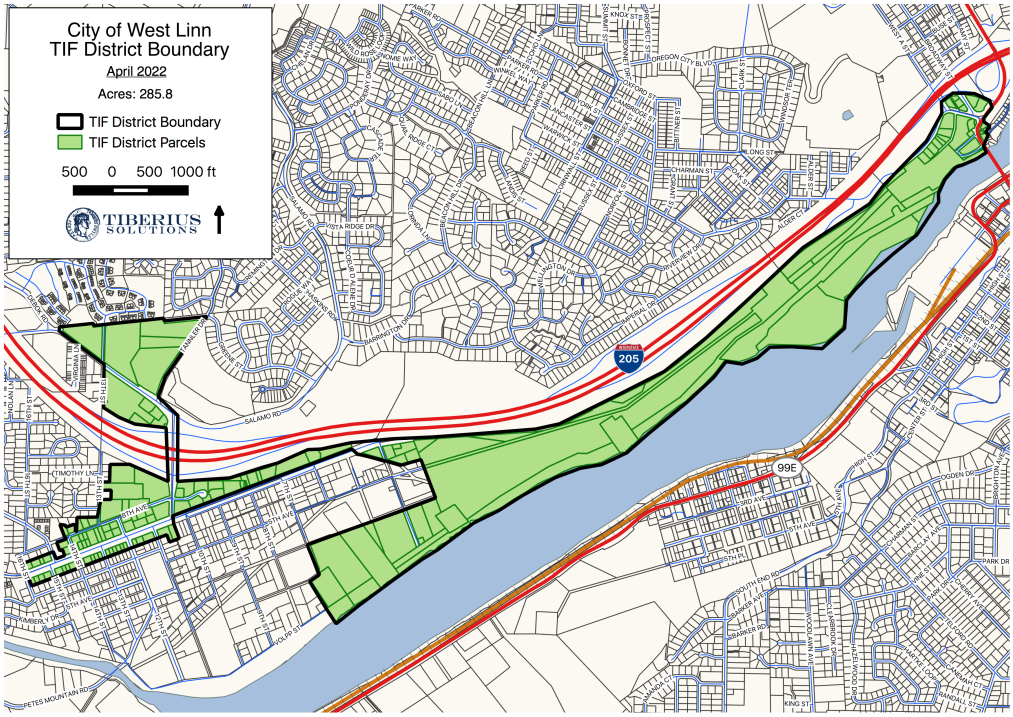
1. West Linn tax increment financing feasibility study – results overview

MEMO

TO:	John Williams, Assistant City Manager Darren Wyss, Planning Manager
FROM:	Elaine Howard, Elaine Howard Consulting, LLC
RE:	Update on the Feasibility Analysis
DATE:	April 29, 2022

Elaine Howard Consulting, LLC in collaboration with Tiberius Solutions LLC conducted an update to the tax increment financing (TIF) feasibility study for the City of West Linn. This memorandum summarizes the analysis required in Phase I of our scope of work including a summary memorandum from Tiberius Solutions, The Tiberius Solutions' memo which is attached to this memorandum summarizes the results of the financial analysis. The Study Area is shown on Exhibit 1.

Exhibit 1 – Map of Proposed TIF District Boundary



The Scope of Work for the analysis of the feasibility of a tax increment area in the Willamette Falls Drive and Old Town areas in West Linn (Study Area) identified the following component parts of the feasibility analysis:

1. Identify potential projects: Attachment 1 shows the potential projects both from the master plans for this area and from staff input on other potential projects. There are significant projects that can be undertaken in the Study Area to improve the area and increase the potential for the Study Area to be an economic contributor to West Linn. This is an initial list that will be refined with stakeholder input.

2. Evaluate conditions of blight: Blight is officially defined by ORS 457.010. It includes

    a. The existence of inadequate streets and other rights of way, open spaces and utilities; (ORS 457.010(1)(e))

    b. A growing lack of proper utilization of areas, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to the public health, safety and welfare. (ORS 457.010(1)(h))

    The Study Area meets these two criteria for blight as there are many infrastructure projects identified for the Study Area and shown in Attachment 1 and much of the Study Area is underdeveloped or not developed to the full potential according to the zoning for the property.

3. Review the Comprehensive Plan

    The City of West Linn Comprehensive Plan (Comprehensive Plan) was originally adopted in December of 1983 and has been updated over the years with the most recent update in October of 2016. The Comprehensive Plan contains 15 Goal Statements. There is wide support in the goals and policies of the Comprehensive Plan for the development of the Study Area. If

direction is given for the full development of a tax increment plan, each section of the Comprehensive Plan will be analyzed for the tax increment plan's conformance to the Comprehensive Plan.

The *West Linn Willamette Falls 2021 Conceptual Design Plan* adopted in July of 2021 specified the transportation improvements needed within the Study Area and recommended specific changes to the *City of West Linn 2016 Transportation Systems Plan.* Those changes will be incorporated into any projects which might be included in a tax increment plan.

It is understood that specific zoning and comprehensive plan changes are being considered in the Study Area. The planning process for a TIF plan can continue despite these changes as long as the existing comprehensive plan designations will support the amount of development being contemplated as part of the financial analysis of the Study Area. This point has been confirmed with City of West Linn staff.

4. Review TIF District boundary based on projects and requirements in state law.

   The potential boundary has been reviewed with West Linn staff and contains all property needed to undertake the projects being contemplated for the Study Area.

   The Study Area boundary meets the statutory limitations of less than 25% f the city acreage and assessed value. The acreage of the Study Area has 243.31 acres in tax lots and 42.49 acres in rights of way for a total of 285.80 acres and has approximately $162,572,571 in total assessed value.

Exhibit 2 Assessed Value and Acreage Percentages

	Acreage	Projected Assessed Value
TIF Area	285.80	$162,572,571
City of West Linn	5,184	$4,159,558,660
Percentages	5.51%	3.90%

5. Update financial projections

Attachment A is a summary memorandum from Tiberius Solutions which presents the financial projections for the Study Area. The memorandum includes the summary table shown in Exhibit 3 that details the amount of tax increment revenues that would be available for projects in 20, 25 and 30 year timeframes.

Exhibit 3 – Financial Capacity

Duration	20 Years	25 Years	30 Years
Net TIF	**$32,300,000**	**$56,400,000**	**$89,000,000**
Maximum Indebtedness	**$28,200,000**	**$48,200,000**	**$75,400,000**
Capacity (2022$)	**$19,100,000**	**$29,600,000**	**$41,800,000**
Years 1-5	$2,900,000	$2,900,000	$2,900,000
Years 6-10	$5,600,000	$6,300,000	$6,300,000
Years 11-15	$5,800,000	$6,700,000	$7,500,000
Years 16-20	$4,900,000	$6,900,000	$8,000,000
Years 21-25	$0	$6,800,000	$8,600,000
Years 26-30	$0	$0	$8,600,000

Source: Tiberius Solutions

6. Update evaluation of impacts to overlapping taxing districts. Exhibit 4 and Exhibit 5 show the estimated impacts to the overlapping taxing districts of the three different scenario options, 20, 25 and 30 years.

Exhibit 4 – Impacts to Taxing Districts, General Government

FYE	City of West Linn	Clackamas County City	Extension & 4H	County Library	County Soil Conservation	TVF&R	Port of Portland	Srv 2 Metro	Vector Control	Subtotal
2025		($39,963)	($831)	($6,606)	($831)	($25,352)	($1,165)	($1,606)	($108)	($111,700)
2026	($54,719)	($62,054)	($1,291)	($10,257)	($1,291)	($39,367)	($1,809)	($2,493)	($168)	($173,448)
2027	($74,902)	($84,943)	($1,767)	($14,041)	($1,767)	($53,887)	($2,477)	($3,413)	($230)	($237,426)
2028	($96,095)	($108,977)	($2,266)	($18,013)	($2,266)	($69,134)	($3,177)	($4,379)	($295)	($304,602)
2029	($118,347)	($134,212)	($2,791)	($22,184)	($2,791)	($85,143)	($3,913)	($5,393)	($363)	($375,138)
2030	($141,712)	($160,709)	($3,342)	($26,564)	($3,342)	($101,952)	($4,686)	($6,457)	($434)	($449,200)
2031	($166,245)	($188,531)	($3,921)	($31,163)	($3,921)	($119,602)	($5,497)	($7,575)	($510)	($526,965)
2032	($192,005)	($217,744)	($4,528)	($35,992)	($4,528)	($138,135)	($6,349)	($8,749)	($589)	($608,618)
2033	($219,052)	($248,418)	($5,166)	($41,062)	($5,166)	($157,594)	($7,243)	($9,981)	($672)	($694,354)
2034	($247,452)	($280,625)	($5,836)	($46,386)	($5,836)	($178,026)	($8,182)	($11,275)	($759)	($784,377)
2035	($277,272)	($314,443)	($6,539)	($51,975)	($6,539)	($199,479)	($9,168)	($12,634)	($850)	($878,901)
2036	($308,583)	($349,951)	($7,278)	($57,845)	($7,278)	($222,005)	($10,204)	($14,061)	($946)	($978,151)
2037	($341,460)	($387,235)	($8,053)	($64,008)	($8,053)	($245,658)	($11,291)	($15,559)	($1,047)	($1,082,364)
2038	($375,981)	($426,383)	($8,867)	($70,479)	($8,867)	($270,493)	($12,432)	($17,132)	($1,153)	($1,191,787)
2039	($412,227)	($467,489)	($9,722)	($77,273)	($9,722)	($296,570)	($13,631)	($18,784)	($1,264)	($1,306,682)
2040	($450,286)	($510,650)	($10,620)	($84,407)	($10,620)	($323,951)	($14,889)	($20,518)	($1,381)	($1,427,321)
2041	($490,248)	($555,968)	($11,562)	($91,898)	($11,562)	($352,701)	($16,211)	($22,339)	($1,503)	($1,553,992)
2042	($532,207)	($603,553)	($12,552)	($99,764)	($12,552)	($382,888)	($17,598)	($24,251)	($1,632)	($1,686,997)
2043	($576,265)	($653,517)	($13,591)	($108,023)	($13,591)	($414,585)	($19,055)	($26,258)	($1,767)	($1,826,652)
2044	($622,526)	($705,980)	($14,682)	($116,694)	($14,682)	($447,866)	($20,584)	($28,366)	($1,909)	($1,973,290)
SUBTOTAL: 20	($5,697,584)	($6,501,345)	($135,208)	($1,074,634)	($135,208)	($4,124,387)	($189,562)	($261,222)	($17,577)	($18,171,965)
2045	($671,100)	($761,065)	($15,828)	($125,800)	($15,828)	($482,812)	($22,191)	($30,579)	($2,058)	($2,127,259)
2046	($722,102)	($818,905)	($17,031)	($135,360)	($17,031)	($519,505)	($23,877)	($32,903)	($2,214)	($2,288,927)
2047	($775,655)	($879,636)	($18,294)	($145,399)	($18,294)	($558,032)	($25,648)	($35,344)	($2,378)	($2,458,679)
2048	($831,885)	($943,405)	($19,620)	($155,939)	($19,620)	($598,486)	($27,507)	($37,906)	($2,551)	($2,636,918)
2049	($890,927)	($1,010,361)	($21,012)	($167,007)	($21,012)	($640,963)	($29,459)	($40,596)	($2,732)	($2,824,069)
SUBTOTAL: 25	($9,589,251)	($10,914,717)	($226,993)	($1,804,138)	($226,993)	($6,924,185)	($318,244)	($438,550)	($29,509)	($30,507,818)
2050	($952,920)	($1,080,666)	($22,475)	($178,628)	($22,475)	($685,563)	($31,509)	($43,421)	($2,922)	($3,020,578)
2051	($1,018,014)	($1,154,485)	($24,010)	($190,830)	($24,010)	($732,394)	($33,662)	($46,387)	($3,121)	($3,226,912)
2052	($1,086,362)	($1,231,996)	($25,622)	($203,642)	($25,622)	($781,566)	($35,922)	($49,501)	($3,331)	($3,443,562)
2053	($1,158,127)	($1,313,382)	($27,314)	($217,094)	($27,314)	($833,196)	($38,295)	($52,771)	($3,551)	($3,671,046)
2054	($1,233,481)	($1,398,838)	($29,092)	($231,220)	($29,092)	($887,408)	($40,786)	($56,205)	($3,782)	($3,909,903)
TOTAL: 30	($15,038,156)	($17,094,083)	($355,505)	($2,825,551)	($355,505)	($10,844,312)	($498,417)	($686,835)	($46,216)	($47,779,818)

Source: Tiberius Solutions; Note: Total impact for 20- and 25-year scenarios do not reflect required revenue sharing in final years.

Exhibit 5 -Impacts to Taxing Districts, Education

FYE	Clackamas Communtiy College	ESD Clackamas	West Linn/Wilsonville School District	Subtotal Education	Total All
2025	($9,278)	($6,129)	($80,923)	($96,330)	($208,030)
2026	($14,408)	($9,516)	($125,657)	($149,581)	($323,030)
2027	($19,722)	($13,027)	($172,007)	($204,755)	($442,181)
2028	($25,302)	($16,712)	($220,674)	($262,688)	($567,290)
2029	($31,161)	($20,582)	($271,774)	($323,517)	($698,655)
2030	($37,313)	($24,646)	($325,429)	($387,388)	($836,588)
2031	($43,773)	($28,912)	($381,767)	($454,452)	($981,417)
2032	($50,555)	($33,392)	($440,922)	($524,870)	($1,133,488)
2033	($57,677)	($38,096)	($503,035)	($598,808)	($1,293,162)
2034	($65,155)	($43,036)	($568,253)	($676,444)	($1,460,821)
2035	($73,006)	($48,222)	($636,732)	($757,961)	($1,636,862)
2036	($81,251)	($53,667)	($708,636)	($843,554)	($1,821,705)
2037	($89,907)	($59,385)	($784,134)	($933,426)	($2,015,790)
2038	($98,996)	($65,389)	($863,407)	($1,027,792)	($2,219,580)
2039	($108,540)	($71,693)	($946,644)	($1,126,877)	($2,433,559)
2040	($118,561)	($78,312)	($1,034,043)	($1,230,916)	($2,658,237)
2041	($129,083)	($85,261)	($1,125,812)	($1,340,156)	($2,894,149)
2042	($140,131)	($92,559)	($1,222,169)	($1,454,859)	($3,141,856)
2043	($151,732)	($100,221)	($1,323,344)	($1,575,297)	($3,401,949)
2044	($163,912)	($108,267)	($1,429,578)	($1,701,757)	($3,675,046)
SUBTOTAL:	($1,509,463)	($997,024)	($13,164,940)	($15,671,427)	($33,843,392)
2045	($176,702)	($116,714)	($1,541,123)	($1,834,540)	($3,961,799)
2046	($190,131)	($125,584)	($1,658,246)	($1,973,961)	($4,262,889)
2047	($204,231)	($134,898)	($1,781,225)	($2,120,354)	($4,579,033)
2048	($219,037)	($144,677)	($1,910,353)	($2,274,067)	($4,910,985)
2049	($234,583)	($154,946)	($2,045,937)	($2,435,465)	($5,259,534)
SUBTOTAL:	($2,534,146)	($1,673,844)	($22,101,824)	($26,309,815)	($56,817,633)
2050	($250,906)	($165,727)	($2,188,301)	($2,604,934)	($5,625,511)
2051	($268,045)	($177,048)	($2,337,782)	($2,782,875)	($6,009,787)
2052	($286,041)	($188,935)	($2,494,738)	($2,969,714)	($6,413,276)
2053	($304,937)	($201,416)	($2,659,541)	($3,165,894)	($6,836,940)
2054	($324,778)	($214,521)	($2,832,585)	($3,371,884)	($7,281,787)
TOTAL:	($3,968,853)	($2,621,491)	($34,614,772)	($41,205,116)	($88,984,934)

Source: Tiberius Solutions

Note: Total impact for 20- and 25-year scenarios do not reflect required revenue sharing in final years.

Document /Project Name	Cost	Description
Willamette Falls Drive Concept Plan		
Pedestrian Plan, Project P56	$34,813,000	Project P56 involves installing sidewalks on WFD from West A Street to Sunset Avenue. This segment of WFD is addressed by Segment 4 of the WFD Concept Plan
Pedestrian Plan Project, P57		Project P57 involves installing sidewalks on WFD from Sunset Avenue to 10th Street. This segment of WFD is addressed by Segment 3 of the WFD Concept Plan;
Bicycle Plan, B12		Project B12 involves installing cycle tracks on WFD from Willamette Drive to Sunset Avenue. This segment of the WFD is addressed by Segment 4 of the WFD Concept
Bicycle Plan, B13		Project B13 involves installing cycle tracks on WFD from Sunset Avenue to 10th Street. This segment of WFD is addressed by Segment 3 of the WFD Concept Plan; therefore, this project should be removed from the TSP.
Bicycle Plan, B38	High $400,000	Install two-way cycle track on north side of the roadway from Tannler Drive to Barrington Drive
Motor Vehicle Plan, M17		Project M17 involves installing a traffic signal at the WFD/Sunset Avenue intersection. The location and orientation of the WFD/Sunset Avenue intersection will be reconfigured as part of the WFD Concept Plan; therefore, this project should be removed from the TSP.
Motor Vehicle Plan, M33		Project M33 involves installing a traffic signal at the WFD/Willamette Drive intersection. The location and orientation of the WFD/Willamette Drive intersection will be reconfigured as part of the WFD Concept Plan; therefore, this project should be removed from the TSP and the City should refer to the WFD Concept plan.

Transportation Systems Plan		
P2 5th Avenue Sidewalks	High $250,000	Install sidewalks on the north side of the roadway from 11th Street to 7th Street
P4 8th Avenue Sidewalks	High $55,000	Install sidewalks on the south side of the roadway from 12th Street to 400 feet east of 12th Street
P 96 Tannler Drive Sidewalks	Medium $235,000	Install sidewalks on both sides of the roadway from Blankenship Road to Greene Street
LSC		8th Avenue extension from 14th Street to Dollar Street Local Street Low
M2 Tannler Street Realignment	Medium $900,000	Realign Tannler Street at Blankenship Road to align with the driveway located approximately 350 feet west
M3Willamette Falls Drive/12th Street	Medium $300,000	Install a traffic signal when warranted
M4 Willamette Falls Drive/14th Street	Medium $20,000	Install all way stop control when warranted
M7 8th Avenue	Low $300,000	Upgrade from 10th Street to 14th Street
M19 8th Court	Medium $0 (to be completed by the developer)	Establish a crossover easement from the 8th Court terminus to Willamette Falls Drive when development occurs to preserve ingress and egress for existing and future development and provide relief to the 8th Court/10th Street intersection and secondary emergency access.
M20 10th Street	Medium $40,000 This cost represents the estimated local City contribution to overall project cost (25 percent).	Install dual eastbound left-turn lanes at the 10th Street/Willamette Falls Drive intersection.
M22 10th Street/8th Avenue- Court	Medium $10, 000 This cost represents the estimated local City contribution to overall project cost (25 percent).	Install channelization at the intersection to restrict the eastbound left, eastbound-through, northbound left, and westbound-through movements.

Transportation Systems Plan, continued		
M23 Street/Blankenship Road	Medium $500,000 This cost represents the estimated local City contribution to overall project cost (25 percent).	Widen Blankenship-Salamo Road to provide dual left-turnlanes at the westbound and northbound approaches to the intersection. Also, add a second exclusive right-turn lane at the eastbound approach to the intersection to address queuing.
M24 10th Street/ Willamette Falls Drive	Medium $75,0002 This cost represents the estimated local City contribution to overall project cost (25 percent).	Install a traffic signal when warranted

West Linn Sanitary Sewer Master Plan Update		
5.3.1.3 Willamette Drive (P-3)	$269,000	Project P-3 is located in wastewater basin 2B and consists of upsizing 614 feet of existing 12-inch gravity main to 15-inch gravity main along Willamette Drive between Magone Lane and Pimlico Drive. In addition, 69 feet of 15-inch gravity main is to be upsized to 18-inch gravity main along Dillow Drive from Willamette Drive to Tulane Street. This project resolves deficiencies identified under existing conditions due to relatively flat slopes for both sections of pipe. Both sections of pipe are surrounded by steeper sections upstream and downstream, a configuration that typically triggers the HGL to rise in the flat portions of the system. This is a medium priority project and is estimated to cost $269,000. Note, this project is located in a basin (wastewater basin 2B), where an I/I reduction program might mitigate the need for this improvement.

West Linn Storm Drainage Master Plan		
P1	$20,000	Tannler Drive/Bernert Creek Basin Feasibility Study
R-9		Public Pond #18 Retrofit X
C-2	$847,000	5th Avenue Culvert Replacement
C-3	$282,000	Sunset Creek at Willamette Falls Drive Culvert Replacement
West Linn Water System Master Plan		
ES 9 - Plate 1 in Appendix		Water Main and replacement of existing main
1	$1,187,200	Willamette Falls Dr. from PRV to Pump Station Willamette 10 20 1 3,710 75% 320
2	$311,910	Willamette Falls Dr. from Britton to Ostman Willamette 3, 4 12 2 1,686 56% 185
5	$355,625	12th St. from Tualatin Ave. to Volpp St. on to 9th St. up to 5th Ave. Willamette 6 8 5 2,845 0%
6	$84,750	10th St. from 5th Ave. to Leslies Way Willamette 2 8 5 678 0% 125

Parks and Recreation	**FROM TABLE G-1**	**2019 P&R Master Plan**
Willamette River Fishing Dock/Ladder	$120,000	Add permanent parking area, improve signage and access, provide covered area, connect to trail
Planned Willamette River Riverfront Trail	$1,000,000	Acquire trail corridor property or easements and connect trail from Bernert Landing to Arch Bridge. Cost is a percentage of full $1,825,000 cost in plan, which includes area outside of TIF District
Future Riverfront Park	$17,025,000	Acquire property and transform into regional park to potentially include interpretation, swimming dock, plaza, heated shelter for events, tables, non-motorized boat launch, protect and restore natural resources, integrate extraordinary play opportunities, create trailhead, parking areas.

OTHER		
Parking Lot in Downtown Willamette Area	$8,000,000	Placeholder if appropriate for TIF plan. This project is not contained in any plan. Not discussed publicly, vetted, or costed.
Public Plaza in Historic City Hall Area	$3,000,000	Placeholder if appropriate for TIF plan. This project is not contained in any plan. Not discussed publicly, vetted, or costed.
Parking Lot in Historic City Hall Area	$8,000,000	Placeholder if appropriate for TIF plan. This project is not contained in any plan. Not discussed publicly, vetted, or costed.
Façade Improvement Program - Commercial Areas in District	$2,000,000	
River viewpoints along paths and roads	$1,000,000	Benches, paving, etc.
Streetscape improvements and beautification within District Area	$1,000,000	Benches, lights, sidewalks, ADA crosswalks, etc.

DATE: May 12, 2022
TO: Elaine Howard, Elaine Howard Consulting
FROM: Nick Popenuk and Ali Danko
SUBJECT: WEST LINN TAX INCREMENT FINANCING FEASIBILITY STUDY – RESULTS SUMMARY

Tiberius Solutions, in collaboration with Elaine Howard Consulting, conducted tax increment financing (TIF) feasibility study for the City of West Linn. This memorandum summarizes the results of the financial analysis. A map of the proposed TIF District boundary is included as an attachment to this memorandum.

Future Growth in Assessed Value

The forecast of assessed value within the potential TIF District includes appreciation of existing property value (limited by the Oregon Constitution to a maximum of 3% annually), and increase in value from new construction (not subject to the 3% limit). To determine the appropriate assumption for growth in assessed value in the TIF district, Tiberius Solutions, in consultation with City staff, reviewed the following:

- **Historical Assessed Value Growth.** From fiscal year ending (FYE) 2017 through FYE 2022, the City of West Linn has experienced a compound annual growth rate (CAGR) in assessed value of 3.5% and Clackamas County has experienced a CAGR in assessed value of 4.6%.[1]
- **Previously Completed Analysis.** In August 2019, Tiberius Solutions, in collaboration with ECONorthwest, conducted an initial feasibility assessment for the potential TIF Area. For this assessment, ECONorthwest provided assumptions on potential future new development within the TIF District, including two scenarios for future growth in assessed values. The more conservative scenario that assumed no substantial redevelopment of "the Ponds" area resulted in an average annual growth in assessed value of 4.9%.[2]

In consultation with City staff, Tiberius Solutions determined 5.0% to be an appropriate assessed value growth rate, reflecting the development potential anticipated in the previous analysis, and being only slightly higher than the recent countywide historical trends. A 5.0% growth rate is the equivalent of annual new construction value between $6.8 and $7.5 million per year, on average, assuming an equal split between residential and commercial construction.

Consolidated Tax Rate

All new TIF Plans are "permanent rate" plans. The consolidated tax rate is equal to the sum of all permanent tax rates. Local option levies and general obligation bond levies are not impacted by new TIF Plans. The TIF District would be located in Tax Code Area (TCA) 003-002. Exhibit 1 shows the consolidated tax rate for TCA 003-002 in FYE 2022.

[1] Source: Clackamas County Assessment & Taxation, SAL Table 4a, FYE 2017 through FYE 2022
[2] ECONorthwest, Urban Renewal Initial Feasibility Assessment, August 2019

Exhibit 1. Consolidated Tax Rate

Taxing District		Rate
General Government		
City of West Linn	$	2.1200
Clackamas County City	$	2.4042
County Extension & 4H	$	0.0500
County Library	$	0.3974
County Soil Conservation	$	0.0500
TVF&R	$	1.5252
Port of Portland	$	0.0701
Road District 2 WL	$	-
Srv 2 Metro	$	0.0966
Vector Control	$	0.0065
Subtotal	*$*	*6.7200*
Education		
Clackamas Communtiy College	$	0.5582
ESD Clackamas	$	0.3687
West Linn/Wilsonville School District	$	4.8684
Subtotal	*$*	*5.7953*
Total	**$**	**12.5153**

Source: Clackamas County Assessment & Taxation, SAL Table 4a and Tax Code Rate Detail, FYE 2022

Tax Increment Revenue Forecast

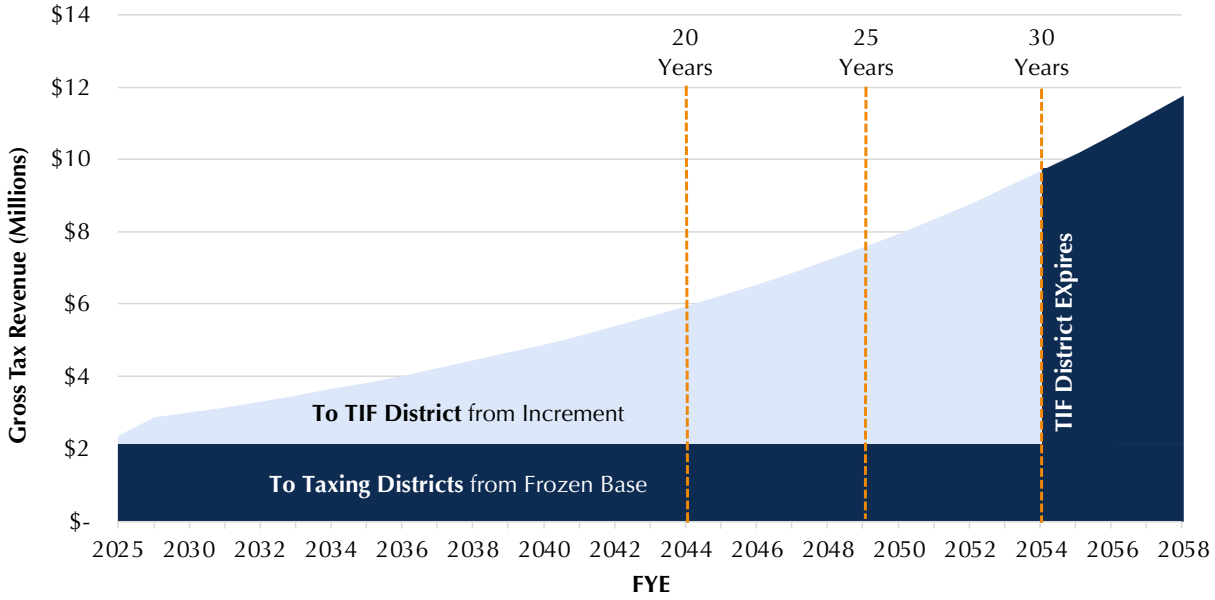
Exhibit 2 and Exhibit 3 show the forecast of TIF for the potential TIF District. The analysis assumes that if the City adopts a new TIF District, the effective date would be between January 1 and October 1, 2023. Therefore, the frozen base would be calculated using the FYE 2023 tax roll, and the first year that the TIF District would collect TIF is FYE 2025. Exhibit 2 shows annual TIF projections through FYE 2054. Total TIF over this 30-year period is estimated to be $89.6 million. Alternatively, if the City were to only collect TIF for a 25-year period (through FYE 2049), total TIF revenue is estimated to be $56.8 million, and total TIF for a 20-year period (through FYE 2044) is estimated to be $33.8 million. The significant difference in TIF revenue between the 20, 25, and 30-year periods is due to the compound growth in assessed value that is typical for TIF Districts, resulting in significantly more revenue in the later years than the early years.

Exhibit 2. TIF Revenue Forecast

	Assessed Value				TIF Revenue				
FYE	Total	Frozen Base	Increment	Tax Rate	Gross	Adjustments	Net (Current)	Net (Prior)	Net (Total)
2025	$ 188,198,072	$ 170,701,199	$ 17,496,873	$ 12.5153	$ 218,979	$ (10,949)	$ 208,030	$ -	$ 208,030
2026	$ 197,607,976	$ 170,701,199	$ 26,906,777	$ 12.5153	$ 336,746	$ (16,837)	$ 319,909	$ 3,120	$ 323,030
2027	$ 207,488,375	$ 170,701,199	$ 36,787,176	$ 12.5153	$ 460,403	$ (23,020)	$ 437,382	$ 4,799	$ 442,181
2028	$ 217,862,794	$ 170,701,199	$ 47,161,595	$ 12.5153	$ 590,242	$ (29,512)	$ 560,729	$ 6,561	$ 567,290
2029	$ 228,755,934	$ 170,701,199	$ 58,054,735	$ 12.5153	$ 726,572	$ (36,329)	$ 690,244	$ 8,411	$ 698,655
2030	$ 240,193,731	$ 170,701,199	$ 69,492,532	$ 12.5153	$ 869,720	$ (43,486)	$ 826,234	$ 10,354	$ 836,588
2031	$ 252,203,417	$ 170,701,199	$ 81,502,218	$ 12.5153	$ 1,020,025	$ (51,001)	$ 969,023	$ 12,394	$ 981,417
2032	$ 264,813,588	$ 170,701,199	$ 94,112,389	$ 12.5153	$ 1,177,845	$ (58,892)	$ 1,118,953	$ 14,535	$ 1,133,488
2033	$ 278,054,268	$ 170,701,199	$ 107,353,069	$ 12.5153	$ 1,343,556	$ (67,178)	$ 1,276,378	$ 16,784	$ 1,293,162
2034	$ 291,956,982	$ 170,701,199	$ 121,255,783	$ 12.5153	$ 1,517,553	$ (75,878)	$ 1,441,675	$ 19,146	$ 1,460,821
2035	$ 306,554,832	$ 170,701,199	$ 135,853,633	$ 12.5153	$ 1,700,249	$ (85,012)	$ 1,615,237	$ 21,625	$ 1,636,862
2036	$ 321,882,574	$ 170,701,199	$ 151,181,375	$ 12.5153	$ 1,892,080	$ (94,604)	$ 1,797,476	$ 24,229	$ 1,821,705
2037	$ 337,976,702	$ 170,701,199	$ 167,275,503	$ 12.5153	$ 2,093,503	$ (104,675)	$ 1,988,828	$ 26,962	$ 2,015,790
2038	$ 354,875,537	$ 170,701,199	$ 184,174,338	$ 12.5153	$ 2,304,997	$ (115,250)	$ 2,189,747	$ 29,832	$ 2,219,580
2039	$ 372,619,314	$ 170,701,199	$ 201,918,115	$ 12.5153	$ 2,527,066	$ (126,353)	$ 2,400,713	$ 32,846	$ 2,433,559
2040	$ 391,250,279	$ 170,701,199	$ 220,549,080	$ 12.5153	$ 2,760,238	$ (138,012)	$ 2,622,226	$ 36,011	$ 2,658,237
2041	$ 410,812,793	$ 170,701,199	$ 240,111,594	$ 12.5153	$ 3,005,069	$ (150,253)	$ 2,854,815	$ 39,333	$ 2,894,149
2042	$ 431,353,433	$ 170,701,199	$ 260,652,234	$ 12.5153	$ 3,262,141	$ (163,107)	$ 3,099,034	$ 42,822	$ 3,141,856
2043	$ 452,921,105	$ 170,701,199	$ 282,219,906	$ 12.5153	$ 3,532,067	$ (176,603)	$ 3,355,463	$ 46,486	$ 3,401,949
2044	$ 475,567,160	$ 170,701,199	$ 304,865,961	$ 12.5153	$ 3,815,489	$ (190,774)	$ 3,624,715	$ 50,332	$ 3,675,046
2045	$ 499,345,517	$ 170,701,199	$ 328,644,318	$ 12.5153	$ 4,113,082	$ (205,654)	$ 3,907,428	$ 54,371	$ 3,961,799
2046	$ 524,312,792	$ 170,701,199	$ 353,611,593	$ 12.5153	$ 4,425,555	$ (221,278)	$ 4,204,277	$ 58,611	$ 4,262,889
2047	$ 550,528,432	$ 170,701,199	$ 379,827,233	$ 12.5153	$ 4,753,652	$ (237,683)	$ 4,515,969	$ 63,064	$ 4,579,033
2048	$ 578,054,854	$ 170,701,199	$ 407,353,655	$ 12.5153	$ 5,098,153	$ (254,908)	$ 4,843,246	$ 67,740	$ 4,910,985
2049	$ 606,957,596	$ 170,701,199	$ 436,256,397	$ 12.5153	$ 5,459,880	$ (272,994)	$ 5,186,886	$ 72,649	$ 5,259,534
2050	$ 637,305,476	$ 170,701,199	$ 466,604,277	$ 12.5153	$ 5,839,693	$ (291,985)	$ 5,547,708	$ 77,803	$ 5,625,511
2051	$ 669,170,749	$ 170,701,199	$ 498,469,550	$ 12.5153	$ 6,238,496	$ (311,925)	$ 5,926,571	$ 83,216	$ 6,009,787
2052	$ 702,629,287	$ 170,701,199	$ 531,928,088	$ 12.5153	$ 6,657,240	$ (332,862)	$ 6,324,378	$ 88,899	$ 6,413,276
2053	$ 737,760,752	$ 170,701,199	$ 567,059,553	$ 12.5153	$ 7,096,920	$ (354,846)	$ 6,742,074	$ 94,866	$ 6,836,940
2054	$ 774,648,789	$ 170,701,199	$ 603,947,590	$ 12.5153	$ 7,558,585	$ (377,929)	$ 7,180,656	$ 101,131	$ 7,281,787
Total - 20 Years					**$ 35,154,538**	**$ (1,757,727)**	**$ 33,396,811**	**$ 446,581**	**$ 33,843,392**
Total - 25 Years					**$ 59,004,860**	**$ (2,950,243)**	**$ 56,054,617**	**$ 763,016**	**$ 56,817,633**
Total - 30 Years					**$ 92,395,793**	**$ (4,619,790)**	**$ 87,776,004**	**$ 1,208,930**	**$ 88,984,934**

Notes: Adjustments include losses from delinquent taxes, discounts from early payment, compression, and truncation; total net TIF in 20- and 25- year scenarios do not include adjustments from revenue sharing in final years.

Exhibit 3. Gross TIF Revenue Forecast



Financial Capacity

Net TIF revenue gives a general idea of the financial capacity of the potential TIF District each year but is insufficient to understand the total funding available for projects over the life of the TIF District. Most TIF Districts will typically use financing (incurring debt through bonds, loans, or other financial instruments) to accelerate the timing of available funding at the expense of future interest payments. To estimate borrowing capacity, we created a hypothetical finance plan, showing how much funding could become available for projects over time, based on generic assumptions for debt. For this analysis, we assumed a series of loans would be incurred over the life of the TIF District with 10 to 20-year amortization periods, a 5% interest rate, and a 1.5 minimum debt service coverage ratio.

Exhibit 4 summarizes the financial capacity of the proposed TIF District for a 20-year, 25-year, and 30-year duration. Total net TIF is the cumulative amount of TIF revenue that would be received by the TIF District over its duration. Maximum indebtedness (a term defined in Oregon Statutes related to TIF) is the total principal amount of indebtedness that could be incurred by the TIF District. Maximum indebtedness is stated in nominal (i.e., "year of expenditure") dollars. The capacity in 2022 dollars shows the maximum indebtedness figure adjusted for inflation and presented in "real" dollars. This is the most useful measure of financial capacity. The capacity in 2022 dollars is also shown in five-year periods to provide a sense of when funding would become available over time.

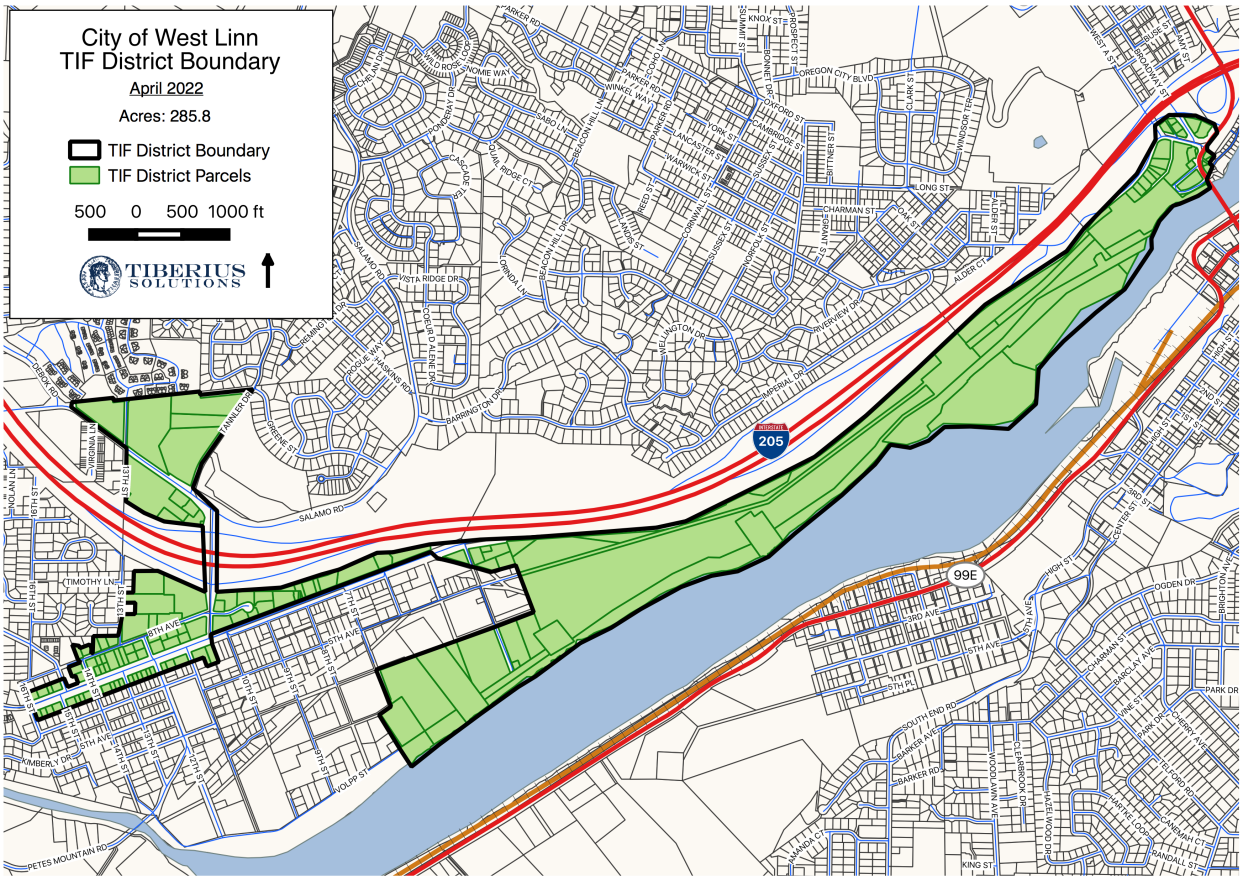
Exhibit 4. Financial Capacity

Duration	20 Years	25 Years	30 Years
Net TIF	**$ 32,300,000**	**$ 56,400,000**	**$ 89,000,000**
Maximum Indebtedness	**$ 28,200,000**	**$ 48,200,000**	**$ 75,400,000**
Capacity (2022$)	**$ 19,100,000**	**$ 29,600,000**	**$ 41,800,000**
Years 1-5	$ 2,900,000	$ 2,900,000	$ 2,900,000
Years 6-10	$ 5,600,000	$ 6,300,000	$ 6,300,000
Years 11-15	$ 5,800,000	$ 6,700,000	$ 7,500,000
Years 16-20	$ 4,900,000	$ 6,900,000	$ 8,000,000
Years 21-25	$ -	$ 6,800,000	$ 8,600,000
Years 26-30	$ -	$ -	$ 8,600,000

Key findings from the analysis include:

- A TIF District with a 20-year duration is forecast to generate $32.3 million of cumulative net TIF revenue, which could support a maximum indebtedness of $28.2 million, equivalent to $19.1 million of capacity for projects when adjusted for inflation and presented in constant 2022 dollars.
- A TIF District with a 25-year duration is forecast to generate $56.4 million of cumulative net TIF revenue, which could support a maximum indebtedness of $48.2 million, equivalent to $29.6 million of capacity for projects when adjusted for inflation and presented in constant 2022 dollars. This represents a 55% increase in financial capacity when compared to a 20-year duration.
- A TIF District with a 30-year duration is forecast to generate $89.0 million of cumulative net TIF revenue, which could support a maximum indebtedness of $75.4 million, equivalent to $41.8 million of capacity for projects when adjusted for inflation and presented in constant 2022 dollars. This represents a 40% increase in financial capacity when compared to the 25-year duration, and is more than double the financial capacity of the 20-year duration.

Attachment A: Proposed TIF District Boundary



Attachment B: How Tax Increment Financing Works

Tax Increment Financing (TIF) is an economic and redevelopment financing tool permitted by Oregon Revised Statute (ORS) chapter 457. TIF allows municipalities (cities and counties) across Oregon to collect the incremental property tax revenues in a TIF District and spend that revenue on infrastructure and economic development projects and programs within the TIF District.

Overview

TIF Plans

To establish a TIF District a municipality must adopt an TIF plan. ORS 457 defines the specific requirements of TIF plans. Key elements of TIF plans include:

- Boundary of the TIF District, including a map and legal description
- Goals and objectives for the TIF District
- Eligible projects to be funded in the TIF District
- Findings of "Blight" within the TIF District as defined in ORS 457.010
- The dollar limit on the cumulative amount of indebtedness that the TIF District may incur, known as "Maximum Indebtedness"

Tax Increment Financing

Tax Increment Financing allows municipalities to use TIF revenue to fund projects and programs within a TIF District. When a TIF District is established, the existing assessed value in the TIF District is certified as the "Frozen Base" value. As assessed value in the TIF District increases over time, the difference between the total assessed value and the frozen base is considered "Increment" assessed value. Each year, property tax revenue generated by the frozen base of the TIF District is distributed normally to all overlapping taxing districts, and the TIF District receives all the property tax revenue generated from the increment, called TIF revenue.

Maximum Indebtedness

Once a TIF District has incurred the full amount of maximum indebtedness, it cannot incur additional debt, and once a TIF District has collected sufficient TIF revenue to fully repay the maximum indebtedness, the TIF District loses its ability to collect TIF revenue, effectively resulting in the termination of the TIF District.

Consolidated Tax Rate

Oregon statutes governing TIF have been amended over time, resulting in different types of TIF plans. A key difference is the determination of which tax rates are included in the calculation of TIF revenue. All new TIF plans are "permanent rate" plans. The consolidated tax rate is equal to the sum of all permanent tax rates. Local option levies and general obligation bond levies are not impacted by new TIF Plans.

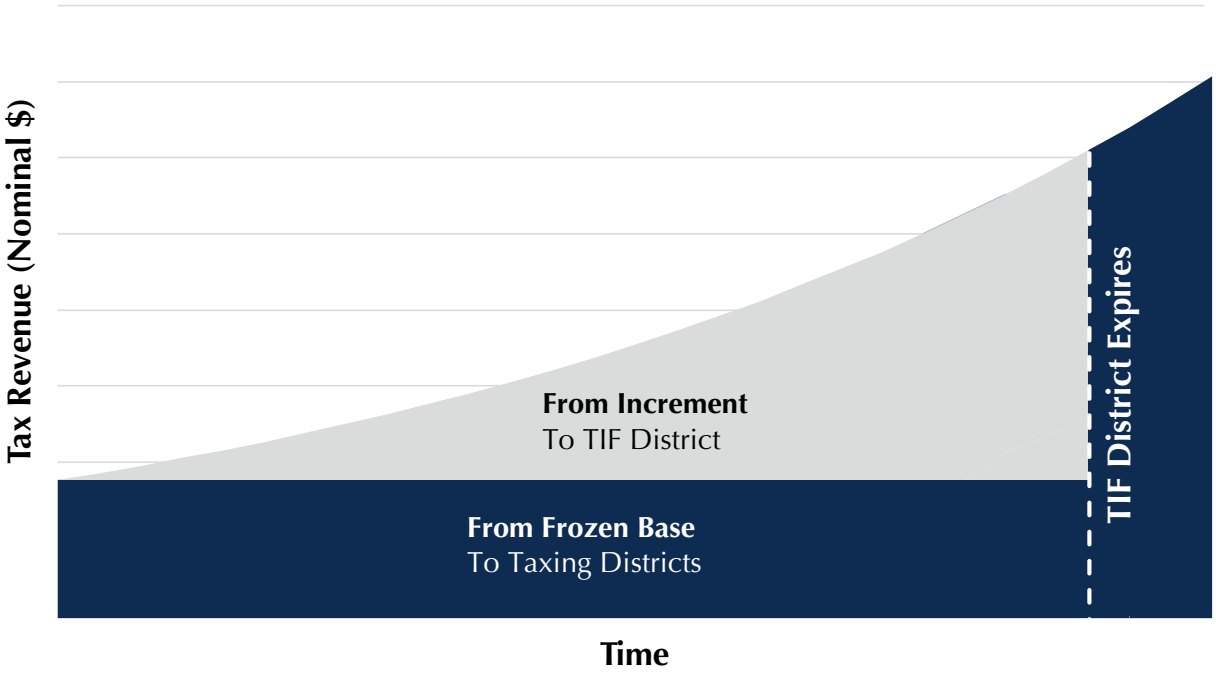
Tax Increment Financing

When a TIF District is established, the assessed value of all property within the TIF District boundary establishes the frozen base value. When assessed value in the TIF District grows over time, the difference between the total assessed value and the frozen base is considered increment assessed value. Each year, property tax revenue from the frozen base in the TIF District is distributed normally to all overlapping

taxing districts, and the TIF District receives all the property tax revenue generated from the increment, called TIF revenue.

TIF revenue can only be spent to repay indebtedness incurred on behalf of the TIF District, and the proceeds from that indebtedness can only be spent on capital projects located within the TIF District that are identified in the corresponding TIF plan. Once all indebtedness for a TIF District has been repaid, the TIF plan may be terminated, which results in all future tax revenue being returned to the overlapping taxing districts. Exhibit 5 illustrates the general tax revenue distribution within a TIF District boundary over the life of the TIF District.

Exhibit 5. Example Tax Revenue Distribution in a TIF District



Source: Tiberius Solutions

The local county assessor calculates total TIF Revenue to be generated by a TIF District by multiplying the increment assessed value of a TIF District by the applicable consolidated tax rate. Although the amount of tax revenue to be raised is calculated based on the assessed value of properties within a TIF District, that tax is actually imposed upon all properties citywide. The local county assessor divides the total tax revenue to be raised for a TIF District by the aggregate assessed value of all property citywide, which results in an TIF District tax rate. This rate is then extended to all properties citywide. All other component property tax rates that were included in the consolidated tax rate are reduced proportionally, so that the imposition of the TIF District tax rate does not result in any net increase to the total tax rate. In short, TIF District tax revenues are calculated based on property values within the TIF District, but are paid by all properties citywide.

Maximum Indebtedness

TIF plans are required to include a maximum indebtedness limit. As stated earlier, TIF Districts are only allowed to spend TIF revenue on debt service. Thus, the maximum indebtedness functions as a limit on the cumulative amount of TIF revenue that can be spent on projects in a TIF District. Note that maximum indebtedness does not function as a revolving credit limit. In other words, paying off previous debt for a TIF District does not free up maximum indebtedness capacity to be used on future

indebtedness. Once a TIF District incurs the full amount of maximum indebtedness, it cannot incur additional debt to fund additional projects.

Consolidated Tax Rate

Oregon statutes governing TIF have been amended over time, resulting in different types of TIF plans that are subject to different provisions. Oregon statutes establish three major classifications of TIF plans: permanent rate plans, reduced rate plans, and standard rate plans. The determination of each of these plan types is primarily dependent upon the effective date of the plan, or the effective dates of certain subsequent substantial amendments to a plan. A fundamental difference among these types of TIF plans is the method for determining the consolidated tax rate as described below.

- "Permanent Rate Plans" have a consolidated tax rate equal to the total of all permanent property tax rates for overlapping taxing districts.
- "Reduced Rate Plans" have a consolidated tax rate equal to the total of all tax rates for overlapping taxing districts except for the following:
  - TIF District special levies
  - Local option levies approved by voters on or after October 6, 2001
  - General obligation bond levies approved by voters on or after October 6, 2001
- "Standard Rate Plans" have a consolidated tax rate equal to the total of all tax rates for overlapping taxing districts except for the following:
  - TIF District special levies
  - Local option levies approved by voters on or after January 1, 2013

Revenue Sharing

Plans initially approved or substantially amended to increase maximum indebtedness on or after January 1, 2010 are subject to additional provisions in ORS regarding revenue sharing. For such plans, revenue sharing occurs when a plan achieves certain thresholds of annual TIF revenue, relative to the maximum indebtedness of the plan.[3]

Overview of Oregon's Property Tax System

Property Tax Ballot Measures

Oregon's property tax system is largely defined by two property-tax-related ballot measures that were approved by voters in the 1990s: Measure 5 passed in 1990 and Measure 50 passed in 1997.

Prior to the passage of Measures 5 and 50, Oregon had a levy-based property tax system. This meant that each taxing district would decide the dollar amount to levy each year based on budget requirements, and that levy amount would be converted into a levy by dividing the total levy amount by the total value of property district-wide. This system resulted in annual variations in the effective tax rates for individual properties each year.

[3]Formulas for calculating required Revenue Sharing are defined in ORS 457.470. For most TIF plans in Oregon, the formulas refer to the initial Maximum Indebtedness of a Plan.

Measure 5 limited the property taxes paid by individual property owners to $10 per $1,000 of real market value for general government taxes and $5 per $1,000 of real market value for education taxes. Levies passed by voters to repay general obligation bonds were excluded from these limits.

Measure 50, passed in 1997, was a further overhaul of Oregon's property tax system, including the following key elements:

- Switching from a levy-based system to a rate-based system, including the establishment of permanent tax rates for each taxing district instead of variable levies. Note that in addition to permanent tax rates, taxing districts may also impose local option levies and levies for general obligation bonds, both of which are temporary in nature and are subject to voter approval.
- Reducing assessed value. Assessed value is no longer equal to real market value. In fiscal year 1997-98, a maximum assessed value for each property was established, which was equal to 90% of its assessed value from two years prior (fiscal year 1995-96).
- Limiting assessed value growth. Growth in maximum assessed value was limited to three percent annually. The actual assessed value used to calculate a property's tax bill is equal to the lesser of the property's maximum assessed value and real market value.

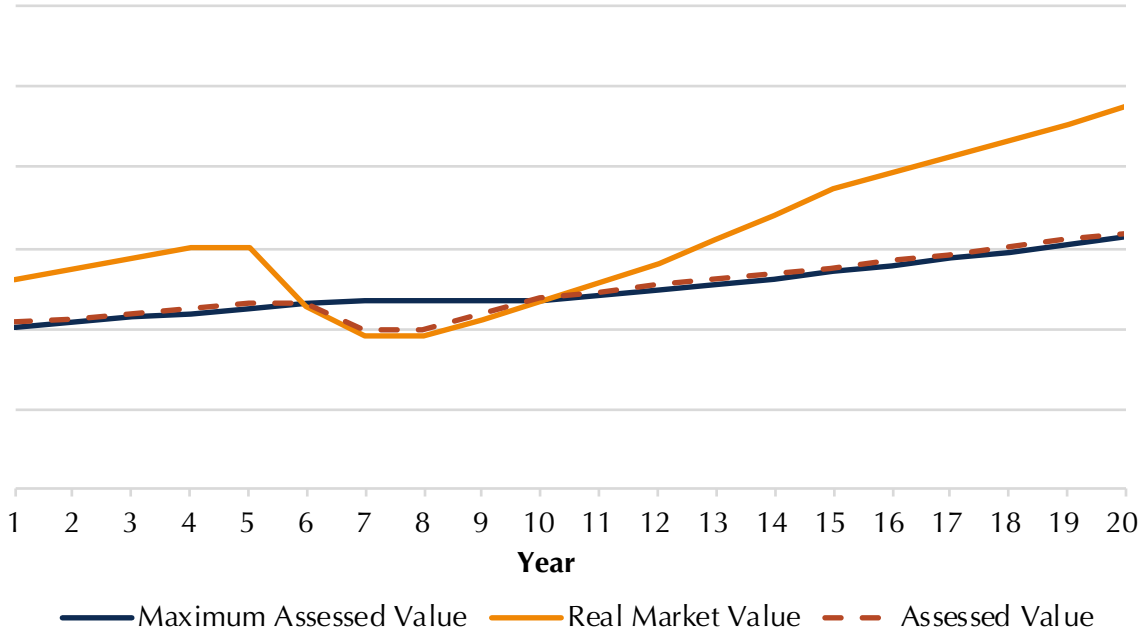
There are some exceptions to the three percent limit in maximum assessed value growth. The most common exceptions are new construction and significant improvements that did not exist in 1995-96 when the maximum assessed value was established. To determine the exception value in these situations a changed property ratio is used to establish the initial maximum assessed value. The changed property ratio is calculated annually as the ratio between aggregate assessed value and aggregate real market value for each property class (residential, multifamily, commercial/industrial, etc.) in each county. The changed property ratio is applied to the real market value of all new development to determine initial maximum assessed value, after which time, it grows at three percent per year like all other existing property.[4]

Illustration of Assessed Value Calculation

Exhibit 6 shows the relationship between maximum assessed value, real market value, and assessed value for a hypothetical property. Real market value fluctuates based on market conditions. For all years where real market value is greater than maximum assessed value, maximum assessed value grows at three percent. From year one through year six, the property's real market value is greater than the property's maximum assessed value. The property's assessed value must be the lower of the two, and is therefore equal to the maximum assessed value. In years six through ten, the property's real market value dips below the property's maximum assessed value. In these years, the assessed value is equal to the real market value and maximum assessed value remains constant. When real market value grows past maximum assessed value beginning in year ten, assessed value is once again equal to maximum assessed value, and the maximum assessed value resumes annual growth of three percent per year.

[4] Other exceptions include: partitioning or subdividing a property, rezoning a property and change of use consistent with that zone, and the disqualification or termination of property tax exemptions (e.g., property transferring from public to private ownership).

Exhibit 6. Maximum Assessed Value, Real Market Value, and Assessed Value for a Hypothetical Property

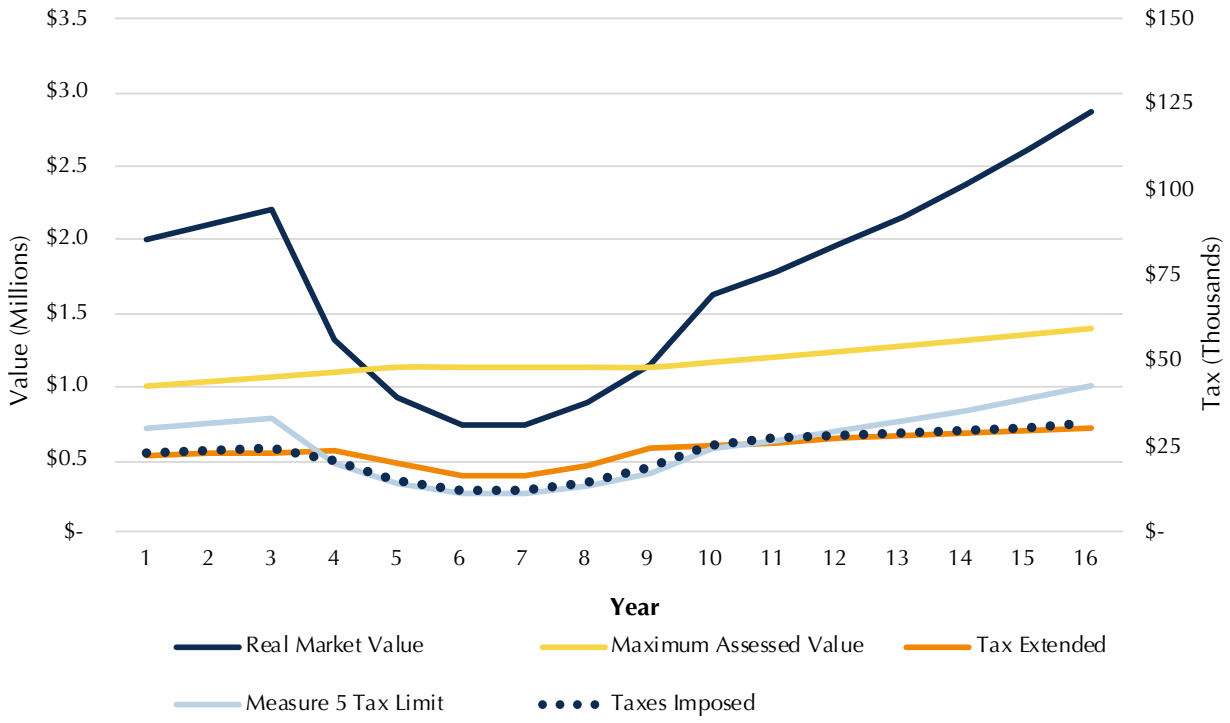


Measure 5 Compression

As stated earlier, Measure 5 limits the property taxes paid by individual property owners to $10 per $1,000 of real market value for general government taxes and $5 per $1,000 of real market value for education taxes. If either of these limits are exceeded by the taxes extended on an individual property, the taxes imposed are reduced proportionally until the Measure 5 limits are met. Local option levies are reduced first. If local option levies are reduced to zero and a property is still exceeding its Measure 5 limits, then permanent rate levies are reduced proportionally until the limits are no longer exceeded. General obligation bonds are never reduced, as they are not subject to Measure 5 limits.

Exhibit 7 shows the effect of Measure 5 compression on a hypothetical property. In years one through three, the Measure 5 tax limits for the property are higher than the taxes extended to the property. Therefore, the property pays the total tax extended. Beginning in year four, declining real market value results in a corresponding decrease in the maximum allowable tax bill, and the property finds itself in "compression" due to Measure 5. Therefore, the taxes extended are proportionally reduced until they conform to Measure 5 limits. The compression loss is the difference between tax extended and tax imposed. By year 12, real market value has grown enough so that the taxes extended are once again below the Measure 5 limits, and the property no longer experiences compression.

Exhibit 7. Compression of Hypothetical Property



Property Types

The State of Oregon classifies all taxable property into one of four types: real, personal, manufactured, and utility. Below, we describe these property types and highlight considerations for forecasting future changes in assessed value.

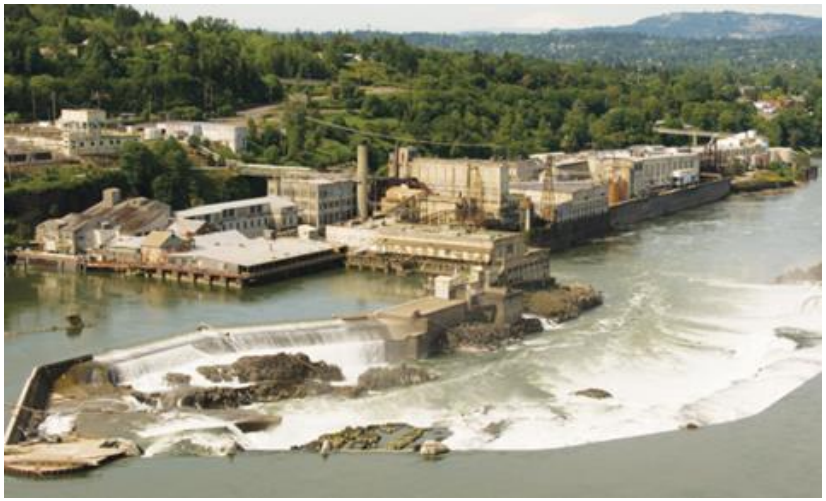
- **Real** property includes land, buildings, structures, and improvements. Real property typically makes up the majority of property value in an area. Real property is typically the most reliable property type to forecast. Changes in real market value of real property are tied to broader market trends. At this time, most real property accounts in Oregon have a significant gap between real market value and maximum assessed value, which means that the assessed value is equal to maximum assessed value, which experiences three percent growth each year from appreciation. Factors that can cause a real property account to experience a change in maximum assessed value other than three percent appreciation include: construction of new property, demolition of an existing structure, establishment or expiration of tax exemptions (such as a transfer of ownership from public to private use, or vice versa), and rezoning with a corresponding change in use.
- **Personal** property includes all property that "enhances or promotes" a business.[5] This includes machinery, equipment, and décor/office furniture. Personal property for personal use (e.g., home furniture and appliances) are exempt. The Department of Revenue maintains multiple schedules for depreciation of value, based on the specific type of personal property. Personal property tends to depreciate relatively rapidly, but these losses in value are generally offset by further reinvestment in new personal property accounts.

[5] Oregon Department of Revenue, Methods for Valuing Personal Property, 2020

- **Manufactured** property includes all manufactured structures (i.e., mobile homes). Unlike other types of housing, the real market value of mobile homes depreciate over time. In the early years after construction, a manufactured property account may experience modest growth in assessed value based on the maximum allowed three percent growth in maximum assessed value. However, over time the real market value of the property will likely drop below the maximum assessed value, leading to a sustained decrease in assessed value from manufactured property in future years.
- **Utility** property include the value of any privately-owned utility provider, including: communication, electric, gas, water, pipelines, air transportation, private railcars, railroads, heating, toll bridges, and small electrics.[6] The Oregon Department of Revenue assesses the value of these properties annually, based on reports submitted by the owners. The value is not explicitly based on geography, but the State apportions assessed value to each tax code area each year based on factors, including the physical location of utility assets. Because utility value is calculated by the State each year, based on reports of value provided by the utilities themselves, the assessed value of utility accounts can be volatile, and difficult to forecast.

[6] Oregon Department of Revenue, Centrally Assessed Companies

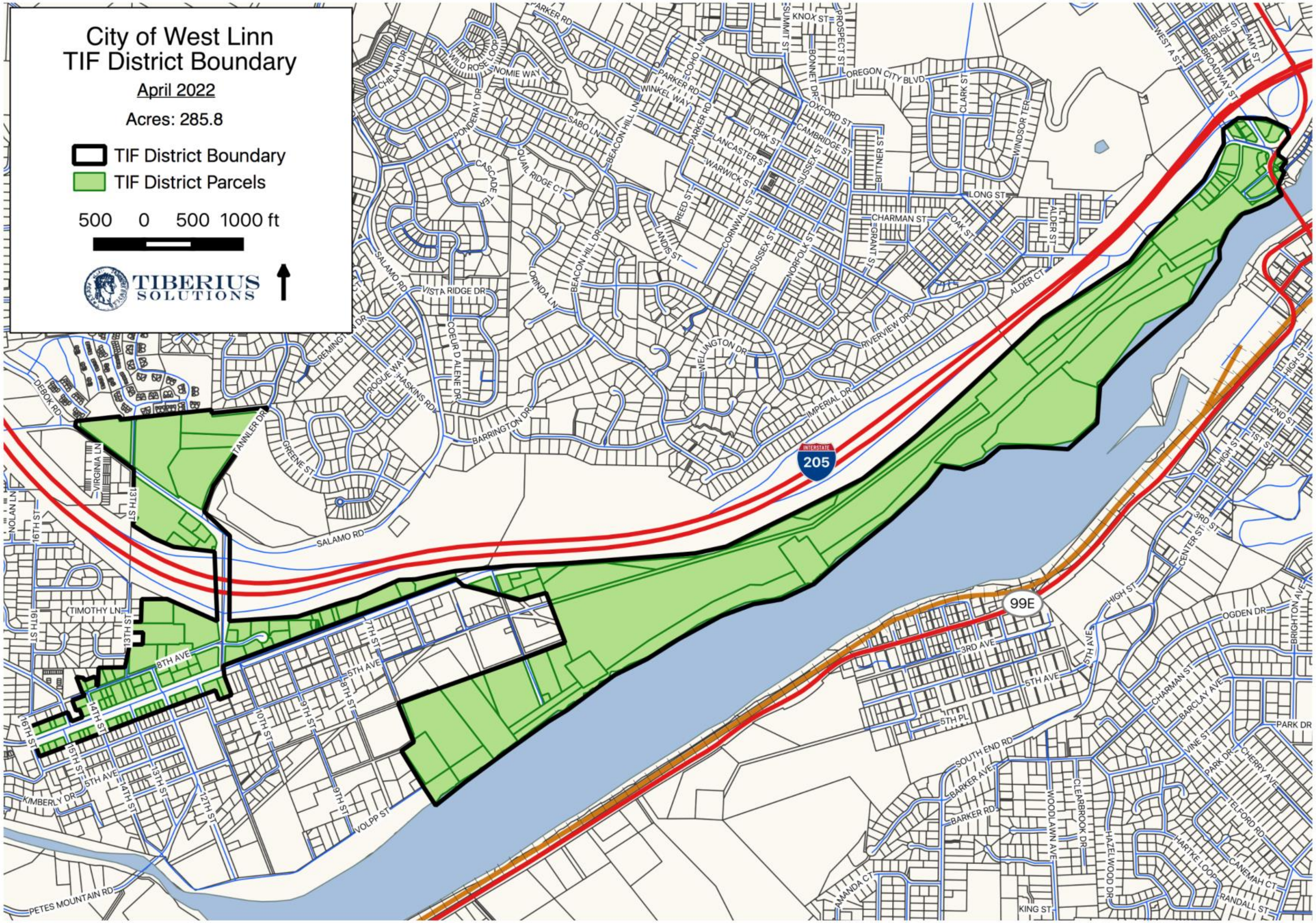
WEST LINN URBAN RENEWAL FEASIBILITY STUDY



ROADMAP

1. Feasibility Study Overview
2. Boundary
3. Projects
4. Financing
5. Agency Creation/Blight
6. Next Steps

BOUNDARY


City of West Linn
TIF District Boundary
April 2022
Acres: 285.8
TIF District Boundary
TIF District Parcels
500 0 500 1000 ft
TIBERIUS SOLUTIONS

IDENTIFICATION OF POTENTIAL PROJECTS FROM EXISTING MASTER PLANS & STAFF INPUT

1. Willamette Falls Drive Concept Plan
2. Transportation Systems Plan
3. West Linn Sanitary Sewer Master Plan Update
4. West Linn Storm Drainage Master Plan
5. West Linn Water System Master Plan
6. Parks and Recreation
7. Other

TIF FORECAST

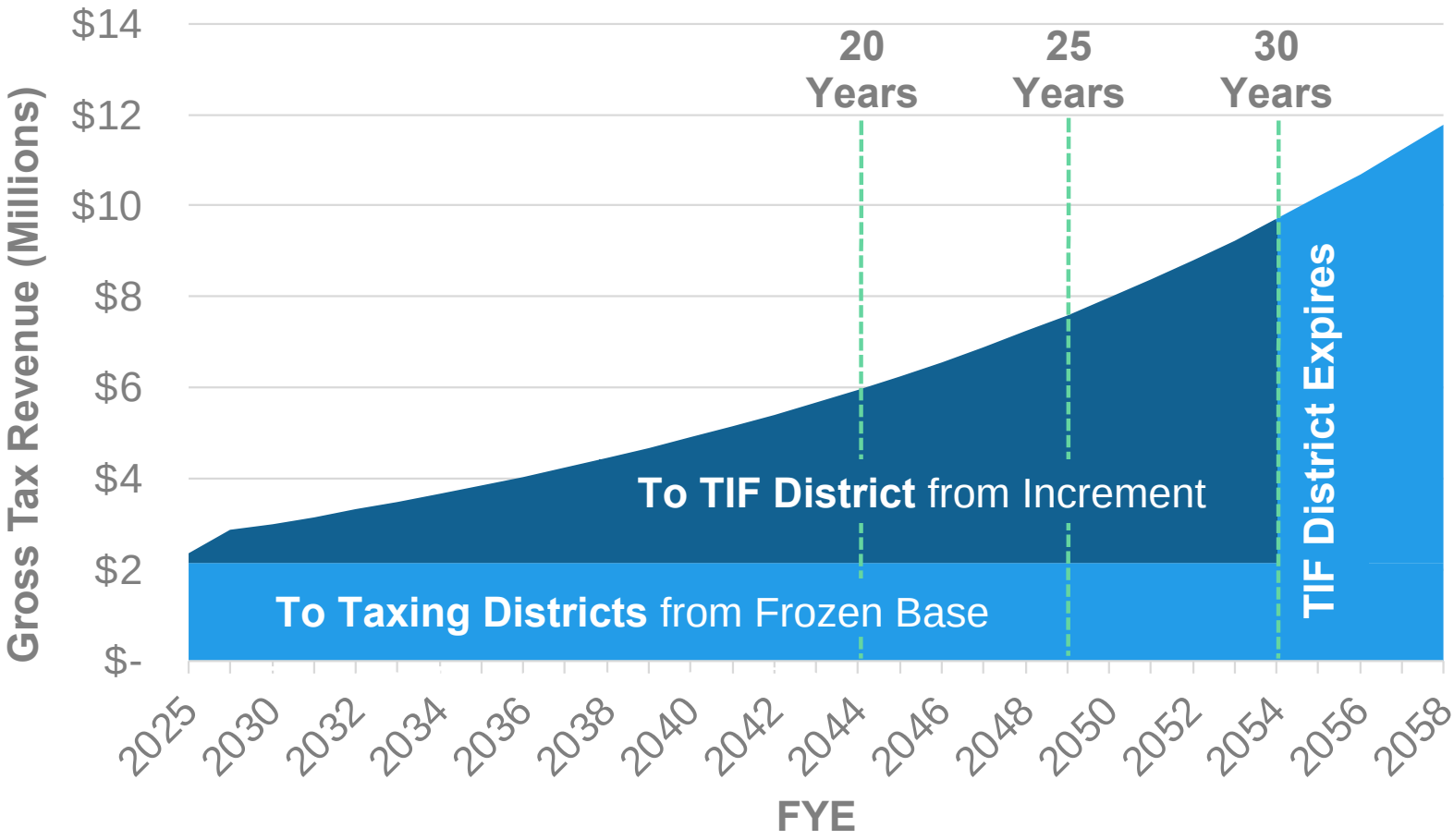
Assessed Value Growth

- 5% AV growth rate:
  - 3% appreciation for existing AV
  - 2% from new development (between $6.8 and $7.5 million in new construction per year)

Duration

- 20, 25, and 30 years

TIF FORECAST



CAPACITY SUMMARY

Duration	20 Years	25 Years	30 Years
Net TIF	**$32,300,000**	**$56,400,000**	**$89,000,000**
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Years 1-5	$2,900,000	$2,900,000	$2,900,000
Years 6-10	$5,600,000	$6,300,000	$6,300,000
Years 11-15	$5,800,000	$6,700,000	$7,500,000
Years 16-20	$4,900,000	$6,900,000	$8,000,000
Years 21-25	$0	$6,800,000	$8,600,000
Years 26-30	$0	$0	$8,600,000

CUMULATIVE FOREGONE REVENUE: General Government

Taxing District	20 Years	25 Years	30 Years
City of West Linn	($5,474,000)	($9,548,000)	($15,073,000)
Clackamas County	($6,207,000)	($10,828,000)	($17,094,000)
County Extension/4H	($129,000)	($225,000)	($356,000)
County Library	($1,026,000)	($1,790,000)	($2,826,000)
County Soil Conservation	($129,000)	($225,000)	($356,000)
TVF&R	($3,938,000)	($6,869,000)	($10,844,000)
Port of Portland	($181,000)	($316,000)	($498,000)
Metro	($249,000)	($435,000)	($687,000)
Vector Control	($17,000)	($29,000)	($46,000)

CUMULATIVE FOREGONE REVENUE: Education

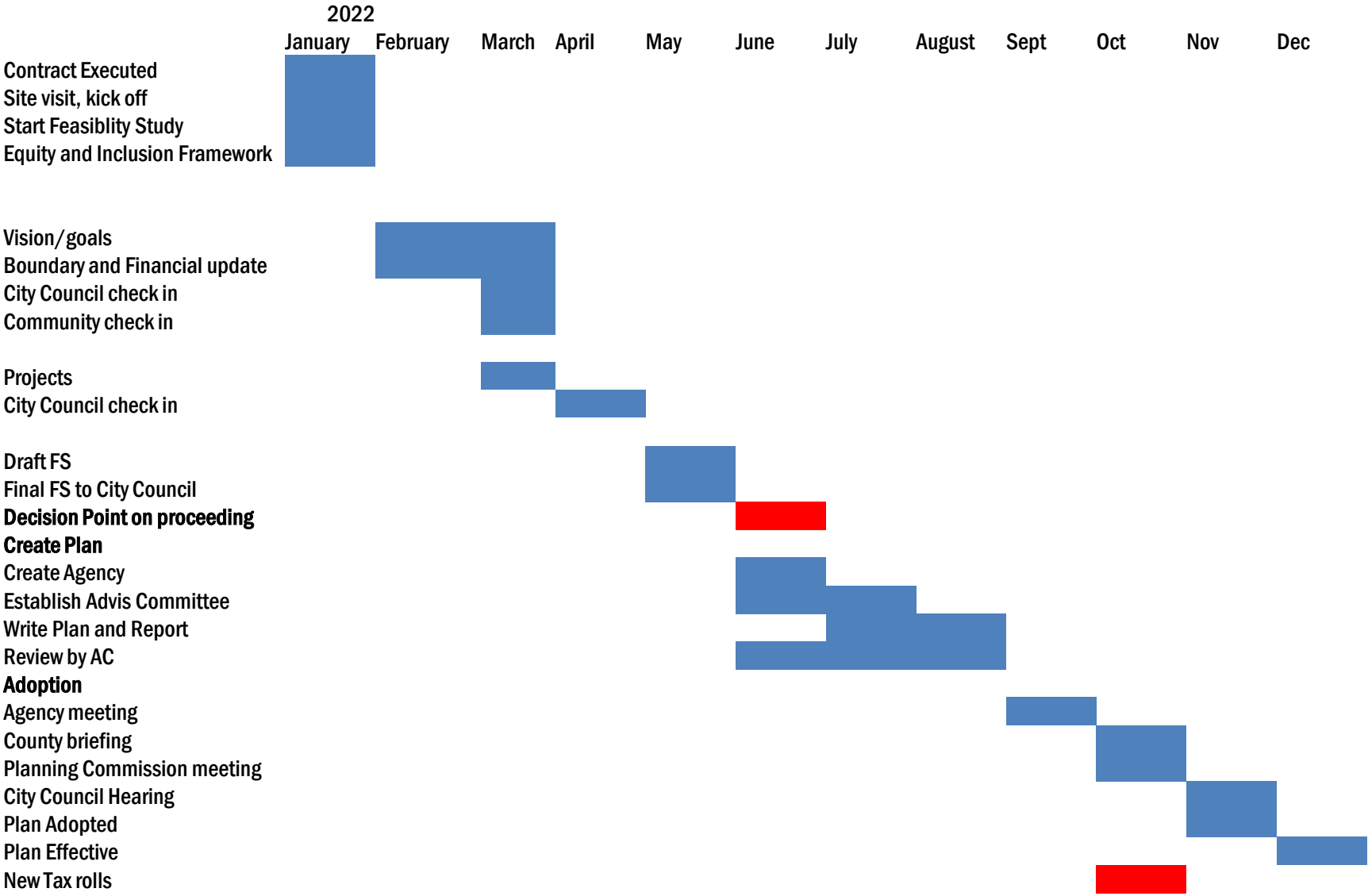
Taxing District	20 Years	25 Years	30 Years
Clackamas Comm College	($1,441,000)	($2,514,000)	($3,969,000)
Clackamas ESD	($952,000)	($1,661,000)	($2,621,000)
West Linn/Wilsonville SD	($12,570,000)	($21,926,000)	($34,615,000)

AGENCY CREATION

1. Why create now?
2. Non-emergency ordinance
3. Adds creation of Agency to Code
4. May either rescind ordinance or let sit in code if a Plan is not adopted.

NEXT STEPS

1. Determine whether City Council is comfortable moving ahead.
2. If so, create Agency in June meeting.
3. Create Advisory Committee
4. Develop Public Outreach Plan - ECONorthwest input on DEI
5. Begin full process of Plan and Report preparation


2022
January
February
March
April
May
June
July
August
Sept
Oct
Nov
Dec
Contract Executed
Site visit, kick off
Start Feasiblity Study
Equity and Inclusion Framework
Vision/goals
Boundary and Financial update
City Council check in
Community check in
Projects
City Council check in
Draft FS
Final FS to City Council
Decision Point on proceeding
Create Plan
Create Agency
Establish Advis Committee
Write Plan and Report
Review by AC
Adoption
Agency meeting
County briefing
Planning Commission meeting
City Council Hearing
Plan Adopted
Plan Effective
New Tax rolls

QUESTIONS/DISCUSSION

PROJECTS – INITIAL REVIEW

Document /Project Name	Cost	Description
Willamette Falls Drive Concept Plan		
Pedestrian Plan, Project P56	$34,813,000	Project P56 involves installing sidewalks on WFD from West A Street to Sunset Avenue. This segment of WFD is addressed by Segment 4 of the WFD Concept Plan
Pedestrian Plan Project, P57		Project P57 involves installing sidewalks on WFD from Sunset Avenue to 10th Street. This segment of WFD is addressed by Segment 3 of the WFD Concept Plan;
Bicycle Plan, B12		Project B12 involves installing cycle tracks on WFD from Willamette Drive to Sunset Avenue. This segment of the WFD is addressed by Segment 4 of the WFD Concept
Bicycle Plan, B13		Project B13 involves installing cycle tracks on WFD from Sunset Avenue to 10th Street. This segment of WFD is addressed by Segment 3 of the WFD Concept Plan; therefore, this project should be removed from the TSP.
Bicycle Plan, B38	High $400,000	Install two-way cycle track on north side of the roadway from Tannler Drive to Barrington Drive

Willamette Falls Drive Concept Plan

Motor Vehicle Plan, M17		Project M17 involves installing a traffic signal at the WFD/Sunset Avenue intersection. The location and orientation of the WFD/Sunset Avenue intersection will be reconfigured as part of the WFD Concept Plan; therefore, this project should be removed from the TSP.
Motor Vehicle Plan, M33		Project M33 involves installing a traffic signal at the WFD/Willamette Drive intersection. The location and orientation of the WFD/Willamette Drive intersection will be reconfigured as part of the WFD Concept Plan; therefore, this project should be removed from the TSP and the City should refer to the WFD Concept plan.

Transportation Systems Plan		
P2 5th Avenue Sidewalks	High $250,000	Install sidewalks on the north side of the roadway from 11th Street to 7th Street
P4 8th Avenue Sidewalks	High $55,000	Install sidewalks on the south side of the roadway from 12th Street to 400 feet east of 12th Street
P 96 Tannler Drive Sidewalks	Medium $235,000	Install sidewalks on both sides of the roadway from Blankenship Road to Greene Street
LSC		8th Avenue extension from 14th Street to Dollar Street Local Street Low
M2 Tannler Street Realignment	Medium $900,000	Realign Tannler Street at Blankenship Road to align with the driveway located approximately 350 feet west
M3Willamette Falls Drive/12th Street	Medium $300,000	Install a traffic signal when warranted
M4 Willamette Falls Drive/14th Street	Medium $20,000	Install all way stop control when warranted
M7 8th Avenue	Low $300,000	Upgrade from 10th Street to 14th Street
M19 8th Court	Medium $0 (to be completed by the developer)	Establish a crossover easement from the 8th Court terminus to Willamette Falls Drive when development occurs to preserve ingress and egress for existing and future development and provide relief to the 8th Court/10th Street intersection and secondary emergency access.
M20 10th Street	Medium $40,000 This cost represents the estimated local City contribution to overall project cost (25 percent)	Install dual eastbound left-turn lanes at the 10th Street/Willamette Falls Drive intersection.

M22 10th Street/8th Avenue- Court	Medium $10,000 This cost represents the estimated local City contribution to overall project cost (25 percent).	Install channelization at the intersection to restrict the eastbound left, eastbound-through, northbound left, and westbound-through movements.
M23 Street/Blankenship Road	Medium $500,000 This cost represents the estimated local City contribution to overall project cost (25 percent).	Widen Blankenship-Salamo Road to provide dual left-turnlanes at the westbound and northbound approaches to the intersection. Also, add a second exclusive right-turn lane at the eastbound approach to the intersection to address queuing.
M24 10th Street/ Willamette Falls Drive	Medium $75,000 This cost represents the estimated local City contribution to overall project cost (25 percent).	Install a traffic signal when warranted

West Linn Sanitary Sewer Master Plan Update		
5.3.1.3 Willamette Drive (P-3)	$269,000	Project P-3 is located in wastewater basin 2B and consists of upsizing 614 feet of existing 12-inch gravity main to 15-inch gravity main along Willamette Drive between Magone Lane and Pimlico Drive. In addition, 69 feet of 15-inch gravity main is to be upsized to 18-inch gravity main along Dillow Drive from Willamette Drive to Tulane Street. This project resolves deficiencies identified under existing conditions due to relatively flat slopes for both sections of pipe. Both sections of pipe are surrounded by steeper sections upstream and downstream, a configuration that typically triggers the HGL to rise in the flat portions of the system. This is a medium priority project and is estimated to cost $269,000. Note, this project is located in a basin (wastewater basin 2B), where an I/I reduction program might mitigate the need for this improvement.

West Linn Storm Drainage Master Plan		
P1	$20,000	Tannler Drive/Bernert Creek Basin Feasibility Study
R-9		Public Pond #18 Retrofit X
C-2	$847,000	5th Avenue Culvert Replacement
C-3	$282,000	Sunset Creek at Willamette Falls Drive Culvert Replacement
West Linn Water System Master Plan		
ES 9 - Plate 1 in Appendix		Water Main and replacement of existing main
1	$1,187,200	Willamette Falls Dr. from PRV to Pump Station Willamette 10 20 1 3,710 75% 320
2	$311,910	Willamette Falls Dr. from Britton to Ostman Willamette 3, 4 12 2 1,686 56% 185
5	$355,625	12th St. from Tualatin Ave. to Volpp St. on to 9th St. up to 5th Ave. Willamette 6 8 5 2,845 0%
6	$84,750	10th St. from 5th Ave. to Leslies Way Willamette 2 8 5 678 0% 125

Parks and Recreation	FROM TABLE G-1	2019 P&R Master Plan
Willamette River Fishing Dock/Ladder	$120,000	Add permanent parking area, improve signage and access, provide covered area, connect to trail
Planned Willamette River Riverfront Trail	$1,000,000	Acquire trail corridor property or easements and connect trail from Bernert Landing to Arch Bridge. Cost is a percentage of full $1,825,000 cost in plan, which includes area outside of TIF District
Future Riverfront Park	$17,025,000	Acquire property and transform into regional park to potentially include interpretation, swimming dock, plaza, heated shelter for events, tables, non-motorized boat launch, protect and restore natural resources, integrate extraordinary play opportunities, create trailhead, parking areas.

OTHER		
Parking Lot in Downtown Willamette Area	$8,000,000	Placeholder if appropriate for TIF plan. This project is not contained in any plan. Not discussed publicly, vetted, or costed.
Public Plaza in Historic City Hall Area	$3,000,000	Placeholder if appropriate for TIF plan. This project is not contained in any plan. Not discussed publicly, vetted, or costed.
Parking Lot in Historic City Hall Area	$8,000,000	Placeholder if appropriate for TIF plan. This project is not contained in any plan. Not discussed publicly, vetted, or costed.
Façade Improvement Program - Commercial Areas in District	$2,000,000	
River viewpoints along paths and roads	$1,000,000	Benches, paving, etc.
Streetscape improvements and beautification within District Area	$1,000,000	Benches, lights, sidewalks, ADA crosswalks, etc.

CITY OF
West
Linn

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Work Session Agenda Bill

Date: 5/16/2022

To: Jules Waters, Mayor
Members, West Linn City Council

From: Lance Calvert, P.E. – Public Works Director/City Engineer *LEC*

Through: Jerry Gabrielatos, City Manager JG

Subject: Erosion Control Presentation, DEQ Pre-Enforcement Notice, and City response

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Purpose
Provide follow up to Council on requested information about erosion control permitting for development sites including information on the recent activity at the Athey Creek school site.

Question(s) for Council:
N/A

Background & Discussion:
At the May 9th Council meeting, there was a brief general discussion about the permitting process for development sites in regards to erosion control and the city's role in this regard. Also discussed were concerns with erosion and sediment at the Athey Creek school construction site including the February 28, 2022 storm event, city follow up to the event, and subsequent Oregon Department of Environmental Quality (DEQ) Pre-Enforcement Notice to the City and city response.

To follow up on these concerns and provide additional information on the erosion and sediment control permitting process, city staff has asked our on-call storm water consultant, Brown and Caldwell, to provide the Council with a brief presentation (to be presented at the Council work session) on storm water permitting including construction site erosion control. Included in the presentation will be details about the recent events at the Athey Creek construction site and the ongoing process with DEQ.

Council Options:
Discuss and provide feedback to staff regarding current and future site developments and requirements.

Staff Recommendation:
N/A.

Attachments:
1. Jordan Ramis response to DEQ Pre-Enforcement notice (minus attachments).

Maureen S. Bayer
maureen.bayer@jordanramis.com
Direct Dial: (503) 598-5529

Two Centerpointe Dr., 6th Floor
Lake Oswego, OR 97035
T (503) 598-7070
F (503) 598-7373

April 27, 2022

VIA EMAIL AND FIRST CLASS MAIL

Ryan Johnson
MS4 Stormwater Specialist
Oregon Department of Environmental Quality (DEQ)
700 NE Multnomah St., Suite 600
Portland, OR 97232
ryan.a.johnson@deq.oregon.gov

Re: Pre-Enforcement Notice (2022-PEN-6981)
DEQ File No. 108016; EPA Permit Number 101348
Our File No. 50015-36808

Dear Mr. Johnson:

We are counsel for the City of West Linn. The following letter responds to the Oregon Department of Environmental Quality's (DEQ) Pre-Enforcement Notice issued to the City of West Linn (the "City") (the "Notice"). The Notice was issued in connection with an alleged discharge of turbid water on February 28, 2022, from a construction site at 945 Dollar Street in West Linn, Oregon (the "Site"), where a new middle school is being built. We provide this letter in part to correct factual errors in the Notice and to provide additional supporting information.

I. Regulatory Background

As DEQ is aware, the City is currently covered under the Clackamas Group NPDES MS4 Phase I permit #101348 ("MS4 Permit"). The MS4 Permit was initially issued in 1995, was renewed in 2012, and was most recently renewed last year by the DEQ. The new permit became effective October 1, 2021. The MS4 Permit authorizes the City to discharge municipal stormwater to surface waters of the state, specifically the Tualatin River. In compliance with the MS4 Permit, the City implements best management practices ("BMPs") as provided in the DEQ-approved City of West Linn Stormwater Management Plan ("SWMP"), dated 2012, which remains in effect and is incorporated into the 2021 MS4 Permit until it is updated as required. The 2012 SWMP includes several categories of BMPs, including BMPs addressing Construction Site Runoff Controls, which are required by Schedule A.3.d. of the MS4 Permit. While the 2021 MS4 Permit includes some new requirements when compared to the 2012 MS4 Permit, the City has until December 1, 2022, to update its SWMP to reflect these new requirements. Until then, Schedule A (3)(d) of the MS4 Permit states that the City is required to "implement their existing construction site runoff program as the new requirements are developed and implemented."

The City's DEQ-approved management practices for construction site runoff controls are summarized on pages 13-17 of the 2012 SWMP. The City's three construction site-related BMPs are:

1) Implement the erosion control manual;

2) Provide educational information to construction site operators; and

3) Conduct erosion control inspections and enforcement.

The City's 2012 SWMP includes measurable goals and tracking measures for each of these three BMPs. In compliance with the MS4 Permit, annual reports have been provided to DEQ each year that summarize tracking measure results for each of these BMPs.

With respect to the BMP for conducting erosion control inspections and enforcement, the City's SWMP includes the following commitments:

> **BMP Description**: The City of West Linn development standards require erosion control to be in place prior to issuance of a construction and/or building permit. All sites greater than 1,000 ft^2 of disturbance are required to have an erosion and sediment control plan on record and are inspected during construction activities.
>
> Small residential developments are inspected for erosion control twice, at a minimum. Large development and commercial developments are also inspected a minimum of twice for erosion control and more frequently as part of construction inspections. Additional inspections are conducted if permit violations occur. Erosion control inspections are conducted in accordance with the City's erosion and sediment control inspection form. Erosion and sediment control enforcement procedures are outlined on the City's website as part of a three step progression. For sites with an initial erosion control violation, a written notice of inspection findings and required corrections is issued. 24 hours is typically given to correct the initial problem. If not resolved, a notice of non-compliance will be issued with required corrections. Should required corrections not be addressed, a stop work order will be issued and other penalties such as fines and suspension/withdrawal of development approvals may be imposed. Engineering or building inspections will also not be conducted while an erosion control violation exists. Before the final engineering or building inspection, all disturbed areas must be permanently stabilized or revegetated.
>
> **Measurable Goals:**

- Conduct an initial and a final site inspection on all sites with an erosion control plan for appropriate erosion control.
- As necessary, enforce appropriate erosion and sediment control in conjunction with the three-step progression as outlined on the City's website.
- Require all disturbed areas to be permanently stabilized or revegetated prior to final engineering or building inspection.
- Ensure a minimum of one additional erosion control inspection is conducted during active construction on all sites with an erosion control plan.

Tracking Measures:

1) Track the number of erosion control inspections conducted each year.
2) Report the number of notices of non-compliance and stop work orders issued, and describe the measures used to resolve the issue.

Per the BMP description above, the City applies its local construction site permitting program (*i.e.*, issuance of building permits) to sites with 1,000 square feet (ft^2) of disturbance or more. DEQ also has its own construction site NPDES permitting program that applies to sites one acre and greater unless the local jurisdiction has a 1200CN permit, in which case the local jurisdiction's program applies and a DEQ permit is not required unless the site disturbs 5 acres or greater. The City is covered by a 1200CN permit, and therefore, construction sites between 1,000 ft^2 and 5 acres fall under the City's 1200CN permit.

II. Factual Background

Developers for the Athey Creek School applied for a building permit on October 12, 2021. The construction project for the new middle school is approximately 22 acres. Given that the site disturbance is greater than five acres, both a DEQ-issued 1200-C erosion control permit and a local City of West Linn building permit were required for the site stipulating construction site management measures. The City conducted a site plan review, approved the Erosion and Sediment Control Plans, and issued a Building Permit on January 4, 2022.

On the morning of February 28, 2022, it was raining in West Linn, and rainfall increased in intensity around 8:00 AM, with over 1.5" of rainfall total on that day. Given the increased erosion risk that can be associated with intense rainfall on construction sites, Assistant City Engineer Erich Lais directed the City's construction site inspector Lance Archer to inspect active construction sites on February 28, including the Athey Creek School site. When Mr. Archer arrived at the Site sometime between 9:00 AM and 10:00 AM, he encountered malfunctioning erosion control measures, resulting in visible sediment discharge leaving the site. The discharge was draining into a ditch along Willamette Falls Drive. Mr. Archer observed the contractors at the Site correcting the issues and taking actions to stop the discharge of sediment-laden runoff. See Attachment A: Erosion Control Inspection, February 28, 2022. Mr. Archer instructed the contractor to inspect the ditch along Willamette Falls Drive, fix the erosion control measures, and control the sediment discharge. Mr. Archer returned to the Site at approximately 1:00 PM after receiving notice that the sediment discharge had crossed Willamette Falls Drive. At this time, a street sweeper was onsite sweeping both Willamette Falls Drive and the Fields Bridge Park parking lot. Based on his observations on the afternoon of February 28, Mr. Archer concluded that the erosion control measures had been repaired and that the cleanup of the sediment discharge was well underway.

The fact that immediate action was taken to halt the flow of stormwater off-site is further evidenced by a timeline prepared by the construction project manager. See Attachment B. Actions taken on the day of the stormwater event to address the off-site sediment discharge included:

- The contractor and a subcontractor working to control water flow;
- Installation of sump pumps; and
- Clean up of the driveway and parking lot.

DEQ conducted a 1200-C NPDES Construction Stormwater Permit Project Inspection on March 2, 2022. The City was not invited to attend the inspection. DEQ's Inspection Report states that there was no active stormwater discharge observed at the time of the inspection, and that no turbidity samples were taken (Attachment C, Oregon DEQ 1200-C NPDES Construction Stormwater Permit Project Inspection Report). The DEQ's Inspection Report also states that "new controls were implemented at the time of inspection and in response to the runoff event that occurred on 2/28/2022," which confirms that mitigation and correction measures were taken.

Mr. Archer conducted a follow-up erosion control inspection on March 18, 2022. See Attachment D, Erosion Control Report, March 18, 2022. Mr. Archer found that overall erosion control appeared to be comprehensive and serviceable.

The facts show that the City's actions followed the City's MS4 Permit and the 2012 SWMP, because the City immediately:

- inspected the site when heavy rainfall occurred;
- notified the contractor immediately upon observing discharge leaving the site;
- took action to control the runoff and correct malfunctioning erosion control measures;
- executed cleanup of sediment that had left the site; and
- conduced a follow-up inspection.

The corrections were made within 24 hours, as specified in the SWMP. While written notice was not contemporaneously provided to the contractor, verbal direction resulted in a far more expedient outcome, which mitigated the amount of runoff leaving the Site. The City documented the inspection and findings, and conducted a follow-up inspection on March 18, 2022. In summary, compliance with the MS4 Permit was achieved through the actions taken by the City, which acted quickly in the best interest of protecting the receiving waters.

DEQ contacted City staff to discuss the issue in early March. There was some confusion on the part of City staff regarding the regulatory authority over the site, who believed that sites over 5 acres were only regulated by DEQ through a 1200C permit and that the City was not required to inspect these construction sites. This confusion stemmed from the fact that two stormwater program leads (Amy Pepper and Luke Fullington) left their employment of the City at the end of 2021. So, while there was some internal confusion related to responsibility for regulatory oversight, the fact remains that this Site applied for and obtained a local building permit as required and the City conducted a site plan review as required. Additionally, the City inspected the site and conducted follow-up actions in accordance

with its DEQ-approved SWMP. The City is currently hiring new staff for the stormwater program and those staff will be trained to manage the program and track compliance with the SWMP.

III. Response to Notice

The Notice states that if any of the facts in the Pre-Enforcement Notice are in error, the City may provide that information to DEQ for consideration. Errors identified in the Notice include:

a. In the fourth paragraph under Violations, DEQ states that “As the new permit implementation dates are currently in the future, permit cites below reference the permit issued in 2011.” First, the previous permit was issued in 2012, not 2011. Moreover, West Linn is currently covered by the 2021 MS4 Permit and the 2012 MS4 Permit no longer applies and should not be referenced. In the 2021 MS4 Permit, Schedule A.3.d for construction site runoff controls states that until the new requirements are developed and implemented, the previously approved 2012 SWMP applies. References in the Notice should be made to the 2021 MS4 Permit and 2012 SWMP as incorporated, and not the 2012 permit.

b. Under Violation 1 related to Permit Schedule A.4.a.viii, the Notice states that "the co-permittee did not notify [Oregon Emergency Response System] OERS as required." Schedule A.4.a.viii of the Permit provides that "[s]pills, or other similar illicit discharges, that may endanger human health or the environment must be reported *in accordance with all applicable federal and state laws*, including property notification to the Oregon Emergency Response System." (emphasis added). First, this violation in the Notice should be referring to the 2021 Permit Schedule A.3.c., as the reference to the 2012 permit does not apply. Second, notification to the OERS was not required, because the release in question did not involve oil or a hazardous substance. Notification to OERS is governed by ORS §§ 340-142-0040 and 466.635 (regulating releases of oil or hazardous substances; ORS § 824.088 (regulating railroad incidents); ORS § 345-60-030 (regulating radioactive material incidents); and Section 304 Title III related to the release of hazardous substances. The City is unaware of any state or federal requirement to report a release of turbid water to OERS.

c. Violations 1, 2, 3, and 7 refer to Illicit Discharges Detection and Elimination-related (“IDDE”) requirements in the MS4 Permit. The IDDE requirements are not applicable to this erosion control issue because any discharges from this Site are regulated under the City's building permit and the DEQ 1200-C NPDES permit. The definition of illicit discharges in the 2021 MS4 Permit (see fourth bullet below) specifically makes an exception for discharges permitted by an NPDES permit (underlines added for emphasis).

    - Permitted Activities: On the third page of the 2021 MS4 Permit document under Permitted Activities, it states that “unless specifically authorized by this permit, <u>another National Pollutant Discharge Elimination System permit</u>, or other applicable state or federal permit, any other direct or indirect discharges to waters of the state is prohibited, including discharges to an underground injection control system.”

- A.1.c. Limitations of Coverage: The permit does not authorize: i. Stormwater discharges associated with industrial activities [as defined in 40 CFR 122.26(b)(14)] or stormwater associated with construction activities [as defined in 40 CFR 122.26(b)(14)(x) and (b)(15)]. Such discharges are regulated through DEQ's NPDES Industrial Stormwater General Permits and DEQ's NPDES Construction Stormwater General Permits; or another appropriate NPDES permit.
- A.1.d. Allowable Non-Stormwater Discharges: The co-permittees must effectively prohibit non-stormwater discharges into the MS4s unless such discharges are otherwise permitted under this subsection, another NPDES permit or other applicable state or federal permit, or are otherwise exempted or authorized by DEQ.

- Definitions: Illicit Discharge is any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater except discharges authorized under Section A.4.a.xii, discharges permitted by a NPDES permit, or other state or federal permit, or otherwise authorized by DEQ.

Based on these citations, enforcement and corrective actions should be associated with the specific NPDES permit that regulates the construction site (the DEQ 1200C permit), and not the IDDE components of the MS4 Permit. DEQ's allegation that the City violated IDDE components of the MS4 Permit is incorrect given the definition of illicit discharges cited above, because IDDE requirements are not applicable to this erosion control issue since the Site is regulated under the DEQ 1200-C permit. Due to this error, the City requests that violations 1, 2, 3, and 7 be withdrawn from the Notice.

d. Violation 4 alleges that the City did not oversee the Athey Creek School construction project. The facts demonstrate that the Athey Creek School project did apply for a local building permit with the City and the City conducted a site plan review and approved the erosion control plans before issuing the local building permit. In addition, two inspections occurred during the rain event on February 28, as required by the permit, and a follow-up inspection was conducted on March 18, 2022. See Attachments A and D). Due to recent departures by the stormwater leads at the City, there was a gap in understanding how the local building and 1200C NPDES permits interrelate resulting in confusion by City staff regarding the need for an initial site inspection due to the site being covered by a 1200-C NPDES permit. This gap in understanding will be remedied by training to ensure that all new hires and existing staff fully understand all permit requirements. The City requests that this violation be withdrawn.

e. Violation 5 alleges that the City did not provide DEQ documentation regarding how the City required construction site operators to develop erosion prevention and sediment control site plans, and to implement and to maintain effective erosion prevention and sediment control best management practices. While documentation may not have been provided to DEQ, an erosion control plan was developed and approved by the City, and therefore the functional equivalent of this requirement has been met. See Attachment E. The City requests that this violation be withdrawn, as all substantive requirements pertaining to the

need for erosion prevention and sediment control site plans and best management practices have been met.

f. Violation 6 alleges that the City did not oversee the Athey Creek School construction project as required by the permit. As set forth above, the City conducted two on-site inspections during the rain event on February 28, which were performed to ensure that the approved erosion prevention and sediment control plan was being properly implemented. A report was submitted to DEQ. See Attachment B. The City also sent an inspector out for a follow-up visit to confirm that corrections had been made and that cleanup had been completed. Reports were prepared documenting these inspections. See Attachments A and D. For these reasons, the City requests that violation 6 be withdrawn from the Notice.

g. Violation 8 alleges that the City did not oversee the site plan review for the Athey Creek School project. While there was some confusion on the part of City staff when DEQ called, the City did conduct a site plan review as required prior to building permit issuance. Documentation is provided with this letter. See Attachment E. The City therefore requests that violation 8 be withdrawn from the Notice.

h. Violation 9 alleges that the City has not provided enforcement response procedures to DEQ as required by the MS4 Permit. The City's 2012 SWMP states (as quoted above) that "Erosion and sediment control enforcement procedures are outlined on the City's website as part of a three step progression." The three step enforcement procedures have been on the City's website for years and are located at the following link: Erosion Control Enforcement | City of West Linn Oregon Official Website[1]. Therefore, the City requests that Violation 9 be withdrawn from the Notice.

i. Violation 10 is redundant of the previous violations and does not provide any additional specifics regarding elements of the SWMP that were not implemented. As such, the City requests that Violation 10 be withdrawn from the notice.

j. Violation 11 alleges that City staff with MS4-related responsibilities did not demonstrate knowledge of the permit requirements when contacted by DEQ regarding the Athey Creek School construction project. While the City staff contacted by DEQ demonstrated some confusion about regulatory authority over sites 5 acres and greater, this was due to recent staff departures. Amy Pepper, who left West Linn very recently, was previously overseeing this program and had reviewed the site plan for this site. The City will work to ensure existing staff and new hires with MS4 responsibilities receive training.

[1] https://westlinnoregon.gov/publicworks/erosion-control-enforcement

As a result of these errors in the Notice regarding violations, several of the corrective actions in the Notice are not applicable. These include the following:

> Corrective Action 1: The City is already inspecting and reviewing related documentation for constructions sites disturbing 1,000 ft^2 and greater.
>
> Corrective Action 2: The City already has procedures for conducting site plan reviews and does so for applicable construction projects.
>
> Corrective Actions 4, 5, and 7: These corrective actions are not relevant to this permitted construction site issue as they relate to the IDDE Program.

West Linn proposes to conduct the following corrective actions to ensure internal clarity regarding program requirements with City staff due to recent and unanticipated staff transitions in the City's stormwater program.

> **Corrective Action 3:** While inspections have been occurring at regulated construction sites in West Linn, the City acknowledges that documentation of inspections could be improved. As requested in the Notice, this documentation will be submitted with the annual reports for the remainder of the permit term.
>
> **Corrective Action 6**: Construction site runoff training will be conducted for all employees with construction-related and peripheral responsibilities. Construction site inspectors and plan reviewers will be fully trained in the practices, procedures, and BMPs described in West Linn's June 2020 Erosion Prevention and Sediment Control Planning and Design Manual, as well as the related requirements of the 2021 MS4 Permit, the 1200-C and 1200-CN permits. City construction inspectors will also receive Certified Erosion and Sediment Control Lead ("CESCL") training at the earliest available opportunity. If DEQ has recommendations regarding training courses/venues, the City would appreciate those suggestions.
>
> **Corrective Action 8:** While the City's website already includes contact numbers for reporting (Emergency Contacts | City of West Linn Oregon Official Website), the website will be updated to provide more specific information related to reporting of non-stormwater discharges and spills via online form or email.
>
> **Corrective Action 9**: As referenced in the 2012 SWMP language above, the City's three step enforcement response procedures for construction sites have been posted online for years. Erosion Control Enforcement | City of West Linn Oregon Official Website. This website also includes, and has included, a phone number for reporting erosion control problems as requested in Corrective Action 8. This should fulfill Corrective Action 9.

IV. Conclusion

The City would be happy to meet to discuss these issues in further detail or to provide further documentation for clarification. Based on the information provided in this letter, we respectfully request that DEQ revise its findings and issue an updated Notice with the applicable corrective actions noted above, and with the relevant violations removed as requested.

Sincerely,

JORDAN RAMIS PC

Maureen S. Bayer

cc: Michael Cardwell, City of West Linn (via email)

Attachments:

A: Erosion Control Inspection, February 28, 2022
B: Project Manager Timeline, March 1, 2022
C: Oregon DEQ 1200-C NPDES Construction Stormwater Permit Project Inspection Report
D: Erosion Control Report, March 18, 2022
E: Erosion Control Plan

ORDINANCE NO. 1735

AN ORDINANCE RELATING TO THE AMENDMENT OF WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTER 2: DEFINITIONS, CHAPTER 25: OVERLAY ZONES – HISTORIC DISTRICT, CHAPTER 58: WILLAMETTE FALLS DRIVE COMMERCIAL DESIGN DISTRICT, AND CHAPTER 99: DECISION MAKING PROCEDURES QUASI-JUDICAL.

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~**bold lined through**~~ and additions are **bold underlined** in **red font.**

WHEREAS, Chapter II, Section 4, of the West Linn City Charter provides: Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

WHEREAS, in 2019 the City Council directed the Historic Review Board to develop a package of text amendments with the goal of increasing clarity and consistency within the Community Development Code regarding development standards and process requirements applicable to alterations to historic structures, and the development of properties within the Willamette Historic District and the Willamette Falls Drive Commercial Design District; and

WHEREAS, on January 18, 2022, the West Linn Historic Review Board voted 6-0 to forward a package of draft text amendments to the Planning Commission; and

WHEREAS, the West Linn Planning Commission held a work session with representatives from the West Linn Historic Review Board on February 16, 2022 to review draft code amendments and provide direction to staff; and

WHEREAS, the Planning Commission held a public hearing, which was noticed in accordance with City standards, on April 20, 2022, and recommended the City Council adopt the proposed amendments with two modifications; and

WHEREAS, the City Council held a work session on May 2, 2022 to review draft code amendments and provide direction to staff; and

WHEREAS, the West Linn City Council held a public hearing, which was noticed in accordance with City standards, on May 9, 2022, to consider the Planning Commission recommendation, receive public testimony, and evaluate the decision-making criteria; and

WHEREAS, the Council's decision is based on the findings contained in these Whereas Clauses, together with findings, conclusions, and substantial evidence found in the associated land use record file CDC-21-01, which is incorporated by this reference.

NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

SECTION 1. Findings of Fact. Protection of the city's historic resources and fostering of exceptional design quality within the Willamette Falls Drive Commercial Design District is a continuing source of community identity, livability, and vibrancy. Periodic updates and clarifications of these standards is necessary to ensure they are clear, effective, and uniform in nature. Such updates will ensure the City is able to meet its obligations under Statewide Planning Goal 5 and maintain its current status as a Certified Local Government.

SECTION 2. The West Linn Community Development Code Chapter 2: Definitions is amended to include new text and rescind existing text as shown in Exhibit A.

SECTION 3. The West Linn Community Development Code Chapter 25: Overlay Zones – Historic District is amended to include new text and rescind existing text as shown in Exhibit B.

SECTION 4. The West Linn Community Development Code Chapter 58: Willamette Falls Drive Commercial Design District is amended to include new text and rescind existing text as shown in Exhibit C.

SECTION 5. The West Linn Community Development Code Chapter 99: Procedures for Decision Making: Quasi-Judicial is amended to include new text and rescind existing text as shown in Exhibit D.

SECTION 6. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 7. Savings. Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions of the ordinance were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 8. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need not be codified and the City Recorder or the designee is authorized to correct any cross-references and any typographical errors.

SECTION 9. Effective Date. This ordinance shall take effect on the 30th day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the 9th day of May, 2022, and duly PASSED and ADOPTED this 16th day of May, 2022.

_____
JULES WALTERS, MAYOR

ATTEST:

_____
KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Community Development Code Chapter 2

02.030 SPECIFIC WORDS AND TERMS

For the purpose of these regulations, the following terms or words are defined as follows.

[…]

HISTORIC DEFINITIONS. The following terms and phrases shall have the meanings given to them below with regard to Chapter 25 CDC, Historic Resources:

Addition. Expansion or physical modification of the exterior of a historic resource that includes the expansion of the building footprint. Additions do not include painting and color selection or ordinary maintenance or repair of the resource.

Alteration. Physical modification of the exterior of a historic resource that does not include an expansion of the building footprint. Partial demolition of a structure is an alteration. Alterations do not include painting and color selection or ordinary maintenance or repair of the resource.

Building. A structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex such as a courthouse and jail or a house and barn.

Demolition. The entire removal of a structure. Demolition of a portion of a structure is an alteration.

Demolition by neglect. **(1)**The ~~**gradual**~~ deterioration of a building when routine or major maintenance is not performed**, (2) the property is not properly secured against entry by vandals or unauthorized person or persons without right to legal access, and the occurrence of such entry is evident, (3) and/or the integrity of the building is compromised as a result of improper construction activities**. This includes any structural deficiency or a deficiency in a building part, which when left unrepaired could lead to deterioration of the building's structural frame**, potentially beyond the point of repair.** ~~**and/or if it is open to entry by vandals or vagrants.**~~

Design Exception. A discretionary decision to permit modification of a design standard or an alternative to a standard within Chapter 58 (Willamette Falls Drive Commercial Design District), based on specific findings delineated in the chapter.

Eligible contributing. A building, structure, object, or site originally constructed within the applicable period of significance that retains and exhibits sufficient integrity (location, design, setting, materials, workmanship, feeling, and association) to convey a sense of history.

Exterior. The outside portions of a structure, including the materials, equipment and components which constitute the walls, roof, foundation, stairs, windows, doors, support elements, decking, attached projections and other external parts and features.

Façade, primary. That part of a historic resource where the main entry is located. On a corner lot each wall fronting a street shall be considered a primary facade.

Façade, secondary. An exterior wall not fronting a street.

Historic district. A geographically definable area containing a significant concentration, linkage, or continuity of buildings, structures, sites, or objects united historically or aesthetically by plan or physical development, and listed as a historic district in the National Register or designated as a local historic district by the City Council. A historic district may also comprise individual elements separated geographically but linked by association or history.

Historic landmark. A building, structure, site, or object listed individually on the National Register or designated as a local historic landmark by the City Council.

Historic preservation. Preservation, restoration, or rehabilitation of a historic resource.

Historic resource. A historic landmark or historic district listed on the National Register or designated as a local historic landmark or historic district by the City Council.

Massing. The perception of the general shape, form, and size of a building in three dimensions, not just its outline from a single perspective.

National Register of Historic Places. The nation's official list of buildings, structures, sites, objects, and districts important in the nation's history and maintained by the National Park Service in Washington, D.C., and hereinafter referred to as the "National Register."

Non-contributing. A building, structure, object, or site originally constructed within the applicable period of significance that does not retain or exhibit sufficient integrity (due to its location, design, setting, materials, workmanship, feeling, and association) to convey a sense of history. These properties do not strengthen the historic integrity of an existing or potential historic district in their current condition.

Not in period. A building, structure, object, or site that was originally constructed outside a historic district's applicable period of significance.

Not in period compatible. A building, structure, object or site built after the period of significance with a degree of craftsmanship that is compatible with the architecture of the district.

Not in period noncompatible. A building, structure, object or site built after the period of significance that is generally incompatible with the architecture of the district.

Object. A material thing of functional, aesthetic, cultural, historic or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Original. A component that was constructed on or added to the building during the period of significance.

Period of significance. The dates stated in the official designation of a historic district that identify the period or periods of time when the geographic area attained the characteristics which qualify it for designation as a historic district.

~~**Primary facade. That part of a historic resource where the main entry is located. On a corner lot each wall fronting a street shall be considered a primary facade.**~~

Primary structure. The principal structure on a site, typically a residence or a commercial building.

Property pending designation. A building, structure, site, or object for which a formal application for local historic designation has been initiated, or for which an application has been submitted to the State Historic Preservation Office for nomination to the National Register, or a building, structure, site, or object within a proposed historic district for which a formal application for historic designation has been submitted, but which has not yet been reviewed by the Keeper of the National Register, or has been reviewed by the Keeper and determined to be "eligible."

Rehabilitation. The process of returning a historic resource to a state of utility through repair, alterations, and additions, which makes possible an efficient use while preserving those portions or features of the historic resource that convey its historic significance.

Scale. The proportions of a building in relation to its surroundings, or the size of parts or details of the building, particularly in relation to the size of a person or adjacent structure. Scale refers to the apparent size, not the actual size.

Site. The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

Visible. The resource or a portion of the resource that can be seen from the public right-of-way. For example, typically the primary facade of a historic resource can be seen from the public right-of-way

Western False Front. An architectural style that was intended to create visual continuity and a prosperous urban atmosphere during the early settlement period of American western towns. Defining characteristics include:

- **The street facing façade(s) rises to form a parapet (upper wall) which hides most or nearly all of the roof;**
- **The roof is almost always a front gable, though gambrel and bowed roofs are occasionally found;**
- **The street facing façade(s) may exhibit greater ornamentation than other sides of the building.**

Chapter 25
OVERLAY ZONES – HISTORIC DISTRICT

25.010 PURPOSES

The purposes of this chapter are to:

A. Foster community and neighborhood pride and sense of community identity based on recognition and use of historic and cultural resources.

B. Identify**, ~~and~~** protect**, repair and maintain** the City's historic resources (see Chapter 2 CDC, Definitions), including the diverse architectural styles that reflect the phases of the City's history.

C. Encourage preservation and use of historic sites, structures, and districts within the City that reflect special elements of its historical, architectural, archaeological, artistic, cultural, and engineering heritage.

D. Provide procedures and establish approval criteria for all reviews of proposed alterations to the exterior of historic structures and sites and other development in historic districts.

E. Increase economic and financial benefits to historic property owners and the community.

F. Ensure that changes to designated historic resources protect the integrity of the resource and the significant aspects of the area's heritage.

G. Provide regulations that will ensure the preservation of the quality and historic integrity of historic resources and their site and, if applicable, ensure compatibility and consistency with the qualities of the respective historic district its nomination was intended to preserve.

H. Provide for creation of new historic districts and designation of new landmarks, as appropriate, and to allow removal of such designations if they are no longer appropriate.

I. Provide a process to enable thoughtful consideration of the proposed demolition of historic structures. (Ord. 1614 § 6, 2013)

25.020 USE OF THIS CHAPTER

A. Applicability. This chapter shall apply to all properties designated as historic resources as shown on the City's zoning map and properties listed on the National Register. Specific sections apply as noted in subsections B and C of this section.

B. Hierarchy of regulation. The provisions of this chapter shall supersede any conflicting standards or criteria elsewhere in the CDC. The underlying zoning provisions for the applicable zone still apply.

1. Exemptions. The items listed in CDC 25.040(A), Exemptions from historic design review, are exempt from historic review provided that they comply with any applicable requirements in CDC 25.040(A).

2. Design standards. CDC 25.060, Design standards applicable to historic resources, applies to historic reviews for designated properties, except for CDC 25.060(B), Standards for accessory structures, which applies only to accessory structures on sites containing historic resources.

3. Additional design standards. CDC 25.070, Additional design standards applicable to historic districts, provides additional standards that are applicable to historic design review for historic district properties.

a. CDC 25.070(A), Standards for alterations and additions, applies only to historic design review in a historic district.

b. CDC 25.070(B), Standards for new construction, applies only to new development or construction in a historic district beyond alterations and additions, and including accessory structures.

c. CDC 25.070(C), Willamette Historic District general standards, applies only to alterations and additions, new construction, and accessory structure construction in the Willamette Historic District.

C. Applicability of historic design standards. Development subject to this chapter must comply with applicable historic design review standards unless otherwise approved through the modifications process under CDC 25.080. The "X" in the following chart indicates which standards are applicable to different types of development.

STANDARDS APPLICABILITY MATRIX						
SECTION	PROPOSED ACTIVITY	ADDITIONS AND ALTERATIONS	ADDITIONS AND ALTERATIONS	NEW CONSTRUCTION	ACCESSORY STRUCTURES	ACCESSORY STRUCTURES
	LOCATION	HISTORIC LANDMARK	HISTORIC DISTRICT	HISTORIC DISTRICT	HISTORIC LANDMARK	HISTORIC DISTRICT
25.060 DESIGN STANDARDS APPLICABLE TO HISTORIC RESOURCES	A. STANDARDS FOR ALTERATIONS AND ADDITIONS	X	X	X	X	X
	B. STANDARDS FOR ACCESSORY STRUCTURES				X	X
25.070 ADDITIONAL DESIGN STANDARDS APPLICABLE TO HISTORIC DISTRICTS	A. STANDARDS FOR ALTERATIONS AND ADDITIONS		X			X
	B. STANDARDS FOR NEW CONSTRUCTION			X		X
	C. WILLAMETTE HISTORIC DISTRICT GENERAL STANDARDS		X	X		X

(Ord. 1614 § 6, 2013)

25.030 PERMITTED USES

Unless otherwise provided for in this chapter, uses permitted by the base zoning district that are in accordance with the CDC are allowed on sites containing historic resources. (Ord. 1614 § 6, 2013)

25.040 HISTORIC DESIGN REVIEW PROCESSES

Proposed changes to historic resources that are not exempted by subsection A of this section, Exemptions from **H~~h~~**istoric **D~~d~~**esign **R~~r~~**eview, are subject to subsection B of this section, Class I **H~~h~~**istoric **D~~d~~**esign **R~~r~~**eview, or subsection C of this section, Class II **H~~h~~**istoric **D~~d~~**esign **R~~r~~**eview. Class I **H~~h~~**istoric **D~~d~~**esign **R~~r~~**eview addresses significant changes that warrant staff review. Class II **H~~h~~**istoric **D~~d~~**esign **R~~r~~**eview addresses major changes including additions and new construction, subject to Historic Review Board approval. The processes for conducting Class I and Class II **H~~h~~**istoric **D~~d~~**esign **R~~r~~**eview are in Chapter 99 CDC.

A. Exemptions from ~~h~~Historic ~~d~~Design ~~r~~Review. The following are exempt from ~~h~~Historic ~~d~~Design ~~r~~Review:

1. Ordinary maintenance. Ordinary maintenance or repair including a change of facade colors, unless the color is specifically listed in the historic resource inventory, historic resource nomination, or National Register nomination as an attribute that contributes to the resource's historic significance.

2. Gutters and downspouts. Replacement or addition of gutters and downspouts that are rectangular, ogee, **half-round** or K-shaped and composed of wood or metal material, or styles and materials that match those that were typically used on similar style buildings of the era, or the era the building style references.

3. Foundation. Repair of a foundation with the same material or construction of a foundation in the same location that does not result in raising or lowering the building elevation.

4. Building material. Replacement of building material**, when such material is beyond repair**~~, when required due to deterioration of material~~, with building material that matches the original material.

5. Roof material. Repair or replacement of roof material with material comparable to the existing roof, or replacement of the roof in its entirety with cedar shingles, three tab asphalt shingles, or architectural composition shingles.

~~6. Window sashes. Replacement of window sashes with new sashes consistent with the original appearance. Elements of consistency include: material, profile and proportions of the sash, sill, trim, light patterns, glass color, and profile of mullions and muntins.~~

~~7~~6. Storm windows. Storm windows made of painted wood, **a material with a** baked enamel **finish**, anodized aluminum, or other materials with forms that complement or match the color, detail, and proportions of the building.

~~8~~7. Egress windows. Addition of egress windows on secondary facades with wood windows or windows that are consistent with subsection (A)(6) of this section.

~~9~~8. Landscaping. Landscaping changes unless the landscaping is identified in the historic resource inventory, historic resource nomination, or National Register nomination, as an attribute that contributes to the resource's historic value.

~~10~~9. Fences. Construction of fences that meet the following requirements in addition to the requirements of Chapter 44 CDC:

a. Traditional fences. Any fence along a front lot line or along the portion of a side lot line between the street and the primary structure (see Figures 1 and 2) which:

1) Consists of pickets, each of which are between one and three inches wide and spaced equally;

2) Does not have solid portions exceeding 50 percent; and

3) Is no greater than 36 inches in height.

b. General fences. Any fence that is not located along a front lot line or along the portion of a side lot line between the street and the primary structure that is:

1) Constructed of wood fence boards, rails, posts, and associated hardware only; and

2) No greater than 72 inches in height.

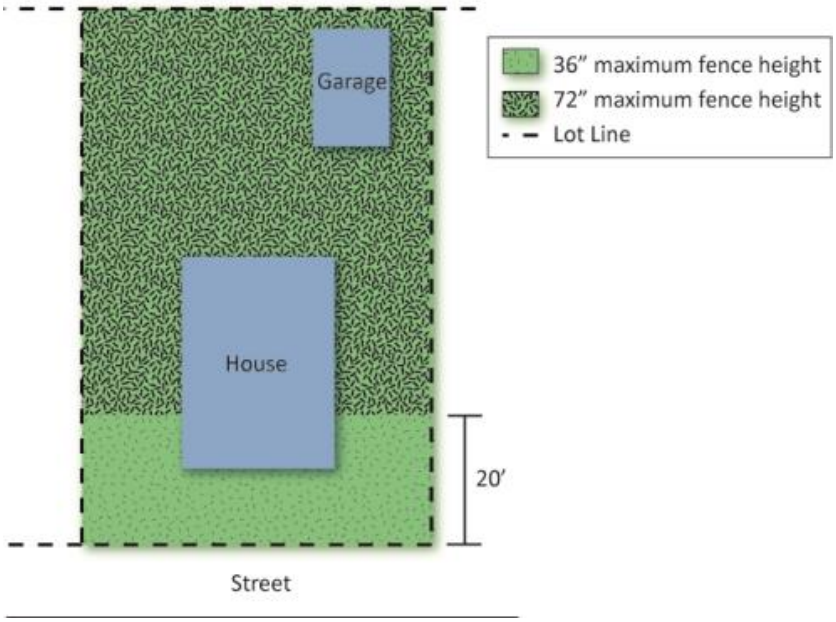


Figure 1: Example of Exempt Interior Lot Fence Locations

Figure 2: Example of Exempt Corner Lot Fence Locations

101. Retaining walls. Construction of retaining walls that meet the following requirements:

a. No greater than three feet high; and

b. Project above upper grade no more than 12 inches.

112. Swimming pools. Construction of in-ground swimming pools in rear yards.

123. Mechanical equipment. Replacement or installation of mechanical equipment, if 100 percent screened by a permitted building, fence, or landscaping that precludes visibility from any street.

134. Solar energy systems. Replacement or installation of solar energy systems that are not part of a project that includes other elements subject to historic design review, provided the following requirements are met:

a. On a flat roof, the horizontal portion of a mansard roof, or roofs surrounded by a parapet that is at least 12 inches higher than the highest part of the roof surface:

1) The solar energy system must be mounted flush or on racks with the system or rack extending no more than five feet above the top of the highest point of the roof.

2) The solar energy system must be screened from view from all streets by an existing parapet along the street-facing facade that is as tall as the tallest part of the solar energy system, or by setting the solar energy system back from the roof edges facing the street four feet for each foot of solar energy system height.

b. On a pitched roof, solar energy systems may be located on a section of pitched roof facing a rear lot line or on a section of pitched roof facing within 45 degrees of the rear lot line. (See the example on the right side of Figure 3.) The system must be mounted flush, with the plane of the system parallel with the roof surface, with the system no more than 12 inches from the surface of the roof at any point, and set back three feet from the roof edge and ridgeline.

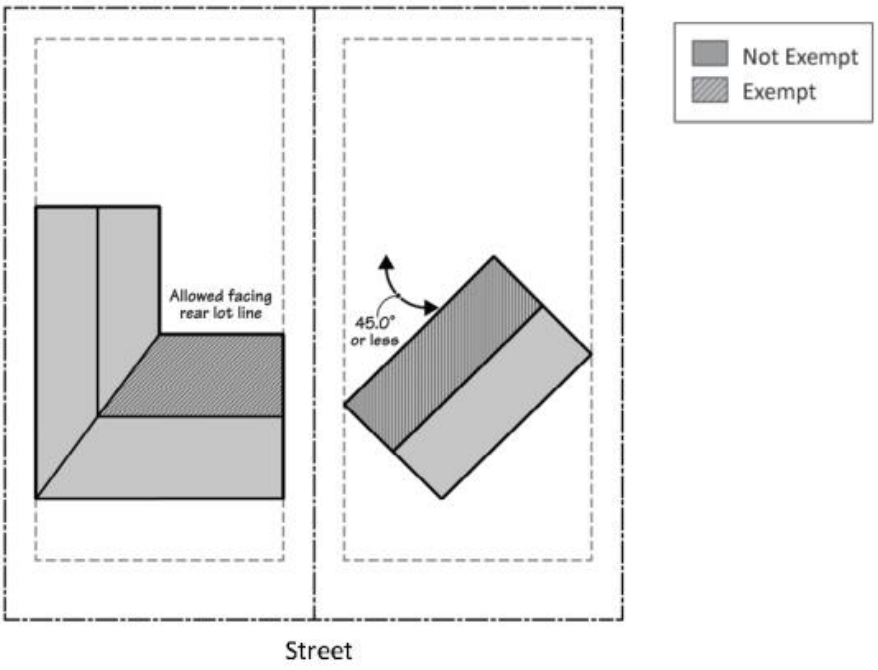


Figure 3: Exempt Solar Energy System Locations

14~~5~~. Skylights. Replacement or installation of skylights that are not part of a project that includes other elements subject to historic design review, provided the following requirements are met:

a. For skylights that are on a flat roof, the horizontal portion of a mansard roof, or roofs surrounded by a parapet that is at least 12 inches higher than the highest part of the roof surface, the skylight must be screened from view from all streets by:

1) An existing parapet along the street-facing facade that is as tall as the tallest part of the skylight; or

2) Setting the skylight back from the roof edges facing the street four feet for each foot of skylight height.

b. For skylights that are on a pitched roof, the skylight must be flat and must face a side or rear lot line or be located on a section of a pitched roof that faces within 45 degrees of a rear lot line. (See the right side of Figure 3.)

15~~6~~. Utilities, street infrastructure, and street furniture. Replacement or installation of utilities, street infrastructure, or street furniture except for streetlights, utility boxes, benches, receptacles, and the installation of curbs where there are none. Replacement and new sidewalks shall not exceed four feet in width except as required to comply with the Americans with Disabilities Act and shall be compatible in location, pattern, spacing, dimensions, and materials with existing sidewalks.

16~~7~~. Accessory structures. Construction of accessory structures under 120 square feet and 10 feet in height (greenhouses, storage sheds, jacuzzis, spas, structures, gazebos, etc.) in a side or rear yard.

B. Class I **H~~h~~**istoric **D~~d~~**esign **R~~r~~**eview. The following are subject to Class I **H~~h~~**istoric **D~~d~~**esign **R~~r~~**eview to determine their compliance with the applicable approval standards:

1. Nonexempt. Items listed in CDC 25.040(A)(1) through (17) that do not qualify for an exemption;

2. Facade alteration. Alteration of a facade when 100 square feet or less of the structure's facade is being altered;

3. Ingress/egress. Revised points of ingress/egress to a site;

4. Americans with Disabilities Act. Proposals seeking compliance with the Americans with Disabilities Act, not including the public right-of-way; and

5. Art and statuary. Construction of freestanding art and statuary over 10 feet tall.

C. Class II **H~~h~~**istoric **D~~d~~**esign **R~~r~~**eview. All proposed new construction, alterations, and additions, not identified as exempt under subsection A of this section, or subject to Class I **H~~h~~**istoric **D~~d~~**esign **R~~r~~**eview under subsection B of this section, are subject to Class II **H~~h~~**istoric **D~~d~~**esign **R~~r~~**eview and must meet the applicable approval standards. (Ord. 1614 § 6, 2013)

25.050 APPLICATION REQUIREMENTS

A. Historic **~~d~~D**esign **~~r~~R**eview. Applications for **~~h~~H**istoric **~~d~~D**esign **~~r~~R**eview shall include the following:

1. Narrative. Written narrative explaining the proposal and how it meets the approval criteria in CDC 25.060 and 25.070, as applicable;

2. Existing plan and elevation drawings. Plan and elevation drawings of the existing structure, if applicable, including materials;

3. Proposed plan and elevation drawings. Plan and elevation drawings of the proposed changes, including materials;

4. Current photographs. **Current ~~P~~p**hotographs of the existing **structure with adjacent properties for context, including all elevations and features proposed for modification~~, if applicable~~**;

5. Historic photographs. Historic photographs and/or drawings of the existing structure, if available; and

6. Supplementary. For additions that increase the gross square footage of the structures on the site by more than 50 percent, and/or new construction in a historic district:

a. Plan and elevation drawings of adjacent properties; and

b. A rendering and/or photo-simulation showing the proposal in context.

B. Designation of a historic resource. Applications for designation as an historic resource shall include the following:

1. Narrative. Written narrative description of the proposed historic resource and how it meets one or more of the approval criteria in CDC 25.090(A);

2. Site plan. Site plan depicting the property boundaries and all structures and features on the site;

3. Current photographs. Current photographs of all elevations of the existing structure and any significant features;

4. Historic photographs. Historic photographs, plans, or maps, if available;

5. Supplementary documentation. Any other documentation demonstrating the significance of the proposed historic resource; and

6. Owner consent. Owner consent as follows:

a. Historic landmarks. The property owner must consent, in writing, to a proposed historic landmark designation with the exception that properties listed on the National Register shall be regulated as historic landmarks regardless of the owner's consent.

b. Historic districts. A property owner may refuse to consent to historic district designation at any point during the designation process. Properties in historic districts listed on the National Register shall be regulated as historic properties regardless of the owner's consent.

C. Removal of historic resource designation. Applications for removal of historic resource designation shall include the following:

1. Narrative. Written narrative description of the historic resource proposed for removal of designation that addresses the considerations identified in CDC 25.100;

2. Site plan. Site plan depicting the property boundaries and all structures and features on the site;

3. Current photographs. Current photographs of all elevations of the existing structure and any significant features;

4. Historic photographs. Historic photographs, plans, or maps, if available; and

5. Supplementary documentation. Documentation that the property owner objected, on the record, at the time of designation, if applicable.

D. Relocation of a historic resource. Applications for relocation of an historic resource shall include the following:

1. Examination of alternatives. Documentation that all reasonable alternatives to relocation have been explored and that relocation is the preferred alternative.

2. Structure and site documentation. Documentation of the historic structure and site conditions prior to relocation, including detailed photography, notes, drawings, and reference measurements.

3. Moving procedures. Clearly stated moving procedures that will be utilized to protect historic elements and document the relocation, including: plans for minimizing damage to historic materials, labeling system for dismembered elements to assure accurate reconstruction in the new location, and plans for protecting the historic resource until reconstruction is complete.

E. Demolition of a historic resource.

1. Historic landmark or contributing primary structure. An application for the demolition of a historic landmark or contributing primary structure shall include:

a. A statement of the historic significance of the structure or resource to the community, taking into consideration its designation as a historic landmark or its contributing status in a historic district.

b. A statement demonstrating good faith efforts of the property owner to sell or relocate the structure or resources, including property documentation, but not limited to:

1) Real estate taxes for the two years immediately preceding the application;

2) Assessed value for the two years immediately preceding the application;

3) Current fair market value of the structure or resource as determined by an appraiser;

4) All listings for the structure or resource for the past two years including prices asked and offers received; and

5) Documentation of all attempts to relocate the structure or resource.

c. Documentation of the historic structure and site conditions prior to demolition, including detailed photography, notes, drawings, and reference measurements.

d. A report from a structural engineer on the condition of the structure or resource.

e. The estimated cost of rehabilitation of the structure or resource.

f. A report from a real estate or other market professional identifying potential alternative uses for the structure or resource permitted within the existing zoning classification.

g. A report identifying available economic incentives for adaptive reuse of the structure or resource.

h. A proposed plan for redevelopment of the site on which the structure or resource is located.

2. Non-contributing or not in period primary structure and accessory structure. An application for the demolition of a non-contributing or not in period primary structure or an accessory structure shall include:

a. A statement of the historic significance of the structure or resource to the community, taking into consideration its location on the site of a historic landmark or within a historic district.

b. A site plan depicting the property boundaries and all structures and features on the site.

c. A proposed plan for redevelopment of the site on which the structure or resource is located. (Ord. 1614 § 6, 2013)

25.060 DESIGN STANDARDS APPLICABLE TO HISTORIC RESOURCES

The following design standards apply to all changes, including alterations, additions, and new construction proposed on a designated historic resource. These standards are intended to preserve the features that made the resource~~s~~ eligible for historic designation. Development must comply with all applicable standards, or be approved through the modifications process specified in CDC 25.080.

A. Standards for alterations and additions. This section applies to historic reviews for alteration of and additions to designated historic resources:

1. Retention of original **exterior** construction **and overall structural integrity**. The original **exterior** construction **and structural integrity** shall be maintained or restored to the greatest extent practicable. Stylistic features of original construction that shall be preserved include, but are not limited to: a line of columns, decorative shingles, projecting bays, **windows and doors including their related functional and decorative features,** other primary structural elements, spatial relationships that characterize the property, examples of skilled craftsmanship that characterize the building, and architectural details defining the structure's character and historic significance.

2. Retention of **exterior** historic material. Removal or alteration of historic **exterior** materials and features shall be avoided during the construction of new additions or ~~**exterior**~~ alterations**.** ~~**Whenever possible, d**~~**D**eteriorated materials and architectural features shall be repaired rather than replaced**, unless the material is beyond repair**. In the event replacement of an existing feature is necessary, new materials shall~~**, to the extent possible,**~~ match those of the original building in terms of composition, design, color, texture, and other visual features.

3. Time period consistency. Buildings shall be recognizable as a physical record of their time and place. Alterations which have no historical basis or which seek to create a false sense of historical development are not allowed.

4. Significance over time. Changes to a property that have acquired historic significance in their own right, and during the period of significance, shall be retained and preserved.

5. Differentiate old from new. ~~Alterations, and additions~~**Alterations, additions, and related new construction** shall be differentiated from the original buildings **to avoid creating a false sense of history,** and shall be compatible with the historic materials, features, size, scale, proportion, and massing to protect the integrity of the property. **Additions and alterations shall be done in accordance with the Secretary of the Interior's Standards for new exterior additions to historic buildings.**

6. Reversibility. Additions and alterations shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its context would be unimpaired.

7. Building additions. Building additions shall be subordinate to the original building, smaller in scale, and attached to the rear or set back along the side. Features of building additions, including the proportions of window and door openings, shall be consistent with those of the existing building. Dimensional and other requirements in the underlying zone, as applicable, shall apply.

8. Building height and roof pitch. Existing or historic building heights and roof pitch shall be maintained.

9. Roof materials. Replacement of a roof or installation of a new roof with materials other than cedar shingles, three tab asphalt shingles, or architectural composition shingles must be demonstrated, using photographic or other evidence, to be in character with those of the original roof, or with materials that are consistent with the original construction.

10. Existing exterior walls and siding. Replacement of the finish materials of existing walls and siding ~~with different material must be demonstrated, using photographic or other evidence, to be in character with those of the original materials, or~~**must be** with **building** materials ~~that are~~ consistent with the original construction.

11. New exterior walls and siding. Wood siding or shingles shall be used unless the applicant demonstrates that an alternative material has a texture and finish typically used on similar style buildings of the era, or the era the building style references. Vinyl or other materials that do not match those that were typically used on similar style buildings of the era, or the era the building style references, are not permitted.

12. Gutters and downspouts. Replacement or new gutters and downspouts shall be rectangular, ogee, **half-round** or K-shaped and comprised of wood or metal material, or styles and materials that match those that were typically used on similar style buildings of the era, or the era the building style references. Vinyl or other materials and styles that do not match those that were typically used on similar style buildings of the era, or the era the building style references, are not permitted.

13. New windows. New **windows shall be located on rear or secondary facades, unless required for a new use. New** -windows shall match the appearance **and size** of the original windows as closely as possible. Wood window frames and sashes shall be used unless the applicant demonstrates that the non-wood windows are consistent with **the original historic appearance and material**~~, their wooden counterparts~~, including profile and

proportion of the sash, sill, trim, light patterns, glass color, and profile of mullions and muntins. ~~The window trim and sill shall match the original trim.~~**Replacement of existing windows shall meet standards for window replacement.**

14. Storm windows. Storm windows shall be made of painted wood, **a material with a** baked enamel **finish**, anodized aluminum, or another material that is consistent with the color, detail, and proportions of the building.

15. Window replacement. Replacement of windows or window sashes shall be consistent with the original historic appearance **and material**, including the profile of the sash, sill, trim, window plane relative to the building wall plane, light pattern, glass color, profile of mullions and muntins, and color**, method of operation and related features, such as shutters**.

16. Doors. Doors shall be painted or stained wood, fiberglass clad, or metal clad, or another material that is consistent with the original historic appearance.

17. Porches. Front porches are allowed on new construction. No front porch shall be added to a structure if there was not one originally. Existing front porches shall not be enclosed or enlarged. Alterations to existing front porches and side yard porches that face a street shall:

a. Maintain the shape, width, and spacing of the original columns; and

b. Maintain the height, detail, and spacing of the original balustrade.

18. Decks. Decks shall be located in **the** rear yard or the portion of the side yard behind the front 50 percent of the primary structure.

19. Foundations. Repair or construction of a foundation that results in raising or lowering the building elevation must demonstrate that:

a. The proposal is consistent with the original design and, if applicable, is consistent in the context of adjacent and other structures on the block, based on photographic or other evidence; or

b. **I**~~**That i**~~t is necessary to satisfy a requirement of the building code and/or floodplain regulations (Chapter 27 CDC).

20. Lighting. Residential lighting shall be shielded to prevent glare and compatible with the architectural character of the building. Blinking, flashing, or moving lighting is not permitted.

B. Standards for accessory structures. The following standards apply to accessory structures on properties designated as historic resources in addition to the regulations in Chapter 34 CDC:

1. All accessory structures.

a. Location.

1) Accessory structures in the Willamette Historic District are subject to the setback requirements of CDC 25.070(C)(1) through (4);

2) Accessory structures on historic landmark properties must meet the setback requirements of the underlying zone and Chapter 34 CDC;

3) Detached accessory structures shall be in the rear yard; and

4) Two-story accessory structures shall be at least 10 feet from the house; and one-story accessory structures shall be at least three feet from the house.

b. Height. Accessory structures in the Willamette Historic District are subject to CDC 25.070(C)(7). Accessory structures on historic landmark properties must meet the height requirements of the underlying zone and Chapter 34 CDC.

2. Conversions and additions. Existing detached, unheated structures including, but not limited to, workshops and garages, may be converted into other allowable accessory uses under the following conditions:

a. The structure is located behind the house's front building line;

b. A structure in the front yard cannot be converted to a heated accessory structure;

c. A story may be added to an existing non-contributing garage or similar accessory structure; provided, that the final design meets the setback standards of this chapter for a two story accessory structure (see CDC 25.070(C)(1) through (4)) for the historic district, or the setbacks in Chapter 34 CDC for a historic landmark; and

d. The conversion of an existing structure is not required to meet the design standards in CDC 34.030, but it must conform to all applicable requirements of this chapter. (Ord. 1614 § 6, 2013)

25.070 ADDITIONAL STANDARDS APPLICABLE TO HISTORIC DISTRICTS

This section provides additional standards that are applicable to properties within a historic district.

A. Standards for alterations and additions.

1. Compatibility with nearby context. Alterations and additions shall be~~:~~

a. ~~**Compatible**~~ **Similar** in scale and mass to adjacent properties; and

~~**b. Cc**~~onstructed such that they maintain the privacy of the residents of adjacent properties through window placement, orientation or landscaping.

2. Not in period buildings. Alterations to compatible, not in period buildings shall follow all applicable standards of this chapter to avoid creating a false sense of history.

3. Not in period noncompatible buildings. Alterations to not in period, noncompatible buildings shall be consistent with applicable standards in CDC 25.060 and 25.070. Such buildings do not contribute to the historic value of the district and are not subject to standards pertaining to siding, windows, and other materials listed in CDC 25.060(A);

however, such buildings shall not be so stylistically different from adjacent buildings that they detract from the district's historic character.

B. Standards for new construction. The standards in this section apply only to new construction**, including new accessory structures,** in a historic district ~~**beyond alterations and additions, including new accessory structures**~~**. The standards for new construction do not apply to alterations and additions to existing structures.** These standards shall apply in addition to any other applicable standards (see the Standards Applicability Matrix in CDC 25.020).

1. New construction shall complement and support the district. The historic district's defining characteristics include a discernible aesthetic rhythm of massing, scale, and siting. Infill buildings shall not deviate in a detracting manner from these elements, but appear as complementary members of the district, by conforming to the following:

a. ~~**Lot or parcel size, m**~~**M**assing, scale, proportion, form, siting, floor area ratio, window patterns, building divisions, and height shall correspond to the contributing buildings within the district, and any specific historic district standards and the applicable requirements of the underlying zone.

b. Infill buildings shall relate to and strengthen the defining characteristics, including architectural style, without replicating the historic buildings. Buildings shall differentiate by use of materials, mechanical systems, construction methods, and, if applicable, signage. Architectural style shall not be the primary indicator of differentiation.

c. Mechanical and automobile infrastructure must be appropriately concealed when not consistent with the district's character.

2. Reconstruction. Reconstruction of buildings that existed within the district during the period of significance is allowed. Reconstructions shall be done in accordance with the Secretary of the Interior's Standards for Reconstruction.

3. Archaeological resources shall be preserved in place or mitigated. When new construction must disturb archaeological resources, mitigation measures shall be carried out consistent with applicable state and federal laws. As appropriate, information yielded from archaeological mitigation shall be interpreted in the new building or site.

C. Willamette Historic District general design standards. This subsection applies only to alterations and additions, new construction, and accessory structure construction of residential and historically residential properties in the Willamette Historic District. Other buildings are subject to the requirements in Chapter 58 CDC. Dimensional and other requirements of the underlying zone, as applicable, shall apply.

1. Front yard setback.

a. The front yard setback shall equal the average of the front setbacks of adjacent homes on the block face. For corner lots, the setback shall be the average between the adjacent house to the side and 20 feet. The setback shall be the distance measured from

the front property line to the dominant vertical face of the building, exclusive of any porches or front landings.

b. Unenclosed porches with no living space above may encroach into the front yard setback six feet from the dominant vertical face of the building.

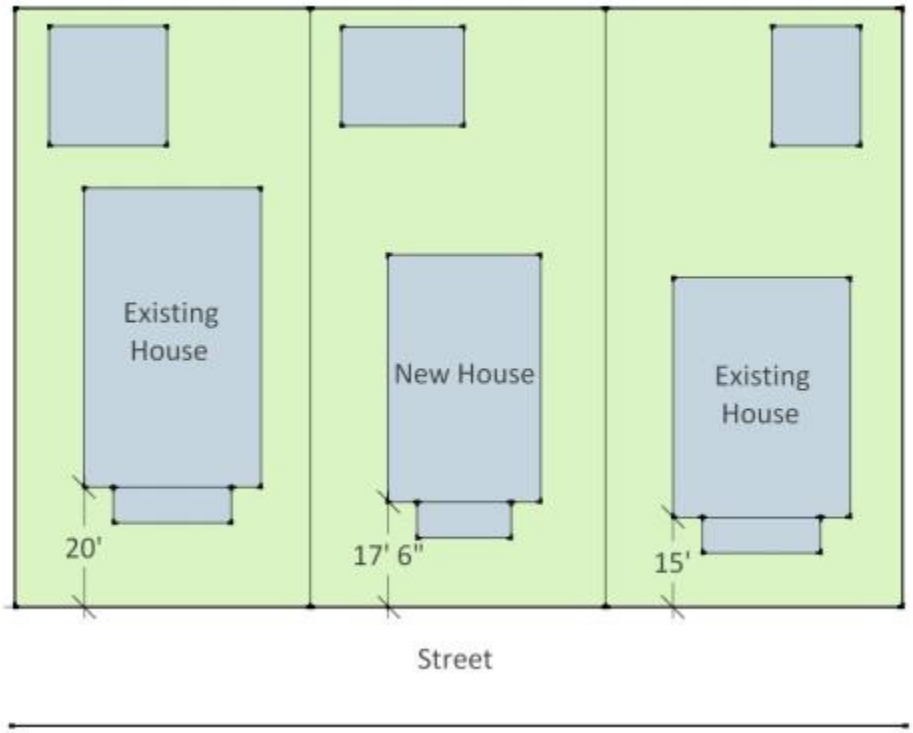


Figure 4: Front Yard Setback

2. Side yard setback. Side yard setbacks shall be five feet, except:

a. Bays, porches and chimneys and other projections that are cumulatively no more than 20 percent of the overall respective building wall length may intrude 18 inches into the side yard setback; and

b. One story accessory structures may be sited within three feet of the side property line and two story accessory structures shall be a minimum of 15 feet from the side property line.

3. Side street setback. Setbacks from side streets shall be 10 feet for both developed and undeveloped streets, except:

a. Bays, porches and chimneys and other projections may intrude two feet into side street yard setback; and

b. One and two story accessory structures may be sited within five feet of the side street property line.

4. Rear yard setback. The rear yard setback shall be a minimum of 20 feet, except for accessory structures, which may be sited to within three feet of the rear property lines.

5. Orientation. New home construction on corner lots shall be oriented the same direction as the majority of homes on the street with the longest block frontage.

6. Repealed by Ord. 1675.

7. Building height.

a. Residential structures are limited to 28 feet in height. Cupolas and towers shall not exceed 50 feet in height.

~~**b. One story accessory structures shall not exceed a height of 15 feet. For the purposes of this chapter, any one story accessory structure over 15 feet is considered a two story structure.**~~

~~**c. Two story accessory structures shall not exceed the maximum height of 23 feet as measured per Chapter 41 CDC.**~~

d. Accessory structures shall not exceed the height of the primary dwelling.

8. Building shapes and sizes. No building shall exceed 35 feet in overall width. Front facade gables shall not exceed 28 feet in overall width.

9. Roof pitch. Roofs shall have a pitch of at least 6:12.

10. Garage access and parking areas.

a. Garages shall be accessed from an alley, if present. No garage door may face or have access onto a street except when alley access is not available.

b. Parking areas.

1) No residential lot shall be converted solely to parking use.

2) No rear yard area shall be converted solely to parking use.

3) When a lot is adjacent to an alley, all parking access shall be from the alley. (Ord. 1614 § 6, 2013; Ord. 1636 § 23, 2014; Ord. 1675 § 33, 2018)

25.080 MODIFICATIONS TO DESIGN STANDARDS

This section provides for deviation from site development standards in this chapter to enable flexibility and innovation consistent with the purposes of this chapter while ensuring that the features that historic designations are intended to preserve are maintained.

A. Applicability. The provisions of Chapter 75 CDC, Variance, shall not apply to the standards in this chapter.

B. Assessment of modification. When an applicant proposes an alternative to the standards of this chapter the approval authority shall grant a modification when:

1. Historical records. The applicant demonstrates by review of historical records or photographs that the proposed alternative is consistent with and appropriate to the architecture in the historic district, or is appropriate to the applicable style of architecture;

2. Consistency. The resulting development of the proposal would be consistent with the intent of the standards for which the modification is requested, as determined by the approval authority;

3. Negative impacts. Negative impacts to adjacent homes and/or a historic district will be minimized. These include, but are not limited to, loss of solar access, light, or air to an adjacent structure, and scale or mass that visually overwhelm or are not deferential to an adjacent landmark or contributing structure; and

4. Exceptional architecture. The proposal incorporates exceptional and appropriate architectural elements into the building.

5. Material substitution. The substitute material conveys the form, design, scale, detailing, and overall appearance of the historic material, and the application of the substitute does not damage, destroy, or obscure historic features. (Ord. 1614 § 6, 2013)

25.090 DESIGNATION OF A HISTORIC RESOURCE

The designation of historic resources shall comply with the following criteria; provided, that the age of a specific building shall not be deemed sufficient in itself to warrant designation of a building as historic.

A. Approval criteria. The approval authority may designate additional historic resources if it determines that the site or district proposed for designation meets at least one of the following five criteria:

1. Events. Is associated with an event or events that made a significant contribution to the history of the city, county, state or nation;

2. Persons. Is associated with the life or lives of a significant person or people in the history of the city, county, state or nation;

3. Architecture. Embodies distinctive architectural characteristics of a type, style, period or method of construction;

4. Construction. Represents the work of a master builder, designer, or architect who influenced the development of the city, county, state or nation; or

5. Archaeology. Has yielded, or will likely yield, information important in prehistory or history.

B. Pending designation – Issuance of permits. No building permit for altering, moving, or demolishing any proposed historic resource shall be issued while any advertised public hearing**,** ~~or~~ **decision-making process, appeal period, or** any appeal affecting the proposed designation of the area or building is pending. (Ord. 1614 § 6, 2013)

25.100 REMOVAL OF HISTORIC RESOURCE DESIGNATION

These provisions allow for the removal of the local historic designation when it is no longer appropriate. This review does not affect a property or district's listing on the National Register. Proposals to remove historic resource designation shall be approved if the approval authority finds that removal of the designation is appropriate after considering the information required under subsections A and B of this section.

A. Assessment of designation. The approval authority shall consider:

1. Criteria. Whether the historic resource meets the criteria for listing under CDC 25.090(A);

2. Hardship. The importance to the public of retaining the historic resource relative to the hardship to the owner and any potential hazard to the public if the historic resource is retained;

3. Condition. The physical condition of the historic resource and any loss of characteristics that originally caused it to be listed;

4. Historic or architectural significance. The historic or architectural significance of the historic resource;

5. Economic use and benefits. The economic use of the historic resource and any economic benefits associated with the proposed new use of the property; and

6. Location. If within a historic district, its contribution to the district and the effect on the district if the designation is removed.

B. Owner consent.

1. Historic landmarks. For historic landmark properties, the property owner at the time of designation must have objected, on the record, to the historic designation.

2. Historic districts. For properties in historic districts, the property owner at the time of designation must have objected, on the record, to inclusion in the district. (Ord. 1614 § 6, 2013)

25.110 RELOCATION OF A HISTORIC RESOURCE

Moving a historic structure is generally discouraged. However, in some cases relocation is preferable to loss of the structure. The following requirements apply to the relocation of historic resources.

A. Assessment of relocation. The approval authority shall require to the extent feasible, that the structure be located on the new site in a manner that does not change its historic

orientation to the street, relationship to adjacent properties, and the overall site. In making the determination, considerations shall include:

1. Setbacks. Maintaining relatively similar setbacks, side yard conditions, and relationship to other structures on the site;

2. Site characteristics. Maintaining character similar to the historic site in terms of neighboring structures, materials, site relationships and age (for example, it should not be moved to the back of a lot if that was not the character of the historic location, nor should it be located on a corner lot if historically it was on an interior lot); and

3. Economic and physical feasibility. Demonstrating that it is not economically or physically feasible to locate the structure on a site that meets the characteristics in (1) and (2); if so, an alternate site may be considered.

B. Written commitment. There must be a written commitment accepted by the City Attorney to complete the relocation and subsequent rehabilitation of the structure and its new site. Bonding or other assurances may be required. Temporary relocations for interim construction may be necessary and must require a plan for protecting the structure at the interim site as well as a commitment to a schedule for completion of relocation to the proposed new site. (Ord. 1614 § 6, 2013)

25.120 DEMOLITION OF A HISTORIC RESOURCE

A permit for demolition of a historic resource is required and shall not be issued without approval by the approval authority; provided, nothing contained in this section shall be interpreted as giving permission for any person to violate an order of the Building Official to remove or demolish a structure that the Building Official has designated as dangerous to life, health, or property.

A. Approval criteria.

1. Historic landmark or primary contributing structure. An application for the demolition of a historic landmark or primary contributing structure shall be approved if the following criteria are met:

a. The value to the community of the proposed use of the property outweighs the value of retaining the designated historic resource on the present site;

b. The designated historic resource is not capable of generating a reasonable economic return and the demolition is economically necessary;

c. The owner has documented a good faith effort to sell or relocate the designated resource; and

d. No practicable alternative exists to rehabilitate and reuse the designated resource in its present location.

2. Non-contributing or not in period primary structure, accessory structure. An application for the demolition of a non-contributing or not in period primary structure or

an accessory structure shall be approved if it is determined that the property does not have historic significance based on its architectural style, construction method or materials, or other pertinent factors as determined by the approval authority.

B. Issuance of permits. A demolition permit for a historic resource shall not be issued prior to historic design review and any other required approval of plans for the site, if applicable, or the submittal of building plans for a permit for the site. (Ord. 1614 § 6, 2013)

25.130 DEMOLITION BY NEGLECT

All properties designated as historic resources shall comply with this section.

A. Criteria for determination of demolition by neglect**.** ~~**If one or more of the following is promoted, allowed to occur, or exist in a historic resource, the property is determined to meet the criteria for demolition by neglect**~~ **Any action or inaction that results in one or more of the following conditions in an historic resource constitutes demolition by neglect** and enforcement action to remedy the applicable criteria may be taken pursuant to Chapter 106 CDC, Enforcement:

1. Structural integrity. Faults, defects, or other conditions which render the structure or resource structurally unsafe or not properly watertight.

2. Walls and other support members.

a. Walls or support members that are deteriorated due to failure to paint or otherwise maintain the structure or resource;

b. Members of walls, or other vertical supports that split, lean, list or buckle due to defective material or deterioration; and/or

c. Members of walls, or other vertical supports that are insufficient to carry imposed loads with safety.

3. Windows and doors. Failure to keep windows and doors secured in a manner that prevents entry by unauthorized persons.

4. Security.

a. Failure to maintain parts of the resource so they are securely attached and will not fall or injure persons or property.

b. Failure to secure the resource from vandals, animals, or pests.

c. Failure to prevent infiltration of water through inadequate gutters, landscaping or other site features.

5. Foundation. Deteriorated or inadequate foundation.

6. Floor supports. Deteriorated floor supports or floor supports that are insufficient to carry imposed loads with safety.

7. Ceiling and roof supports.

a. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split, or buckle due to defective material or deterioration.

b. Members of ceilings, roofs, or their supports, or other horizontal members that are insufficient to carry imposed loads with safety.

8. Fireplaces or chimneys. Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.

B. Abatement. Nothing in this section shall prevent the abatement of the unsafe or dangerous condition of a historic resource that constitutes an imminent and serious threat to public safety. If a historic resource is destroyed, it may be rebuilt on the original building footprint. (Ord. 1614 § 6, 2013)

25.140 HISTORIC RESOURCE MAP

The Historic Resource Map, shown in Figure 1 below, identifies the Willamette Historic District, as shown on the Zoning Map; the Willamette Falls Drive Commercial Design District, as identified in CDC 58.030(C); and the historic landmarks identified on the Zoning Map.

FIGURE 1

Community Development Code Chapter 58

58.010 PURPOSE

A. Implement the goals and policies of the economic element of the Comprehensive Plan relating to the rehabilitation and revitalization of the Willamette Commercial District.

B. Enhance the historic and aesthetic quality of the Commercial District.

C. Increase the attractiveness of the commercial areas to tourists, customers, tenants, business owners, and City residents.

D. Reinforce the commitment to existing commercial buildings of the 1880 – 1915 period and complement the adjacent residential historic district.

E. Encourage a sense of historic identity for the Willamette area and West Linn as a whole.

58.020 IMPLEMENTATION

The intent and purpose of this chapter shall be carried out by establishing architectural standards of the 1880 – 1915 period which shall be used in new commercial construction and remodels. **The provisions of this chapter shall supersede any conflicting standards found in CDC Chapter 55.**

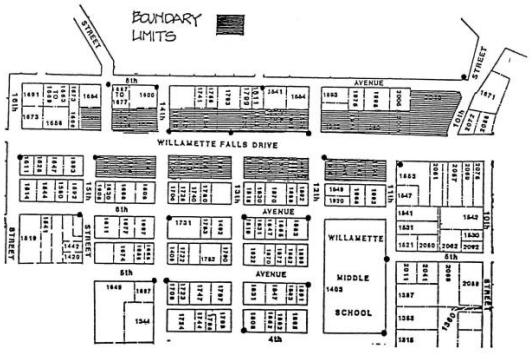
58.030 APPLICABILITY

A. The provisions of this chapter shall apply to all new commercial construction, ~~restorations~~**alterations**, and remodels on Willamette Falls Drive between 10th and 15th Streets. Properties that are historic resources shall comply with the provisions of Chapter 25 CDC, as applicable**.** ~~**"Restorations" shall be defined as all exterior repairs, replacement of materials, alterations or changes, including reroofing, painting, and window and sign replacement, etc.**~~ Failure to obtain a permit shall constitute a Class A violation pursuant to CDC 106.050.

B. ~~**Commercial structures that are also within the historic district as defined in CDC 25.030(A) are required to meet the provisions of Chapter 25 CDC in addition to the provisions of this chapter.**~~ **The type of Design Review application required is defined in Chapter 25 for properties identified on the West Linn Historic Resource Map and defined in Chapter 55 for all other properties.**

C. Boundary limits. The affected area shall be as delineated in Figure 1, below. Generally, the area is along Willamette Falls Drive between 10th Street and 15th Street.

Figure 1



(Ord. 1350, 1993; Ord. 1614 § 10, 2013; Ord. 1621 § 25, 2014)

58.040 EXEMPTIONS

Ordinary maintenance or repair that replaces in kind and does not alter the architectural details or style of the structure is exempt from review. Remodels to exclusive single-family residential homes are exempt from the provisions of this chapter. Single-family homes that are used for businesses or home occupations are not exempt. Repainting any structure requires review and is not exempt**, but does not require any notice**. All exemptions must be approved by the Planning Director.

58.050 PERMITTED USES

All uses permitted by the underlying General Commercial zone shall be allowed pursuant to CDC 19.030, 19.040, 19.050, and 19.060 and shall require the application of the standards of this chapter. Residential use of the second floor and the rear portion only of the ground floor, with no access onto Willamette Falls Drive, is permitted by application through this chapter. Residential use may only comprise 50 percent or less of the total square footage of the building combined. Commercial uses shall dominate the first floor. (Ord. 1401, 1997)

58.060 REVIEW BODY

Repealed by Ord. 1597.

58.065 APPEALS OF HISTORIC REVIEW BOARD

Repealed by Ord. 1597. (Ord. 1474, 2001)

58.070 APPLICATION AND SUBMITTAL REQUIREMENTS

A. Applicants shall attend a pre-application conference if required by CDC 99.030(B).

B. The Director shall determine the appropriateness of the proposal and the completeness of the materials to be submitted. The Director may consult with members of the Historic Review Board in this process.

C. The application is made with appropriate fees. A written narrative may be required explaining how the proposal meets the approval criteria.

D. All applications for remodels and new construction shall require scaled elevation plans, site plans, and material and color board. (Ord. 1599 § 5, 2011)

~~**58.080 FEES**~~

~~**A. New construction and major restoration projects shall be charged fees consistent with the adopted fee schedule for design review.**~~

~~**B. Minor restoration projects under $50,000 valuation shall pay fees as directed by the adopted fee schedule.**~~

~~**C. Repainting and replacement of windows (Class B restoration) shall pay a fee as directed by the adopted fee schedule.**~~

58.08~~9~~0 STANDARDS

A. Standards are needed to provide a clear and objective list of design elements that are needed to bring new construction and remodels into conformance with 1880 – 1915 architecture. Buildings of the period saw relatively few deviations in design. Consequently, the Historic Review Board will require conformance with the standards. Deviations or deletions from the standards are addressed in the **Design Exception** ~~**variance**~~ procedure of this chapter.

B. The use of neo-designs or simply contextual designs which only attempt to capture the basic or generalized elements such as building line, massing and form, etc., is not acceptable.

C. The following standards shall apply to new construction and remodels.

1. Dimensional standards.

a. Front: zero-foot setback. Building may not be set back from the property line unless it is consistent with predominant building line.

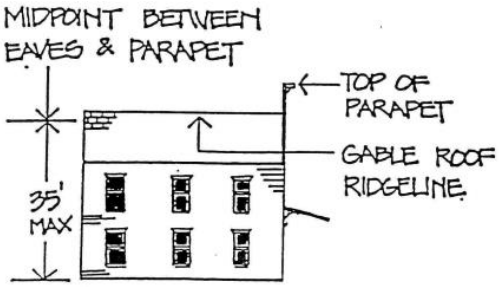
b. Side and side street: zero-foot setback. Building may not be set back from the side property line except for side passageway, accessway, or stairway unless fire codes dictate otherwise. The setback shall not exceed six feet.

c. Rear: 20-foot setback. Setbacks between zero and 20 feet are permitted only if the applicant can demonstrate that he or she can successfully mitigate any impacts associated with the building in current and future uses as they would relate to abutting residential and other properties.

d. Lot coverage: up to 100 percent of lot may be developed depending upon ability to mitigate impacts upon abutting residential and other uses.

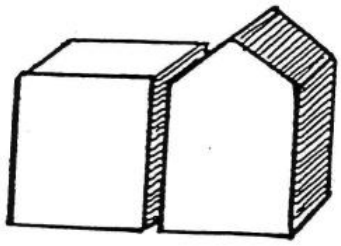
2. Minimum landscaping required. Sites in this district are exempt from landscaping requirements as identified in Chapter 54 CDC, Landscaping, with the exception of parking areas.

3. Building height limitations. Maximum building height shall be 35 feet (as measured by this code), and two stories. **A false front** ~~**False fronts**~~ shall be considered as the peak of the building if it exceeds the gable roof ridgeline.

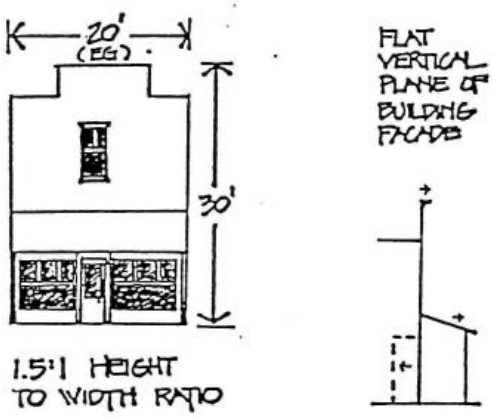


4. External ground level or first story minimum height. Ten feet to allow transoms.

5. Roof form. Flat or pitched roofs. Pitched roof ridgeline shall run from the front of the building to the back.



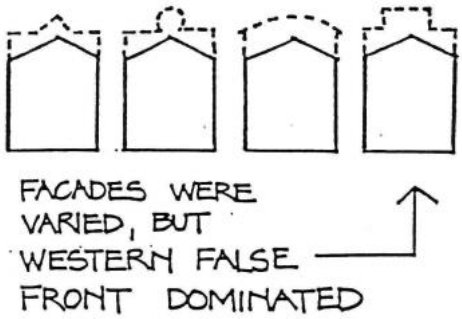
6. Building form, scale and depth. Building shall emphasize the vertical through narrow, tall windows (especially on second floor), vertical awning supports, engaged columns, and exaggerated facades creating a height-to-width ratio of 1.5:1.



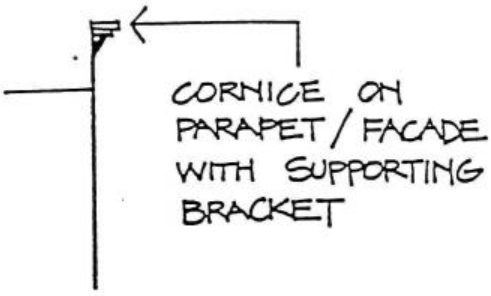
Building depth shall be flat, only relieved by awning and cornice projections and the indented doorway.

7. **Visual Building Breaks.** ~~**Spacing and rhythm. Buildings shall follow a regular rhythm.**~~ Strong vertical breaks or lines should be regularly spaced every 25 to 50 feet.

8. Facades. No gables, hipped, or pitched roofs shall be exposed to the street at the front. The "Western false front" shall be the preferred style although variations shall be allowed **through a design exception**.



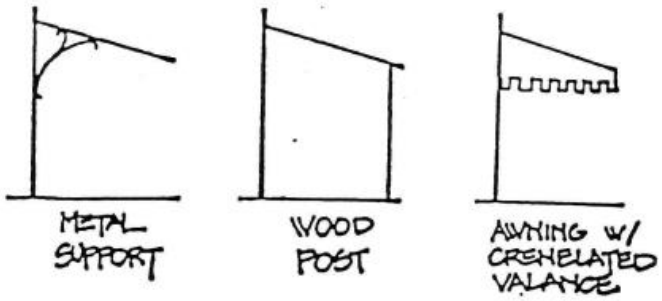
9. Cornice. Cornices shall be broad and may include regularly spaced supporting brackets. A cornice is not required, but preferred.



10. Building materials and orientation. ~~Wood shall be the principal building material.~~ Horizontal wood siding ~~, or alternative materials~~ in one-inch by eight-inch dimensions shall be used~~, for siding~~ unless~~.~~ ~~b~~Brick or~~and certain concrete configurations~~ other materials are permitted ~~only~~ by a Design Exception obtained only ~~variance~~ under CDC 58.090.

11. Awnings. All buildings shall have awnings extending out from building face. Awnings are preferred for micro-climate benefits. Ideally, the building will have both transom and awnings, although transoms are not required.

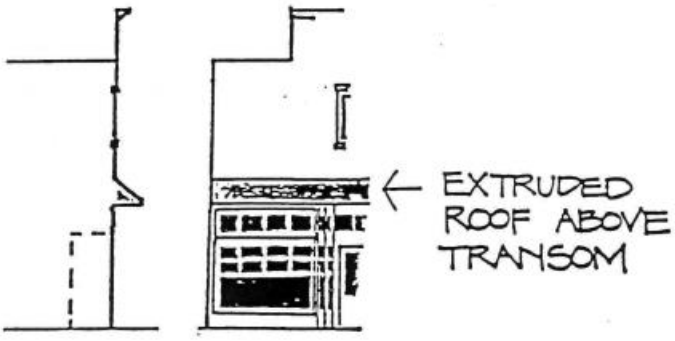
Awnings shall be either canvas or vinyl, or similar approved material, supported by an internal metal framework or metal or wood supported by a curved metal support~~, either~~ attached to the building ~~or a simple four-inch by four-inch wood post extending down to the outside of the sidewalk~~.



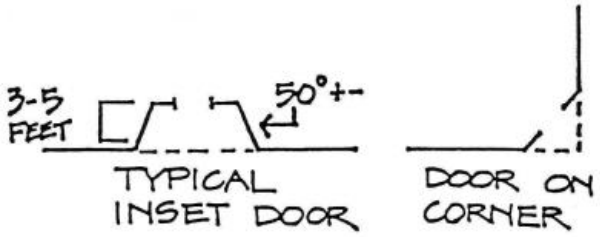
Awnings shall~~, therefore,~~ extend ~~beyond the front property line to~~ a minimum of five (5) feet from the façade and along 80% of a street facing façade to provide appropriate pedestrian coverage ~~the outside edge of the sidewalk,~~ and shall meet ADA requirements.~~possess a seven-foot clearance to the valance or any other part.~~ The pitch of the awning shall be 10 to 40 degrees. No “bubble-type” awnings are permitted. No backlit awnings are permitted. Canvas or matte-finish vinyl, or similar approved material awnings, may be one-color or striped and shall have a free-hanging plain or crenelated valance. Canvas or matte-finish vinyl, or similar approved material awnings, should not be shared between two structures. Each structure should have its own awning.

12. Extruded roofs. As a substitute for an awning, extruded roofs have a 10- to 40-degree pitch and extend one to two feet from the building face just above the transom windows where the first and second stories meet. The roof runs along the entire building frontage.

Standard roofing materials are used. Transoms are required with extruded roofs.



13. Doors and entryways. The entryway shall be centered in the middle of the building at grade. The buildings on street corners may position their doors on the corner at an angle as depicted in the illustration. The doors may be single or double doors. The doors shall be recessed three to five feet back from the building line. Doors shall have glazing in the upper two-thirds to half of the door. Panels should decorate the lower portions. The entryway shall have windows all the way around at the same level as the other display windows. Wood doors are preferable although alternatives with a dark matte finish may be acceptable.



14. Glazing. Clear glass only. No mirrored or tinted glass. No films applied to glass. Lettering on glass is permitted ~~(see subsection (C)(25)(b) of this section).~~

15. Display or pedestrian level windows. Shall extend across at least 80 percent of building front. The windows shall start one and one-half to two and one-half feet above grade to a height of seven to eight feet, and shall be level with the top of the height of the adjacent entryway area, excluding transom. A single sheet of glass is not permitted. The window shall be broken up into numerous sections, also known as lights. From 1880 onwards, the number of lights was generally no more than six in a pedestrian-level window. The frames may be wood or vinyl-clad wood, or other materials so long as a matte finish is possible.

16. Second floor and other windows. Double- and single-hung windows proportionately spaced and centered should be used. Smaller square shaped windows may be permitted (one and one-half feet to two feet per side). A typical window should have a 3:1 height to width ratio for the glass area. There should be a minimum of two lights: “one over one” of equal size. “Two over one” or “four over one” is appropriate.

17. Wainscotting. Wainscotting shall be consistent with primary material of the building, typically wood.

18. Shutters. Shutters are not allowed.

19. Balconies. No balconies are permitted except on rear of building.

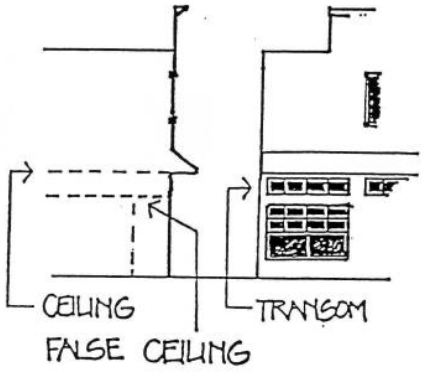
20. Exterior stairs. Simple stairs are permitted on the rear or side of the building only.

21. Roof mounted mechanical equipment. Equipment shall be screened from view on all sides by normal and consistent architectural features of the building. CDC 55.100(D), Privacy and noise, shall apply.

22. Air conditioning. No window types on avenue or street side are permitted. Window-mounted air conditioners are not allowed at rear where abutting residential.

23. Exterior lighting fixtures. Any lighting fixtures that can be traced to 1880 – 1915 period are permitted. Simple modern fixtures that are screened and/or do not attract attention are acceptable. Overly ornate fixtures of the Victorian era are to be discouraged.

24. Transoms. Transom windows are required with extruded roofs and optional with awnings. Transom windows shall cover the front of the building above, but not beyond, the main display windows, and the entryway area. Transoms should be broken up into sections every six inches to three feet in a consistent and equal pattern. Height should not exceed three feet. Transoms may or may not open. False ceilings are allowed behind the transoms.



25. ~~Planters. No planters are allowed.~~

2~~6~~. Paint colors. Body color typically included white, cream, or a light, warm color of low intensity. Accents, trims, windows, etc., should be dark-colored. ~~Contrasting colors should be compatible. Existing colors shall not enjoy protected status when repainting is proposed.~~ A palette or color wheel, submitted by the applicant, of acceptable 1880 – 1915 period colors shall be the basis for color selection. Colors shall be similar to or consistent with existing buildings within the Willamette Commercial District to establish streetscape continuity. ~~No other colors are allowed. The palette is available at the Community Development Department.~~

~~27. Ornamental or advertising flags, pennants, or banners. Not permitted on buildings.~~

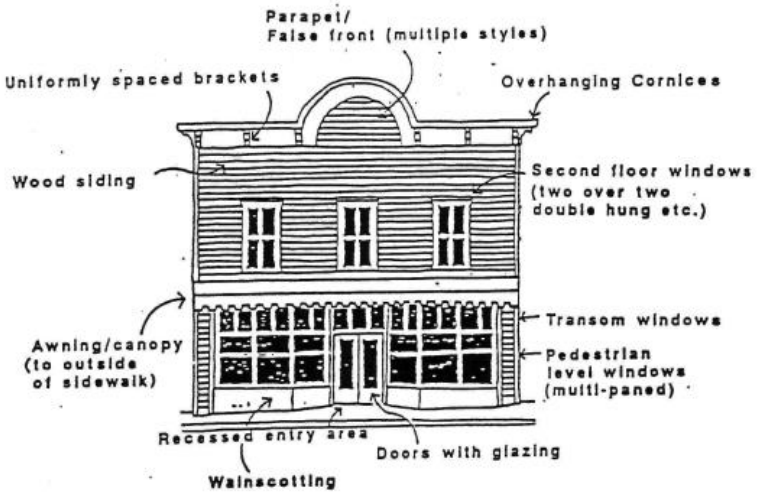
~~28. New materials. Permitted where it is demonstrated that new material visually replicates originally required material. except siding, which must be wood.~~ (Ord. 1391, 1996; Ord. 1401, 1997; Ord. 1604 § 59, 2011; Ord. 1613 § 18, 2013; Ord. 1621 § 25, 2014; Ord. 1675 § 47, 2018)

58.090~~100~~ ~~VARIANCE~~ DESIGN EXCEPTION PROCEDURES

In those circumstances where a design proposal cannot meet the standards, or proposes an alternative to the standard, the Historic Review Board may grant a design exception ~~variance~~ in those cases where one of the following criteria is met:

A. The applicant can demonstrate by review of historical records or photographs that the alternative is correct and appropriate to architecture in the region, and especially West Linn, in 1880 – 1915.

B. The applicant is incorporating exceptional 1880 – 1915 architecture into the building which overcompensates for an omission, deviation, or use of non-period materials. The emphasis is upon superior design, detail, or workmanship.



C. The application is for the restoration or alteration of an existing, out-of-period structure where it can be demonstrated that applicant cannot reasonably comply with the standard due to existing building setbacks, orientation, roof forms, materials, architectural style, functional design, or other existing conditions; and where the exception would further the purpose of the Chapter as set forth in CDC 58.010. This exception does not apply when the structure is demolished.

58.1~~0~~10 EXPIRATION OR EXTENSION OF APPROVAL

If substantial construction has not occurred within three years from the date of approval of the development plan, the approved proposal will be void, unless an extension is granted per CDC 99.325. (Ord. 1589 § 1 (Exh. A), 2010)

Community Development Code Chapter 99

99.060 APPROVAL AUTHORITY

This section explains the authority of the Planning Director, Planning Commission, City Council, and Historic Review Board as it relates to quasi-judicial and legislative action.

A. Planning Director authority. The Planning Director shall have the authority to:

1. Approve, deny, or approve with conditions the following applications:

(...)

~~j. A minor alteration to a historic landmark or a structure in the Historic District (Chapter 25 CDC).~~

(...)

l. Design Review, Class I (Chapter 55 CDC).

m. A sign application (Chapter 52 CDC).

(...)

v. Class I historic design review (Chapter 25 CDC).

w. A demolition permit for a non-contributing or not in period primary structure or an accessory structure (Chapter 25 CDC).

(...)

B. Planning Commission authority. The Planning Commission shall have the authority to:

1. Make a recommendation to approve, deny, or approve with conditions to the Council:

(...)

b. A quasi-judicial zone change application pursuant to Chapter 105 CDC, excluding applications requesting the designation or removal of a designation for a historic resource.

2. Approve, deny, or approve with conditions the following applications:

(...)

h. Design review, Class II (Chapter 55 CDC).

(...)

C. City Council authority. The Council shall have the authority to:

(...)

3. Consider an appeal or review of a decision made by the Planning Commission or Historic Review Board whether on the Council's own motion, or otherwise as provided by CDC 99.240.

(...)

D. Historic Review Board authority. The Historic Review Board shall review an application for compliance with Chapters 25 and 58 CDC, as applicable. The Historic Review Board shall have the authority to:

1. Approve, deny, or approve with conditions an application regarding the following:

a. Class II historic design review;

b. A demolition permit for a historic landmark or primary contributing structure within a historic district;

c. Relocation of a historic resource;

d. Revocation or modification of an approval as provided by CDC 99.330 for any application approved by the Historic Review Board; and

e. An extension of an approval when the Historic Review Board acted as the initial decision-making authority.

2. Make recommendations to the approval authority specified in this section regarding the following:

a. Designation of a historic resource;

b. Removal of historic resource designation;

c. Class I or Class II design review on a property within the Willamette Falls Drive Commercial Design District that is not a historic landmark or within the Willamette Historic District;

d. New construction within the Willamette Falls Drive Commercial Design District that is not a historic landmark or within the Willamette Historic District;

e. A partition or subdivision of property containing a historic resource;

f. Conditional use of property containing a historic resource.

ORDINANCE NO. 1735

AN ORDINANCE RELATING TO THE AMENDMENT OF WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTER 2: DEFINITIONS, CHAPTER 25: OVERLAY ZONES – HISTORIC DISTRICT, CHAPTER 58: WILLAMETTE FALLS DRIVE COMMERCIAL DESIGN DISTRICT, AND CHAPTER 99: DECISION MAKING PROCEDURES QUASI-JUDICAL.

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~**bold lined through**~~ and additions are **bold underlined** in **red font.**

WHEREAS, Chapter II, Section 4, of the West Linn City Charter provides: Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

WHEREAS, in 2019 the City Council directed the Historic Review Board to develop a package of text amendments with the goal of increasing clarity and consistency within the Community Development Code regarding development standards and process requirements applicable to alterations to historic structures, and the development of properties within the Willamette Historic District and the Willamette Falls Drive Commercial Design District; and

WHEREAS, on January 18, 2022, the West Linn Historic Review Board voted 6-0 to forward a package of draft text amendments to the Planning Commission; and

WHEREAS, the West Linn Planning Commission held a work session with representatives from the West Linn Historic Review Board on February 16, 2022 to review draft code amendments and provide direction to staff; and

WHEREAS, the Planning Commission held a public hearing, which was noticed in accordance with City standards, on April 20, 2022, and recommended the City Council adopt the proposed amendments with two modifications; and

WHEREAS, the City Council held a work session on May 2, 2022 to review draft code amendments and provide direction to staff; and

WHEREAS, the West Linn City Council held a public hearing, which was noticed in accordance with City standards, on May 9, 2022, to consider the Planning Commission recommendation, receive public testimony, and evaluate the decision-making criteria; and

WHEREAS, the Council's decision is based on the findings contained in these Whereas Clauses, together with findings, conclusions, and substantial evidence found in the associated land use record file CDC-21-01, which is incorporated by this reference.

NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

SECTION 1. Findings of Fact. Protection of the city's historic resources and fostering of exceptional design quality within the Willamette Falls Drive Commercial Design District is a continuing source of community identity, livability, and vibrancy. Periodic updates and clarifications of these standards is necessary to ensure they are clear, effective, and uniform in nature. Such updates will ensure the City is able to meet its obligations under Statewide Planning Goal 5 and maintain its current status as a Certified Local Government.

SECTION 2. The West Linn Community Development Code Chapter 2: Definitions is amended to include new text and rescind existing text as shown in Exhibit A.

SECTION 3. The West Linn Community Development Code Chapter 25: Overlay Zones – Historic District is amended to include new text and rescind existing text as shown in Exhibit B.

SECTION 4. The West Linn Community Development Code Chapter 58: Willamette Falls Drive Commercial Design District is amended to include new text and rescind existing text as shown in Exhibit C.

SECTION 5. The West Linn Community Development Code Chapter 99: Procedures for Decision Making: Quasi-Judicial is amended to include new text and rescind existing text as shown in Exhibit D.

SECTION 6. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 7. Savings. Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions of the ordinance were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 8. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need not be codified and the City Recorder or the designee is authorized to correct any cross-references and any typographical errors.

SECTION 9. Effective Date. This ordinance shall take effect on the 30th day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the 9th day of May, 2022, and duly PASSED and ADOPTED this 16th day of May, 2022.

_____
JULES WALTERS, MAYOR

ATTEST:

_____
KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

_____
CITY ATTORNEY

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West
Linn

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CITY OF West Linn

Work Session Agenda Bill

Date: May 16, 2022

To: Jules Walters, Mayor
Members, West Linn City Council

From: Darren Wyss, Planning Manager DSW

Through: Jerry Gabrielatos, City Manager
John Williams, Deputy City Manager/Community Development Director JRW

Subject: Joint Meeting with Committee for Community Involvement (CCI)

Purpose
Hold a joint work session with CCI to discuss and provide direction on the CCI role in the City's community engagement efforts.

Question(s) for Council:
Does the Council wish for the CCI to expand its role beyond Statewide Land Use Planning Goal 1 activities and get involved in non-land use related projects?
Does the Council wish to amend Resolution 2020-04 to rename the CCI as Committee for Community Involvement and/or revisit the membership of the CCI?

Background & Discussion:
The West Linn Committee for Community Involvement (CCI) has been discussing its role in recent months. Cities and counties in Oregon are required to have a CCI per Statewide Land Use Planning Goal 1. The CCI is to monitor and encourage public participation in planning. The West Linn CCI wishes to expand its role beyond land use and would like to get direction from City Council. The CCI Chair, with input from CCI members, drafted a research document (see Attachment 1) focused on Goal 1 and West Linn Comprehensive Plan goals and policies. The document is intended to be used for discussion purposes.

The West Linn CCI and its bylaws were created by resolution, with the latest update being Resolution 2020-04 (see Attachment B). The CCI discussed possibly needing to update the resolution to align with recent City Council direction to replace "citizen" with "community" in City codes and documents. If directed by City Council, staff will prepare an updated resolution to bring forward for adoption.

As part of a possible amendment to the CCI resolution, it would be a good time for City Council and the CCI to revisit the remaining two mandated positions on the CCI and consider if changes should be made:

1. Chair or Vice-Chair of the Planning Commission
2. Chair or Vice-Chair of the Neighborhood Association Presidents Committee

The City of West Linn is fortunate to have committed volunteers who participate in Neighborhood Associations and fill Community Advisory Group roles. They all contribute valuable personal time to the City and are aware of the time commitments upfront. However, mandating an additional monthly meeting to their schedule could potentially deter some folks from taking on a leadership position.

Additionally, as the CCI is focused on increasing participation, there may be community members with professional expertise in the field of community organizing or public engagement that could bring a different perspective to the committee.

Council Options:

1. Direct the CCI to expand its role or to remain focused on land use planning community engagement.
2. Direct staff to revise Resolution 2022-04 or make no changes at this time.

Staff Recommendation:

n/a

Attachments:

1. CCI Research Letter
2. West Linn Resolution 2020-04

CCI required by State Goal 1:

https://www.oregon.gov/lcd/OP/Documents/goal01.pdf

The existence of CCI is required by state law and the number one thing CCI needs to do is to make sure we are following the state guidelines and performing to the standards required by the state. Here are some requirements for CCI:

- Under Goal #1. "Committee members shall be selected by an open, well publicized public process"
  - Are interviews public? This is different than all other CAG's in this respect. Interviews and discussion on who to appoint should be done in an open session.
- Under #1: "The committee for citizen involvement shall be responsible for assisting the governing body with the development of a program that promotes and enhances citizen involvement in land-use planning, assisting in the implementation of the citizen involvement program, and evaluating the process being used for citizen involvement. "
  - The job of CCI is not just to create and implement the involvement plan. CCI also needs to be "evaluating" the process.
- Under #2: "2. Communication -- To assure effective two-way communication with citizens. Mechanisms shall be established which provide for effective communication between citizens and elected and appointed officials. "--Also under #5. "Feedback Mechanisms -- To assure that citizens will receive a response from policy-makers. Recommendations resulting from the citizen involvement program shall be retained and made available for public assessment. Citizens who have participated in this program shall receive a

response from policy-makers. The rationale used to reach land-use policy decisions shall be available in the form of a written record. " and again under "E. FEEDBACK MECHANISM 1. At the onset of the citizen involvement program, the governing body should clearly state the mechanism through which the citizens will receive a response from the policy-makers. "

- Listed 3 times seems important.
- CCI needs to understand the city's process for addressing citizen concerns. When an email is sent to PC, or any other CAG, where does it go? Does someone respond? How fast does someone respond? Who responds. All organizations have a flow chart on how communication is handled. CCI should be evaluating the flow chart for communications.
- CCI currently does not have its own webpage or email address. At minimum, an email address should be created and publicized for citizens to be able to contact the CCI directly.

- Under #3. "Citizen Influence -- To provide the opportunity for citizens to be involved in all phases of the planning process. Citizens shall have the opportunity to be involved in the phases of the planning process as set forth and defined in the goals and guidelines for Land Use Planning, including Preparation of Plans and Implementation Measures, Plan Content, Plan Adoption, Minor Changes and Major Revisions in the Plan, and Implementation Measures. "
  - Note that it says "minor changes". There has been a lot of talk about the roundabouts being a "minor" change. But Goal 1 does state that these minor changes require citizen involvement. If CCI, if acting like a "watchdog" under the bylaws, should be addressing why there is no

public process for adding roundabouts on a minor arterial when the TSP specifically says roundabouts are not allowed on minor arterials. This deviation from the TSP, while minor, to meet State Goal 1, requires public involvement.

- While you could argue that roundabouts are not a "change to a plan", this could also fall under "implementation measures" as the plan is not being implemented as written, which again states, no roundabouts on minor arterials.

- Under Guidelines C:4 "Implementation - The general public, through the local citizen involvement programs, should have the opportunity to participate in the development, adoption, and application of legislation that is needed to carry out a comprehensive land-use plan. The general public, through the local citizen involvement programs, should have the opportunity to review each proposal and application for a land conservation and development action prior to the formal consideration of such proposal and application. "
  - Note "application of legislation". The job of the CCI should not be limited to only the outreach or involvement "plan". This requires citizens to also be involved in legislative matters that relate to land use, not just changes to the plans themselves.
- Under D:1: " Agencies that either evaluate or implement public projects or programs (such as, but not limited to, road, sewer, and water construction, transportation, subdivision studies, and one changes) should provide assistance to the citizen involvement program. The roles, responsibilities and timeline in the planning process of these agencies should be clearly defined and publicized."

- Note that this is not related specifically to a comprehensive plan, TSP or land use plan implementation. "Public projects" means any project, not specifically one that is already included in the TSP. Again, think 10th Street improvements.
- CCI should know about all of public works projects which they have not had in the past.
- Since this includes again "roads" and "transportation" any projects of this nature should come to the CCI for review so the CCI can evaluate if a public process is needed.

- Under F. "FINANCIAL SUPPORT 1. The level of funding and human resources allocated to the citizen involvement program should be sufficient to make citizen involvement an integral part of the planning process. "
  - Should CCI have a budget? Oregon City's CCI controls the postcard mailings, for instance. Having some budget may allow for postcard mailings to bring awareness to CCI and NA's as a means for people to get involved.
  - Human resources means staff is needed to accomplish these goals. Staff is already maxed out. Extra staff may be needed to accomplish this goal.

West Linn Comprehensive Plan Highlights

The WLCP Goal 1 for Citizen Involvement also lays out what the city should be doing in regards to Citizen Involvement. Since CCI is the Committee for Community Involvement, it seems natural that CCI should be taking on the role of making sure

the city is meeting the Goals and Action Measures laid out in the Comprehensive Plan.

- Goal 1, Goals #1 states "Provide the opportunity for broadly based, ongoing citizen participation, including opportunities for two-way dialogue between citizens and City elected and appointed officials".
    - CCI is a perfect fit for a place where citizens can give feedback and get involved. "Broadly based" means to include all policy making decisions related to the comprehensive plan. Comprehensive plans include transportation, safety, livability, parks, streets, public utilities, public improvements, and sustainability. If the role of CCI is to make sure there is public involvement in land use planning, and land use planning includes the comprehensive plan, it seems like it is natural for CCI to also have a role regarding all issues addressed in the comprehensive plan.
    - The average resident doesn't look at the agendas of every CAG meeting to know what they are working on. Should pickleball have had more public input? Roundabouts were discussed at TAB but was more public input needed? EDC is working on highway 43 re-zoning. UAB may look at raising rates in the future. CCI could look at agendas/notes from CAG's and then decide if they think a project (again related to the comprehensive plan) needs to have more public outreach beyond the CAG group itself. Public outreach could mean different things depending on the scope of the project. For instance, pickleball didn't need an open house, but CCI could have recommended public notice to go out to the immediate neighbors with instructions on how to testify at PRAB (with the meeting time and

date). Or something like the Streetscape CCI could have recommended that it should go through PC first. CCI could look at all the upcoming projects, decide what they believe needs public engagement, recommend what level of public involvement is needed, and council (and/or city staff) could then agree or disagree. Council/staff will always still make the final decision. CCI would just make a recommendation, not directing staff to do anything. At the very least, this would serve as an extra level of transparency as these topics being publicly noticed on the CCI agenda. This will allow another opportunity for the public to know what projects are coming up and how they could get involved. Involving the public in this manner may also, as an end result, save staff and Council time by not having unhappy citizens show up at meetings to complain about a project where they didn't receive notice.

- Goal 1, Goal #3 states: "Support involvement of West Linn citizens in identifying and addressing regional issues."
    - Similar to what was addressed above, CCI could "identify" broader county, metro and state issues that need council attention. (i.e. tolling)
- Goal 1, Goal #4 states: "Provide clear, simple, user-friendly information about how the planning process works and how citizens can be involved in land use and other City policy decisions."
    - Land use participation doesn't stop at the code and comp plan level. In order for someone to appeal to LUBA, they need to have participated at the hearing level. Part of CCI's job should be to make sure people know how they need to have standing, and how they get standing.

- CCI could also create materials that educate the public on how the land process works, how to appeal (that you need to cite code and where to find the code), etc.

- Goal 1, Policies #1 states: "Provide a process for evaluating the ongoing citizen involvement programs to be certain that citizens are given an opportunity to participate in planning decisions."
  - CCI current bylaws: "ARTICLE II - PURPOSE: The CCI is an independent body intended to function as a watchdog and advocate for citizen involvement."
    - Notice the words "watchdog" and "advocate". CCI should look at if things are not being done properly (watchdog) and to push for what needs engagement (advocate). Not just focusing on the "plan" to get engagement.
  - CCI could make recommendations for updates to comprehensive plans, CDC and municipal codes to make sure there is more transparency in land use process, and to ensure that comprehensive plan reflects the city's commitment to public engagement.
- Goal 1, Policies 6 & 7 have to do with Neighborhood Associations. Recommended Action Measures #3 also refers to NAs.
  - Is there a way CCI can engage NAs more to encourage they do the work addressed in these policies? Should there be a joint meeting with CCI and NAP annually?
- Goal 1, Recommended Action Measures #1: "Regularly convene a community council composed of representatives from the City Council, Planning Commission, School Board, Neighborhood Associations, the West Linn Chamber of Commerce and other business groups, religious

organizations, and community youth to review and provide guidance for implementation of the Comprehensive Plan; help ensure adequate citizen participation in City decision-making processes; and promote consensus on issues of City-wide importance."

- CCI is this group. Right now CCI has council, PC, NAs and business groups represented. Missing school board, religious organizations and youth. Could look to include these groups into the CCI with updated bylaws.
- If CCI only works on creating an outreach plan, CCI only needs meet once or twice a year. This is not regular. Giving CCI a wider scope to work on gives them a broader agenda.
- Forest Groves' CCI holds an annual town hall. This is something CCI could do so that they can inform the public on what is going on.

- Goal 1, Recommended Action Measure #4 states: "Provide informational materials that clearly describe opportunities and processes for citizen involvement in land use application and appeals processes, code enforcement, Comprehensive Plan amendments and other land use and planning decisions. Make materials available through the City Planning Department, City Library, City's World Wide Web page, and other locations, as appropriate."
  - This clearly is something CCI should be working on. But from a DEI perspective, CCI could also start ensuring that land use notices are posted in different languages, that they are posted in places that reach all ages of the community including the library and the adult community center. Ensure that the Library has things like the CDC and Municipal code available in printed form for the elderly or those that

don't use computers, and maybe even in large print and Braille for those that are vision impaired.

- Similarly to how SAB is having "teaching series", CCI could do teaching series on land use.

- Goal 1, Recommended Action Measures #5 states: "Evaluate notice and hearing processes to ensure that notice is timely and the process is fair."
  - Word "Evaluate" again, meaning CCI is not really just limited to creation of the outreach plan, but should also be evaluating what the city is doing in regards to public outreach.
  - This exact thing is what kind of prompted this whole discussion because there was some testimony submitted to the CCI by citizens that had concerns about proper notice and the way videos were added to the website. But there was discussion as to whether CCI could discuss these matters as they were not part of the CCI's purview. This is why we need clarification what things are under our purview and what is not.
  - There has also been concerns recently on why certain things are a planning manager decision and not a public hearing process. This process could be evaluated under this action measure.
- Goal 1, Recommended Action Measure #6 states: " Create a process to evaluate the effectiveness of citizen involvement activities."
  - Word "evaluate" again. Here is where "watchdog and advocate" language in the CCI bylaws line up.
  - As mentioned, State Goal 1 requires a plan for effective two-way communication between the city and residents. CCI could evaluate that plan.

Other things to talk to council about:

- Language change to the notice for appeal. It was changed when council changed to de novo hearings. Add that language back that they need to state the criteria for appeal.
- Utilizing the YAC and going to schools to help get the word out
- Website needs to be more user friendly
- Planning needs more staff
- Risk manager should review plans occassionally

Resources:

- Oregon City CCI https://www.orcity.org/bc-cic
- Current Bylaws: https://westlinn.granicus.com/MetaViewer.php?view_id=&clip_id=761&meta_id=30631
- 2014 presentation by consultant on CCI https://westlinn.granicus.com/MetaViewer.php?view_id=&clip_id=517&meta_id=20325
- Putting people in planning pamphlet from the state: https://www.oregon.gov/lcd/CPU/Documents/Putting_the_People_in_Planning.pdf
- State goals: https://www.oregon.gov/lcd/OP/Documents/goal01.pdf
- Friends of Oregon Goal 1 interpretation: https://friends.org/sites/default/files/2019-04/Public%20Participation%20in%20Land%20Use%20Planning%202015_1.pdf

- West Linn Comprehensive Plan: https://westlinnoregon.gov/sites/default/files/fileattachments/planning/page/6526/west_linn_comp_plan_-_updated_07-31-2017.pdf
- LCDC Guidelines for Public Development: https://www.oregon.gov/lcd/About/Documents/20190125_PublicParticipationGuidelines.pdf
- Troutdale CCI https://www.troutdaleoregon.gov/bc-cac/page/troutdales-citizens-advisory-committee-description
- Beaverton CIC https://www.beavertonoregon.gov/DocumentCenter/View/23390/Beaverton-Committee-for-Community-Involvement-Bylaws?bidId=
- Forest Grove CCI https://www.forestgrove-or.gov/bc-cci
- Corvallis CCI: https://www.corvallisoregon.gov/bc-cidab
- CCI 2016 Historical perspective (meeting on code changes): https://westlinnoregon.gov/communications/committee-citizen-involvement-1
- CCI 2017 series of planning process (link to one meeting notes): https://westlinnoregon.gov/sites/default/files/fileattachments/communications/meeting/15371/cci_2017-03-07_minutes.pdf

RESOLUTION NO. 2020-04

A RESOLUTION ESTABLISHING REVISED BYLAWS FOR THE WEST LINN COMMITTEE FOR CITIZEN INVOLVEMENT

WHEREAS, citizen involvement and two-way communication with residents is a West Linn priority;

WHEREAS, State law requires the City maintain a citizen involvement program that ensures the opportunity for citizens to be actively involved in the land use process;

WHEREAS, Goal 1 of Oregon's Statewide Planning Goals & Guidelines states that governing bodies shall adopt and publicize a program for citizen involvement that clearly defines the procedures by which the general public will be involved in the on-going land-use planning process;

WHEREAS, effective citizen involvement is essential to good government and responsible land use decisions;

WHEREAS, the following guiding principles are the cornerstones to West Linn's citizen involvement program:

- We believe active citizen involvement is essential to the future of West Linn.
- We respect and consider all citizen input.
- We encourage involvement opportunities that reflect our diversity.
- We promote participation, based on citizen involvement opportunities, of individuals and of community, business, and special interest groups.
- We provide communications to encourage citizen participation in city processes that are understandable, timely and broadly distributed.
- We organize involvement activities to make the best use of citizens' time and effort.
- We assure that citizens feel valued and respected through the process.
- We strive to achieve the highest value and efficient use of taxpayer dollars.

WHEREAS, prior to 2008 there are no City records indicating that the City Council of West Linn delegated the duties of the City's Committee for Citizen Involvement ("CCI") to any body;

WHEREAS, the City Council recognized the West Linn Planning Commission as the City's CCI in September 2008 thereby delegating the duties of complying with Goal 1 to the Planning Commission;

WHEREAS, the City Council reevaluated its program for citizen involvement at the beginning of 2014;

WHEREAS, the City Council decided that the importance of citizen involvement required a broader cross-section of interests be represented on the CCI;

WHEREAS, the City Council adopted Resolution 2014-07 on August 11, 2014, which established Bylaws for the Committee for Citizen Involvement;

WHEREAS, the City Council repealed Resolution 2014-07 and adopted Resolution 2016-05 on May 9, 2016, to better establish the purpose, work and representation of the CCI;

WHEREAS, the City Council repealed Resolution 2016-05 and adopted Resolution 2017-02 on February 6, 2017, to modify the committee's composition to reduce the frequency of meeting cancellations due to lack of quorum.

WHEREAS, the City Council repealed Resolution 2017-02 and adopted Resolution 2018-08 on May 14, 2018, to modify the Committee's Bylaws to clarify how certain members are selected and who constitutes a voting member.

WHEREAS, the City Council established a 2019 Council Goal to further reformat the CCI to have only citizen members and only one Council liaison who is not a voting member.

NOW, THEREFORE, THE CITY OF WEST LINN RESOLVES AS FOLLOWS:

SECTION 1. Resolution 2018-08 is repealed.

SECTION 2. The City of West Linn formally recognizes the CCI in accordance with Attachment A, the City of West Linn CCI Bylaws.

SECTION 3. The City of West Linn CCI Bylaws are adopted.

This resolution was PASSED and ADOPTED this 12th day of October 2020, and takes effect upon passage.

RUSSELL B. AXELROD, MAYOR

ATTEST:

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

ATTACHMENT A
BYLAWS FOR THE COMMITTEE FOR CITIZEN INVOLVEMENT FOR THE CITY OF WEST LINN, OREGON

ARTICLE I - NAME
The name of this organization shall be the Committee for Citizen Involvement of West Linn, Oregon; hereinafter called the CCI.

ARTICLE II - PURPOSE
The CCI is an independent body intended to function as a watchdog and advocate for citizen involvement. It is responsible for advising the City Council and other bodies on the development, implementation, and evaluation of a Citizen Involvement Plan that:

1. Promotes and enhances citizen involvement in land use planning as required by Oregon State Planning Goal 1 (OAR 660-015-000(1));
2. Evaluates the citizen involvement process; and
3. Makes recommendations to the City Council to improve the citizen involvement process.

ARTICLE III - MEMBERSHIP
The Committee shall consist of:

1. The chair or vice chair of the Planning Commission.
2. Four citizens appointed at large.
3. A business community member appointed at large.
4. The chair or vice chair of the Neighborhood Association Presidents Committee.

At large members of the CCI are appointed by the City Council.

ARTICLE IV - TERM OF OFFICE
The membership term shall be for the duration of the term of service on the Planning Commission or as the Neighborhood Association President Committee Chair for such members. The four at large citizen members and the at large business community member shall each serve a two year term.

ARTICLE V - VOTING
A quorum shall be a majority of the current CCI members. A vote shall be decided by a majority of the CCI members present at a meeting at which a quorum is present.

ARTICLE VI - MEETINGS
Meetings of the CCI shall be publicized in advance of the meeting date and conducted in accordance with applicable state and local law. The CCI shall meet at least once a month at a designated time and place.

ARTICLE VII - PRESIDING OFFICER
The Chair and the Vice Chair of the CCI shall be elected from its membership as soon as practicable each calendar year. The Chair, and when appropriate the Vice Chair or designee selected by the CCI, will preside over all CCI meetings.

Mollusky, Kathy

From: Bialostosky, Rory
Sent: Tuesday, May 17, 2022 12:22 PM
To: #Commission - City Council
Cc: Gabrielatos, Jerry
Subject: Fwd: Correction from City Attorney

FYI regarding the School District Athey Creek DEQ status.

Begin forwarded message:

> **From:** "Maureen S. Bayer" <maureen.bayer@jordanramis.com>
> **Date:** May 17, 2022 at 9:12:25 AM HST
> **To:** "Bialostosky, Rory" <RBialostosky@westlinnoregon.gov>
> **Cc:** "Gabrielatos, Jerry" <JGabrielatos@westlinnoregon.gov>
> **Subject: Correction**
>
>
>
> Dear Council President Bialostosky,
>
> During the City Council Meeting on May 16, 2022, I represented that the School District had received a violation from the Oregon Department of Environmental Quality, as that was my understanding as of the time of the meeting. However, upon further investigation we identified that the notice provided to the School District by the DEQ was a Preliminary Enforcement Notice, and not a violation. I apologize for the factual error. Please let me know if you have any questions.
>
> Thank you,
>
> **Maureen S. Bayer** | Attorney
> Direct: (503) 598-5529
>
> jordanramis.com | (888) 598-7070
> Portland Metro | Bend | Vancouver WA
>
> JORDAN RAMIS
>
>

Rory Bialostosky
West Linn City Council
City Council

Mollusky, Kathy

From: Rebecca Hollenbeck <executivedirector@historicwillamette.com>
Sent: Monday, May 16, 2022 3:53 PM
To: City Council
Subject: TIF District

Historic Willamette Main Street would like to extend our support of the city moving forward with a TIF District. This can provide many advantages in the future for the residents of the City of West Linn.

Rebecca Hollenbeck
Executive Director
HISTORIC WILLAMETTE MAIN STREET

executivedirector@historicwillamette.com
503-607-8033

HistoricWillamette.com
1785 Willamette Falls Dr., Suite 6, West Linn, OR. 97068

Mollusky, Kathy

From: staff <staff@westlinnchamber.com>
Sent: Monday, May 16, 2022 3:24 PM
To: City Council; Walters, Jules
Subject: Written Comments for May 16, 2022 City Council Meeting

Importance: High

Good afternoon Council Members and Mayor Walters,
This comment pertains to the TIF District study and program discussion on May 16, 2022.

We, the West Linn Chamber, solidly stand behind and encourage Council to support and move forward with the TIF District Program. With approval, this program will offer West Linn businesses vital opportunities to cultivate and thrive. This area will become a connecting point, linking all of West Linn together, creating an even greater synergy throughout our community and small businesses.

Thank you for the time, service and effort you give to the City of West Linn; we appreciate your consideration on this topic.

Sincerely,
Shatrine Krake
West Linn Chamber of Commerce
Executive Director

.....
OFFICE HOURS: *Monday-Thursday 10AM - 3PM*
Phone: 503-655-6744
Email: staff@westlinnchamber.com
Web: https://westlinnchamber.org
Facebook: https://www.facebook.com/westlinnchamber
West Linn BRC: https://www.clackamasbusiness.org/

Mollusky, Kathy

From: Madeline Brown <brownm@wlhs.wlwv.k12.or.us>
Sent: Sunday, May 15, 2022 7:39 PM
To: City Council
Cc: #Committee - Youth Advisory Council
Subject: West Linn Funding and Infrastructure Poll

I would like to submit a public comment to the upcoming City Council Special Meeting & Work Session **on behalf of the Youth Advisory Council**.

We would like to request that the upcoming West Linn OR Infrastructure Poll be open to the youth of West Linn for input. Many of the issues that are covered in the poll, such as damaged-tree replacement and the possibility of a community recreation center, have previously generated interest among our peers. By making the poll accessible, you would be given valuable perspectives regarding the priorities of the younger citizens in our city.

Sincerely,
Madeline Brown
Youth Advisory Council Member
(971)347-7915