

**PLANNING COMMISSION AGENDA**  
**City Commission Chambers - City Hall**  
625 Center Street, Oregon City, Oregon 97045  
**May 9, 2011 at 7:00 p.m.**

The Planning Commission agendas, including staff reports, memorandums, and minutes are available from the Oregon City Web site home page under meetings. ([www.orcity.org](http://www.orcity.org))

1. CALL TO ORDER
2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA
3. PLANNING COMMISSION HEARING
  - a. Review by the Planning Commission to determine continued compliance with the Conditional Use approval under OCMC 17.56.
  - b. CU 10-02 Update: The applicant received approval of a conditional use permit to operate a farmers market every Wednesday in the summer on 8th Street in downtown Oregon City, from Railroad Avenue to Main Street. An update to the approved Conditional Use was required within a year of approval.
  - c. SP 11-01: Site Plan and Design Review, WR 11-01: Natural Resource Overlay District and VR 11-01: Variance: The applicant submitted the aforementioned applications in order to install a new utility line and an associated drain line.
4. COMMUNITY DEVELOPMENT DIRECTOR REPORT
  - a. 2011 Goals Update
5. ADJOURN

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Video Streaming & Broadcasts: The meeting is streamed live on Internet on the Oregon City's Web site at [www.orcity.org](http://www.orcity.org) and available on demand following the meeting. The meeting can be viewed live on Willamette Falls Television on Channels 23 and 28 for Oregon City and Gladstone residents; Channel 18 for Redland residents; and Channel 30 for West Linn residents. The meetings are also rebroadcast on WFTV. Please contact WFTV at 503-650-0275 for a programming schedule.

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**Agenda Item No. 3a**  
**Meeting Date: 09 May 2011**

## **COMMISSION REPORT: CITY OF OREGON CITY**

TO:	Planning Commission
FROM:	Christina Robertson-Gardiner, Planner
PRESENTER:	Laura Terway, Planner
SUBJECT:	Review by the Planning Commission to determine continued compliance with the Conditional Use approval under OCMC 17.56.
Agenda Heading: Public Hearing	
Approved by: Tony Konkol, Community Development Director	

### **RECOMMENDED ACTION (Motion):**

Staff recommends the Planning Commission hear testimony from the Applicant and any neighbors who choose to comment on the application and decide if a formal Type II or Type III review is required for this file. If no formal review is required, the original decision will stand. Staff recommends an additional yearly review be required and if no change in use is desired, the existing approval can be amended to eliminate any additional review requirement. If the applicant decides to eliminate the educational component in favor of existing as a single family home, no additional review will be required.

### **BACKGROUND:**

On October 8, 2007, the Planning Commission approved CU 07-04 for a residential boarding school for 3 to 5 girls at 206 Holmes, Oregon City, Oregon 97045. The approval included annual review of the Conditional Use.

### **BUDGET IMPACT:**

FY(s):  
Funding Source:

### **ATTACHMENTS:**





## CONDITIONAL USE UPDATE

File Numbers: CU 07-04

**FILE NO.:** CU 07-04

**APPLICATION TYPE:** Type III

**APPLICANT/OWNER:** House of Hope  
Rita Consenza  
President/Director  
P.O. Box 3057  
Oregon City, OR 97045

**REQUEST:** Annual review by the Planning Commission to determine continued compliance for and approved Conditional Use (CU 07-04).

**LOCATION:** 206 Holmes, Oregon City, Oregon 97045  
Clackamas County Map 3-2E-06AC, Tax Lot 1700  
Zoned "R-10" Dwelling District

**REVIEWER:** Christina Robertson-Gardiner, Planner  
Laura Terway, Planner

**DECISION:** On October 8, 2007, after reviewing all of the evidence in the record and considering all of the arguments made by the applicant, opponents and interested parties, the Planning Commission concluded by a 4-0 vote that the Conditional Use Permit to operate as a residential boarding school for 3 to 5 girls would meet all of the requirements of each applicable section of the Oregon City Municipal Code. The Planning Commission unanimously approved with conditions the application.

The following conditions were placed on the approval:

1. Within one year, but no less than 10 months, of establishing the use pursuant to this Conditional Use approval, and repeated annually for three years, the Applicant shall seek review by the Planning Commission to determine compliance with the Conditional Use approval under OCMC 17.56. This shall be a preliminary determination. Only the neighborhood association shall be provided notice of this hearing and no fee shall be assessed to the Applicant for this preliminary review. If, after the preliminary review, the Planning Commission concludes that conditions of compliance have not been satisfied, additional conditions are necessary, or that the permit should be revoked, a Type II or Type III proceeding shall be conducted. *(Revised by the Planning Commission at the 10.8.07 hearing)*
2. The applicant shall create a good neighbor agreement with the Rivercrest Neighborhood Association. This agreement will contain, at a minimum, the following items:
  - a. A primary contact person for both organizations to facilitate timely communications.
  - b. A yearly meeting with the Rivercrest Neighborhood Association and owners within 300 feet of the subject property is encouraged to discuss any concerns they may have with the use.

- c. An information sheet to be provided to all teachers, volunteers, councilors, visitors parents, and students of the House of Hope indicating that the House of Hope is a Conditional Use within a Single-Family Residential District. The letter shall also explain that the Neighborhood will be monitoring issues such as parking, noise and visitors as part of the Conditional Use approval.

If the Neighborhood Association or the Applicant fails to work together in good faith, to complete the agreement within 90 days of a final city decision, the agreement will no longer be required as part of the Conditional Use Approval.

As demonstrated within this report, the use of the property is compliant with the approved Conditional Use (file CU 07-04). The applicant began to utilize the facility as the approved conditional in June, 2008. Though the applicant was required to receive an annual review per condition of approval #1, no review has been conducted in the nearly three years since operations began. Annual review will be required for two additional years. The applicant did not create a good neighbor agreement within 90 days of the Conditional Use approval and thus condition of approval #2 is no longer required.

#### **CU 07-04 UPDATE**

##### **Details about the House of Hope.**

In 2007, the applicant provided the following information about their program:

House of Hope Portland is a non-denominational Christian program for struggling boys and girls between the ages of 13 to 17. The mission of House of Hope is “to restore hurting families by allowing God to bring healing to the physical, spiritual and emotional needs of troubled teenagers and their families.” At House of Hope Portland, this is accomplished through a multi-pronged approach: individual counseling, family counseling, schooling and living skills training.

In September 2006, House of Hope Portland began as a non-residential counseling program to temporarily meet the needs of the community. 4 teens and their families have received treatment in the first 7 months of the program. House of Hope: Portland works closely with both the family and the teen to ensure they are receiving the care and support they need for mutual progress to occur.

In some cases, a teen’s issues are too deep to be dealt with while living at home. Some times it is simply unsafe for the teen to return home, as in cases of negative peer influences, running away, self-mutilation or suicidal depression. In these cases, residential treatment allows the teen and family to heal together while the teen remains in a safe, loving, structured Christian environment. Currently, House of Hope: Portland is looking for its first residential treatment facility. It will house between 3 and 5 girls.

The applicant submitted a daily schedule identifying the times and activities for the girls to be living on site in the Conditional Use application (Exhibit 3). According to the applicant, outside visitors are only allowed with proper approval and are supervised at all times. The subject site is currently occupied by a single-family residence on a 24, 829 square foot lot. The 1940s era home is situated at the front of the oversized lot near Holmes Lane and has both an attached two-car garage and a detached three-car garage in the rear with an additional gravel parking area for 3-5 cars. There are currently no street improvements on the site.

As part of the update, the applicant submitted the following information in an email to city staff in Exhibit 2.

*As you know we have been operational with residents since June of 2008. In that time we have not had any problems with any of our neighbors with the exception of one day when we had a work day and some people parked along the street and a neighbor called the police. The police came by and did not ask anyone to move their cars. We have had to call the police 3 times. Twice when girls have run away (both times they left the city and were later located. One in downtown Portland and one in Salern.) One time we had to call an ambulance for a girl who had cut herself and was refusing to let me take her to the ER. We have maintained a census of 1-3 girls. In the future we would like to convert the garage into*

*living space which would enable us to care for 5 girls which is what our conditional use permit allows. Since we have been here we have improved the landscaping and removed the blackberries from the back yard. The blackberries had been a nuisance to the neighbor to the south and now she is happy with the way the back yard is being taken care of. She told me last fall that we have been the best neighbors she has had for a very long time. If there is additional information you need, please let me now and I will provide it.*

Nancy Busch, Code Enforcement Manager, confirmed that despite minor complaints, the approved Conditional Use has not been a chronic nuisance (Exhibit 5). Chris Taylor, Executive Assistant for the Oregon City Police Department confirmed that the Police have periodically responded to the residence since the use has been in place since June, 2008 (Exhibit 6).

The applicant ceased the use of the site as a school in March, 2011 due to a loss of funding and is contemplating using the home for residential purposes to house up to 5 foster children (Exhibit 7). The proposed residential use would not require a Conditional Use approval. If funding becomes available, the applicant would like to resume the teaching activities. Given the applicant's request to retain the school approval and the conditions requiring an additional annual review of the use, staff recommends that the Planning Commission defer any action on the change in use issue until the next review when the applicant has a better sense of her intentions.

#### **Noticing**

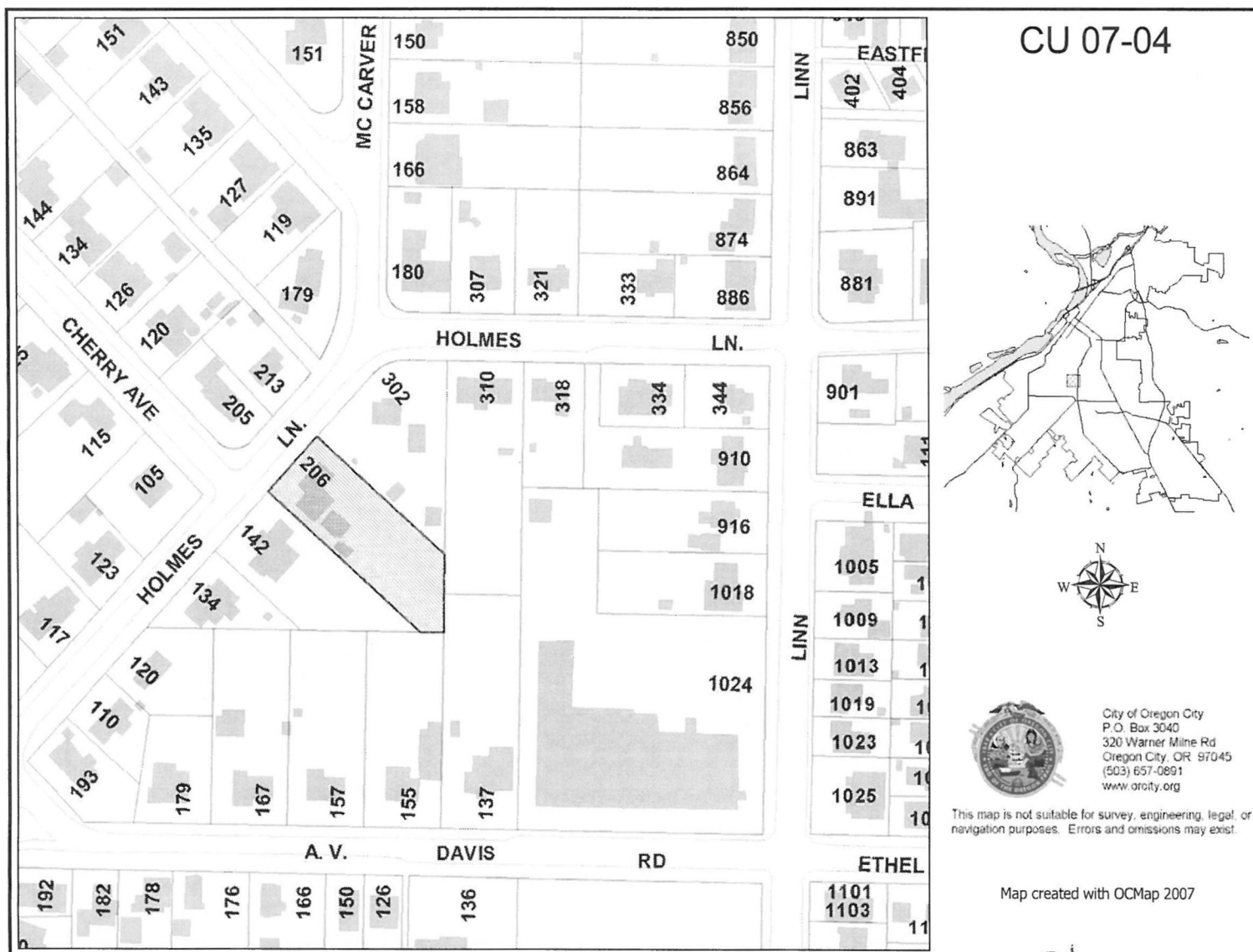
Notice of the update was sent to all parties with standing and the Rivercrest Neighborhood Association. No public comments have been received for this application.

#### **Staff Recommendation:**

Staff recommends the Planning Commission hear testimony from the Applicant and any neighbors who choose to comment on the application and decide if a formal Type II or Type III review is required for this file. If no formal review is required, the original decision will stand. Staff recommends an additional yearly review be required and if no change in use is desired, the existing approval can be amended to eliminate any additional review requirement. If the applicant decides to eliminate the educational component in favor of existing as a single family home, no additional review will be required.

#### **Exhibits:**

1. Vicinity Map
2. CU 07-04 Notice of Decision
3. CU 07-04 Staff Report
4. April 4, 2011 Email from Rita Cosenza- President/Director House of Hope Portland
5. May 2, 2011 Email from Nancy Busch, Code Enforcement Manager
6. May 2, 2011 Email from Chris Taylor, Executive Assistant for the Oregon City Police Department
7. May 2, 2011 Emails from Rita Cosenza- President/Director House of Hope Portland



# CITY OF OREGON CITY

## Land Use Decision

320 WARNER MILNE ROAD  
TEL (503) 657-0891

OREGON CITY, OREGON 97045  
FAX (503) 722-3880



### NOTICE OF TYPE III LAND USE DECISION

File Numbers: CU 07-04

DATE OF MAILING OF THE DECISION: October 10, 2007

**FILE NO.:** CU 07-04

**APPLICATION TYPE:** Type III

**APPLICANT/OWNER:** House of Hope  
c/o Troy Wagner  
P.O. Box 33114  
Oregon City, OR 97045

**REQUEST:** The applicant is requesting approval of a Conditional Use permit to operate as a residential boarding school for 3 to 5 girls.

**LOCATION:** 206 Holmes, Oregon City, Oregon 97045  
Clackamas County Map 3-2E-06AC, Tax Lot 1700  
Zoned "R-10" Dwelling District

**REVIEWER:** Christina Robertson-Gardiner – Associate Planner, City of Oregon City

**DECISION:** On October 8, 2007, after reviewing all of the evidence in the record and considering all of the arguments made by the applicant, opponents and interested parties, the Planning Commission concluded by a 4-0 vote that the Conditional Use application would meet all of the requirements of each applicable section of the Oregon City Municipal Code. The Planning Commission unanimously **APPROVED WITH CONDITIONS** the application.

**PROCESS:** Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. Applications evaluated through this process include conditional use permits, preliminary planned unit development plans, variances, code interpretations, similar use determinations and those rezonings upon annexation under Section 17.06.050 for which discretion is provided. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission or the historic review board hearing is published and mailed to the applicant, recognized neighborhood association and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission or the historic review board, all issues are addressed. The decision of the planning commission or historic review board is appealable to the city commission, on the record. **Notice of appeal of any Type II, Type III or IV decision must be received in writing by the planning division within ten calendar days from the date notice of the challenged decision is provided to those entitled to notice.** Late filing of any appeal shall be deemed a jurisdictional defect and will result in the automatic rejection of any appeal so filed. The city commission decision on appeal from the historic review board or the planning commission is the city's final decision and is appealable to LUBA within twenty-one days of when it becomes final.

The application, decision, and supporting documents are available for inspection at the Oregon City Planning Division located at 320 Warner-Milne Road, Oregon City, OR 97045, (503) 657-0891, between the hours of 8am and 1pm. Copies of these documents are available (for a fee) upon request.

Revised Conditions of Approval  
Planning Files: CU 07-04  
October 10, 2007

1. Within one year, but no less than 10 months, of establishing the use pursuant to this Conditional Use approval, and repeated annually for three years, the Applicant shall seek review by the Planning Commission to determine compliance with the Conditional Use approval under OCMC 17.56. This shall be a preliminary determination. Only the neighborhood association shall be provided notice of this hearing and no fee shall be assessed to the Applicant for this preliminary review. If, after the preliminary review, the Planning Commission concludes that conditions of compliance have not been satisfied, additional conditions are necessary, or that the permit should be revoked, a Type II or Type III proceeding shall be conducted. *(Revised by the Planning Commission at the 10.8.07 hearing)*
2. The applicant shall create a good neighbor agreement with the Rivercrest Neighborhood Association. This agreement will contain, at a minimum, the following items:
  - a. A primary contact person for both organizations to facilitate timely communications.
  - b. A yearly meeting with the Rivercrest Neighborhood Association and owners within 300 feet of the subject property is encouraged to discuss any concerns they may have with the use.
  - c. An information sheet to be provided to all teachers, volunteers, councilors, visitors parents, and students of the House of Hope indicating that the House of Hope is a Conditional Use within a Single-Family Residential District. The letter shall also explain that the Neighborhood will be monitoring issues such as parking, noise and visitors as part of the Conditional Use approval.

If the Neighborhood Association or the Applicant fails to work together in good faith, to complete the agreement within 90 days of a final city decision, the agreement will no longer be required as part of the Conditional Use Approval.

**CITY OF OREGON CITY**  
**TYPE III – CONDITIONAL USE PERMIT**  
320 WARNER MILNE ROAD OREGON CITY, OREGON 97045  
Tel 657-0891 Fax 657-7892



**STAFF REPORT and RECOMMENDATION**  
October 1, 2007

**FILE NO.:** CU 07-04

Complete: August 23, 2007  
120-Day: December 21, 2007

**APPLICATION TYPE:** Type III  
Planning Commission Hearing Date: October 8, 2007

**APPLICANT/OWNER:** House of Hope  
c/o Troy Wagner  
P.O. Box 33114  
Oregon City, OR 97045

**REQUEST:** The applicant is requesting approval of a Conditional Use permit to operate as a residential boarding school for 3 to 5 girls.

**LOCATION:** 206 Holmes, Oregon City, Oregon 97045  
Clackamas County Map 3-2E-06AC, Tax Lot 1700  
Zoned "R-10" Dwelling District

**REVIEWER:** Christina Robertson-Gardiner – Associate Planner, City of Oregon City

**RECOMMENDATION:** Approval with Conditions.

Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. Applications evaluated through this process include conditional use permits, preliminary planned unit development plans, variances, code interpretations, similar use determinations and those rezonings upon annexation under Section 17.06.050 for which discretion is provided. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission or the historic review board hearing is published and mailed to the applicant, recognized neighborhood association and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission or the historic review board, all issues are addressed. The decision of the planning commission or historic review board is appealable to the city commission, on the record. The city commission decision on appeal from the historic review board or the planning commission is the city's final decision and is appealable to LUBA within twenty-one days of when it becomes final.

IF YOU HAVE ANY QUESTIONS ABOUT THIS DECISION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 657-0891.

**DECISION CRITERIA:** Chapter 17.08 R-10 SINGLE FAMILY DWELLING DISTRICT  
Chapter 17.50 ADMINISTRATION AND PROCEDURES  
Chapter 17.56 CONDITIONAL USES

**I. BACKGROUND**

The applicant, House of Hope, is requesting approval of a Conditional Use permit to operate as a residential boarding school for 3 to 5 girls. The applicant has provided the following information about their program:

*House of Hope Portland is a non-denominational Christian program for struggling boys and girls between the ages of 13 to 17. The mission of House of Hope is "to restore hurting families by allowing God to bring healing to the physical, spiritual and emotional needs of troubled teenagers and their families." At House of Hope Portland, this is accomplished through a multi-pronged approach: individual counseling, family counseling, schooling and living skills training.*

*In September 2006, House of Hope Portland began as a non-residential counseling program to temporarily meet the needs of the community. 4 teens and their families have received treatment in the first 7 months of the program. House of Hope: Portland works closely with both the family and the teen to ensure they are receiving the care and support they need for mutual progress to occur.*

*In some cases, a teen's issues are too deep to be dealt with while living at home. Some times it is simply unsafe for the teen to return home, as in cases of negative peer influences, running away, self-mutilation or suicidal depression. In these cases, residential treatment allows the teen and family to heal together while the teen remains in a safe, loving, structured Christian environment. Currently, House of Hope: Portland is looking for its first residential treatment facility. It will house between 3 and 5 girls.*

The applicant has additionally submitted a daily schedule (Exhibit 3) identifying the times and activities for the girls to be living on site. According to the applicant, outside visitors are only allowed with proper approval and are supervised at all times.

The subject site is currently occupied by a single-family residence on a 24, 829 square foot lot.. The 1940s era home is situated at the front of the oversized lot near Holmes Lane and has both an attached two-car garage and a detached three-car garage in the rear with an additional gravel parking area for 3-5 cars. There are currently no street improvements on the site.

**II. FACTS**

1. **Location.** The site is located on the south side of Holmes Land between McCarver Avenue and Cherry Avenue and is identified as Clackamas County Map 3-2E 06AC TL 1700.
2. **Surrounding Zoning and Land Uses.** The subject site is zoned R-10 Single-Family Dwelling District. The properties to the north, south, east and west of the site are zoned R-10 Single-Family Dwelling District. Surrounding the site are single-family lots of sizes that range from 10,000 to 24,000 square feet. To the Southeast of the property along AV Davis and Linn Avenue is the Oregon City Evangelical Church (TL s 6400,600,500 &400). Also owned by the



Oregon City Evangelical Church is 155 A.V. Davis. This property was not included in their 2005 Conditional Use Review. The Oregon City Transportation System Plan identifies this section of Holmes Lane as a neighborhood collector.

3. **Public Comment.** The subject site was posted, the hearing was advertised in the Clackamas Review and notice of this proposal was sent to property owners within three hundred feet of the subject property and various City departments and other agencies requesting written comments and identifying the night and location of the hearing to present testimony. A memo has been prepared by Bill Kabeiseman, Assistant City Attorney responding to concerns relating to city's ability to enforce CC &R's on the property. Additionally, Carrie Richter, Assistant City Attorney, will be available at the October 8, 2007 hearing to answer any questions the Planning Commission may have regarding the submitted public comments.

**Rivercrest Neighborhood Association Steering Committee, c/o Patty Brown PO Box 1223**

The Steering Committee submitted minutes from their meeting with the applicant and notified staff that they do not object to the application.

**Nancy K. Miller, 180 McCarver Avenue.** Mrs. Miller, a resident of the neighborhood for 37 years raised concerns with the amount of non-single family use in the area and the associated security issues relating to the intended uses of the site.

**Glenda Durham, PO Box 1006.** Ms. Durham, representing an unidentified number of clients, raises issues relating to the appropriateness of the Conditional Use and to ongoing court action regarding the ability to enforce the CC&Rs of the Rivercrest Addition in Oregon City.

**Linda Lord, 142 Holmes Lane.** Ms. Lord is not in favor of the application and has identified concerns relating to noticing, licensing, social service agencies being allowed in a residential zone, traffic, noise, and the deed restriction on property.

**Cheryl Hooper, 818 Linn Avenue.** Ms. Hooper has concerns with the application and sees the proposal as more of a correctional institution than a boarding school.

**Erlyn and Lesley Krueger, 631 Charmen Street.** The Krueger's are uncomfortable with the proposed use being in a residential district.

**Bob Krueger, 130 Telford Road.** Mr. Krueger opposes the proposed use to be allowed through the Conditional Use process.

**Mardel Lewis and Catherine West, 203 Cherry.** Ms. West and Mr. Lewis are concerned that the proposed use does not meet the CC&Rs of the subdivision as well as having concerns over safety, traffic and property values.

**Bill and Eileen Johnson, 886 Linn Avenue.** The Johnsons' concerns relate to safety, compatibility of the use in the neighborhood as well as the need for more landscaping and property security.

### **III. CONDITIONAL USE PERMIT FINDINGS:**

#### **OREGON CITY ZONING CODE**

#### **Chapter 17.08: R-10 Single-Family Dwelling District**

##### **17.08.010 Designated.**

This residential district allows for areas of single-family homes on lot sizes of at least ten thousand square feet. (Prior code §11-3-2(part))

##### **17.08.020 Permitted uses.**

Permitted uses in the R-10 district are:

- A. Single-family detached residential units;
- B. Publicly-owned parks, playgrounds, playfields and community or neighborhood centers;
- C. Home occupations;
- D. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (retail sales of materials grown on site is permitted);
- E. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- F. Accessory uses, buildings and dwellings;
- G. Family day care provider, subject to the provisions of Section 17.54.050.

**Finding: *Not Applicable.*** The applicant has not proposed a permitted use.

##### **17.08.030 Conditional uses.**

The following conditional uses are permitted in this district when authorized by and in accordance with the standards contained in Chapter 17.56:

- A. Golf courses, except miniature golf courses, driving ranges or similar commercial enterprises;
- B. Uses listed in Section 17.56.030. (Prior code §11-3-2(B))

**Finding: *Complies.*** Section 17.56.030 identifies "Schools" as a use requiring a Conditional Use Permit.

##### **17.08.040 Dimensional standards.**

Dimensional standards in the R-10 district are:

- A. Minimum lot areas, ten thousand square feet;
- B. Minimum lot width, sixty-five feet;
- C. Minimum lot depth, eighty feet;
- D. Maximum building height, two and one-half stories, not to exceed thirty-five feet;
- E. Minimum required setbacks:
  - 1. Front yard, twenty feet minimum depth,
  - 2. Attached and detached garage, twenty feet minimum depth from the public right-of-way where access is taken, except for alleys. Garages on an alley shall be setback a minimum of five feet in residential areas.

3. Interior side yard, ten feet minimum width for at least one side yard; eight feet minimum width for the other side yard,
  4. Corner side yard, fifteen feet minimum width,
  5. Rear yard, twenty feet minimum depth,
  6. Solar balance point, setback and height standards may be modified subject to the provisions of Section 17.54.070. (Ord. 91-1020 §2(part), 1991; prior code §11-3-2(C))
- F. Garage Standards: See Section 17.20 – Residential Design Standards
- G. Maximum Building Coverage: See Section 17.20 – Residential Design Standards.

**Finding: Complies.** The existing single family residence on the 24,829 square foot lot meets all of the setbacks of the R-10 District.

#### **Chapter 17.56 Conditional Uses**

##### **17.56.010 Permit--Authorization--Standards--Conditions.**

*The planning commission may allow a conditional use, provided that the applicant provides evidence substantiating that all the requirements of this title relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:*

1. *The use is listed as a conditional use in the underlying district;*

**Finding: Complies.** Section 17.56.030 identifies “Schools” as a use requiring a Conditional Use Permit. There has been some public comments submitted to the city questioning the nature of the proposed use as a school. Based on the information provided by the applicant, Staff has classified this use as a private boarding school. The students are minors between the ages of 13 and 17 and are being sent to the House of Hope by their parents where they will be provided with in home schooling. The applicant has indicated that they are pursuing the local and state licensing required to operate a school of this nature parallel to this Land Use process.

This Conditional Use is examining the impacts the proposal may have on the abutting single-family residential neighborhood and identify specific conditions of approval that may mitigate any potential impacts to the neighborhood.

2. *The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;*

**Finding: Complies with Conditions.** The subject site is a 24,829 square foot lot. The applicant is proposing to utilize the site for a boarding school for 3-5 girls. The purpose of the program is to provide in-house counseling and tutoring program for at risk girls with outside tutors and councilors who would come to the house at various points in the day/week. Once a week, parents of the students would come to the house to visit. The applicant has submitted a daily schedule in their submission packet which illustrates the controls the applicant plans to place on the girl’s activities.

The applicant has also indicated that there would generally be no more than four or five cars at the site at any time. There is a two-car attached and three-car detached garage onsite as well as space for parking up to 5 cars either in the front driveway or in the rear parking area behind the house.

Staff finds that the proposed use of a boarding school for 3 to 5 girls is appropriate for the general area as it will have no more impact on the neighborhood than the potential intensity of any single family residence. Moreover, the Conditional Use process will provide an avenue for future neighborhood concerns of noise, parking and other nuisances to be addressed, which are not regulated in other single-family residences.

*3. The site and proposed development are timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use;*

**Finding: *Complies with Conditions.***

**Traffic/Transportation –**

The anticipated traffic trips generated by the proposed use are no greater than that of the typical single-family residence. Parental visits and outside tutors are at a level of normal weekly single-family activity. As conditioned, all parking for the House of Hope shall be provided onsite and will not be allowed to spill into the neighboring streets

**Sanitary Sewer –** The existing home is not proposed to be altered for the conditional use.

**Water –** The existing home is not proposed to be altered for the conditional use.

**Storm Drainage –** The existing home is not proposed to be altered for the conditional use.

**Fire –** The existing home is not proposed to be altered for the conditional use.

**Finding: *Complies with Conditions.***

*4. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or precludes the use of surrounding properties for the primary uses listed in the underlying district;*

**Finding: *Complies with Conditions.***

The applicant has contended and staff agrees that the proposed use will have no more affect on a neighborhood than a single-family residence. Neighborhood comments, however, do not agree with this statement. While the Land Use Committee of the Neighborhood Association does not opposes the application, numerous neighbors have submitted comments that strenuously appose the proposed use in their neighborhood. They contend that the proposed use will bring safety concerns from not only the girls but friends associated with the students that may come to the area to visit. They do not see the proposed use as compatible with a single-family neighborhood. No mitigation measures have been identified in the public comments that could alleviate their concerns. Therefore, staff is recommending the Planning Commission approve the use but require the applicant, to submit an application to show compliance with the Conditional Use approval under OCMC 17.56 within one year of the Conditional Use approval. This will be processed as a Type II Administrative procedure, which is appealable to the City Commission.

*5. The proposal satisfies the goals and policies of the city comprehensive plan which apply to the proposed use.*

## **Comprehensive Plan Policies**

### **Section 6 – Quality of Air, Water and Land Resources**

**Goal 6.4 Noise:** *Prevent excessive noise that may jeopardize the health, welfare and safety of the citizens or degrade the quality of life.*

**Policy 6.4.1:** *Provide for noise abatement features such as sound-walls, soil berms, vegetation and setbacks to buffer neighborhoods from vehicular noise and industrial noises.*

**Policy 6.4.2:** *Encourage land-use patterns along high-traffic corridors that minimize noise impacts from motorized traffic through building location, design, size and scale.*

**Finding: *Complies.*** The proposed use as conditioned is not anticipated to created an impact greater than that of a single family residence.

### **Section 10 – Housing**

**Goal 10.1 Diverse Housing Opportunities.** *Provide for the planning, development and preservation of a variety of housing types and lot sizes to provide for needed affordable housing.*

**Policy 10.1.1:***Maintain the existing residential housing stock in established older neighborhoods by maintaining existing comprehensive plan and zoning designations where appropriate.*

**Finding: *Complies.*** The applicant has proposed a boarding school in the R-10 Single Family Dwelling District, a conditional use. The applicant does not propose to alter the building in a manner that it cannot be returned as a single-family residence if the Conditional Use is removed from the site. Oregon City has moat of the schools located in residential zone districts. The proposed use is compatible with the adjacent residential character of the neighborhood. It is appropriate to maintain the existing comprehensive plan and zoning designations for this site.

*B. Permits for conditional uses shall stipulate restrictions or conditions which may include, but are not limited to, a definite time limit to meet such conditions, provisions for a front, side or rear yard greater than the minimum dimensional standards of the zoning ordinance, suitable landscaping, off-street parking, and any other reasonable restriction, condition or safeguard that would uphold the spirit and intent of the zoning ordinance, and mitigate adverse effect upon the neighborhood properties by reason of the use, extension, construction or alteration allowed as set forth in the findings of the planning commission.*

**Finding: *Complies.*** The applicant has not requested any restriction, condition or safeguard beyond what is normally required by the city to uphold the spirit and intent of the zoning ordinance and mitigate adverse effect upon neighborhood properties. Staff has recommended conditions of approval that would appear to be appropriate to ensure compliance with the Oregon City Municipal Code.

*C. Any conditional use shall meet the dimensional standards of the zone in which it is to be located pursuant to subsection B of this section unless otherwise indicated, as well as the minimum conditions listed below.*

**Finding: *Complies.*** The applicant has indicated that the dimensional standards of the zone will be met.

*D. In the case of a use existing prior to the effective date of the ordinance codified in this title and classified in this title as a conditional use, any change of use expansion of lot area or expansion of structure shall conform with the requirements for conditional use.*

**Finding: Not Applicable.** There is no pre-existing Conditional Use on the parcel.

*E. The planning commission may specifically permit, upon approval of a conditional use, further expansion to a specified maximum designated by the planning commission without the need to return for additional review. (Ord. 91-1025 §1, 1991; prior code §11-6-1)*

**Finding: Not applicable.** The applicant has not proposed a phased Conditional Use approval.

**17.56.020 Permit--Application.**

**Finding: Complies.** The applicant has properly filed the Conditional Use request and a public hearing will be held before the Planning Commission.

**17.56.040 Criteria and standards for conditional uses.**

*In addition to the standards listed herein in Section 17.56.010, which are to be considered in the approval of all conditional uses and the standards of the zone in which the conditional use is located, the following additional standards shall be applicable:*

*A. Building Openings. The city may limit or prohibit building openings within fifty feet of residential property in a residential zone if the openings will cause glare, excessive noise or excessive traffic which would adversely affect adjacent residential property as set forth in the findings of the planning commission.*

**Finding: Not Applicable.** There are no new building openings proposed within fifty feet of residential property.

*B. Additional Street Right-of-Way. The dedication of additional right-of-way may be required where the city plan indicates need for increased width and where the street is inadequate for its use; or where the nature of the proposed development warrants increased street width.*

**Finding: Complies.** Holmes Lane in this section is identified as a Neighborhood Collector in the Oregon City Transportation System Plan, which requires a right-of-way (ROW) width of 52 to 81 feet. Currently, Holmes Lane has a 60-foot ROW width along the site's frontage. As this use is not anticipated, nor conditioned, to be of more impact than a single-family residence, no street improvements are being proposed at this time. This criterion will be revisited if the applicant chooses to expand the Conditional Use or request approval for a land partition.

**17.56.060 Revocation of conditional use permits.**

**Finding: Complies with Conditions.** The applicant has requested a Conditional Use Permit approval for a Boarding School for 3-5 girls. Neighbors have submitted comments questioning the level of impact the school will have on the neighborhood. Their concerns can be addressed by having the Applicant, submit an application to show compliance with the Conditional Use approval under OCMC 17.56 within one year of the Conditional Use approval. This will be processed as a Type II Administrative procedure. No fees are to be assessed to the applicant for this process

***17.56.070 Periodic review of conditional use permits.***

**Finding:** *Not Applicable.* The site has not been identified as needing a periodic review of a previously issued permit.

**CONCLUSION AND DECISION:**

Based on the analysis and findings as described above, the House of Hope can meet the requirements as described in the Oregon City Municipal Code for Conditional Use Permit by complying with the Conditions of Approval provided in this report.

Therefore, staff recommends approval of files CU 07-04 with conditions, based upon the findings and Exhibits contained in this staff report.

**EXHIBITS:**

1. Vicinity Map
2. Birds eye view of the site (acquired by staff from OC Web map)
3. House of Hope Land Use Application
4. Public Comments
5. September 26, 2007 Letter form Bill Kabeiseman

### **Recommended Conditions of Approval**

Planning Files: CU 07-04

1. Within one year of the Conditional Use approval, the Applicant shall submit an application to show compliance with the Conditional Use approval under OCMC 17.56. This will be processed as a Type II Administrative procedure. No fees are to be assessed to the applicant for this process.
2. The applicant shall create a good neighbor agreement with the Rivercrest Neighborhood Association. This agreement will contain, at a minimum, the following items:
  - a. A primary contact person for both organizations to facilitate timely communications.
  - b. A yearly meeting with the Rivercrest Neighborhood Association and owners within 300 feet of the subject property is encouraged to discuss any concerns they may have with the use.
  - c. An information sheet to be provided to all teachers, volunteers, councilors, visitors parents, and students of the House of Hope indicating that the House of Hope is a Conditional Use within a Single-Family Residential District. The letter shall also explain that the Neighborhood will be monitoring issues such as parking, noise and visitors as part of the Conditional Use approval.
  - d. If the Neighborhood Association or the Applicant fails to work together in good faith, to complete the agreement within 90 days of a final city decision, the agreement will no longer be required as part of the Conditional Use Approval.
3. All parking for the House of Hope shall be located onsite.



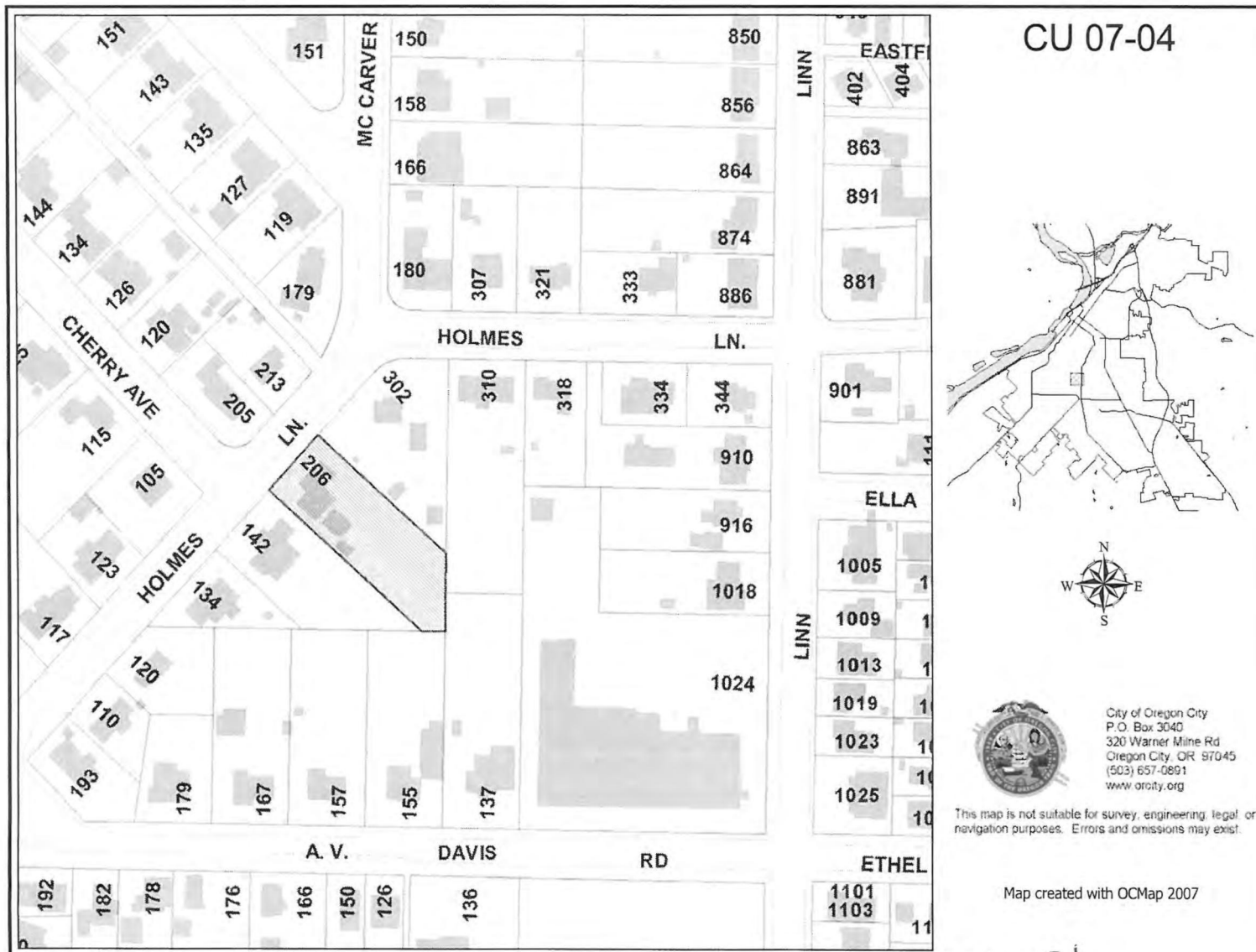


Exhibit 21



1. Looking East at the Property



2. Looking South at the Property

Exhibit 2



# CITY OF OREGON CITY LAND USE APPLICATION



City of Oregon City, Community Development Department, 320 Warner Milne Road, P.O. Box 3040, Oregon City, OR 97045, (503) 657-0891

Type I (OCMC 17.50.030.A)

- ☐ Compatibility Review  
☐ Water Resources Exemption

Type II (OCMC 17.50.030.B)

- ☐ Extension  
☐ Detailed Development Review  
☐ Geotechnical Hazards  
☐ Minor Partition  
☐ Minor Site Plan & Design Review  
☐ Nonconforming Use Review  
☐ Site Plan and Design Review  
☐ Subdivision  
☐ Minor Variance  
☐ Water Resource Review

Type III / IV (OCMC 17.50.030.C)

- ☐ Annexation  
☐ Code Interpretation / Similar Use  
☒ Concept Development Plan  
☒ Conditional Use  
☐ Comprehensive Plan Amendment (Text/Map)  
☐ Detailed Development Plan  
☐ Historic Review  
☐ Oregon City Municipal Code Amendment  
☐ Variance  
☐ Zone Change

**Application Number:** CU 07-04

**Proposed Land Use or Activity:** Residential boarding school for girls  
ages 13 - 17

**Project Name:** House of Hope Portland **Number of Lots Proposed (If Applicable):** \_\_\_\_\_

**Physical Address of Site:** 206 HOLMES OREGON CITY, OR

**Clackamas County Map and Tax Lot Number(s):** 3-2E-06AC-01700

Applicant(s):

**Applicant(s) Signature:** [Signature]

**Applicant(s) Name Printed:** TROY WAGNER **Date:** 8/14/07

**Mailing Address:** PO Box 33114

**Phone:** 503-235-3725 **Fax:** \_\_\_\_\_ **Email:** houseofhopeportland@mac.com

Property Owner(s):

**Property Owner(s) Signature:** FRANK & JUNE M. MEDGIN

**Property Owner(s) Name Printed:** [Signature] **Date:** 8-14-07

**Mailing Address:** 4589 SW CALDEW ST., PORTLAND, OR 97219

**Phone:** 503-245-1080 **Fax:** 503-245-7683 **Email:** \_\_\_\_\_

Representative(s):

**Representative(s) Signature:** \_\_\_\_\_

**Representative (s) Name Printed:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_ **Email:** \_\_\_\_\_

*All signatures represented must have the full legal capacity and hereby authorize the filing of this application and exhibits herewith are correct and indicate the parties willingness to comply with a*

**Exhibit** 3

### **About House of Hope - Portland**

House of Hope Portland is a non-denominational Christian program for struggling boys and girls between the ages of 13 to 17. The mission of House of Hope is *"to restore hurting families by allowing God to bring healing to the physical, spiritual and emotional needs of troubled teenagers and their families."* At House of Hope Portland, this is accomplished through a multi-pronged approach: individual counseling, family counseling, schooling and living skills training.

While House of Hope Portland is new, nationally, House of Hope maintains a very high rate of success through its 9 to 18 month program of:

- Christ Centered Counseling;
- Structured Education at Hope Academy;
- Parenting workshops and counseling;
- Daily spiritual guidance and teaching; and
- A loving home-styled environment.

In September 2006, House of Hope Portland began a non-residential counseling program to temporarily meet the needs of the community. 4 teens and their families have received treatment in the first 7 months of the program. House of Hope: Portland works closely with both the family and the teen to ensure they are receiving the care and support they need for mutual progress to occur.

In some cases, a teen's issues are too deep to be dealt with while living at home. Some times it is simply unsafe for the teen to return home, as in cases of negative peer influences, running away, self-mutilation or suicidal depression. In these cases, residential treatment allows the teen and family to heal together while the teen remains in a safe, loving, structured Christian environment. Currently, House of Hope: Portland is looking for its first residential treatment facility. It will house between 3 and 5 girls.

### **The House of Hope Experience**

Generally, families in crisis are referred to House of Hope Portland by area churches, ministers, teachers or they discover the organization through an internet search.

#### ***For Teens:***

***Individual Counseling:*** This one-on-one setting allows the teen to delve into the root causes of their struggles. Teens either meet with pastoral counselors or licensed clinical counselors who help them explore their hurts and pain. This is an on-going process and allows the teen to reach a place where he or she can begin the healing process.

***Group Counseling:*** Moderated by a pastoral counselor in a positive, supportive, environment, teens can share their struggles with their peers and find healing through the support of their peers and their counselor.

***Education Recovery:*** Through the Accelerated Christian Educational (ACE) Program, teens, many of whom are behind their grade level academically due to poor attendance or lack of motivation, can work with a tutor to regain lost credits so, upon completion of their time with House of Hope: Portland, they can re-join their peers at the appropriate academic level and graduate from high school on time.

***For Parents:***

***Group Counseling:*** Under the guidance of staff, parents meet with other parents to discuss their struggles, appropriate parenting techniques and begin the healing process. Additionally, this helps parents realize they are not alone in their struggles.

***Parenting Classes:*** Taught by our staff, these classes help parents learn new skills so they can better champion their child during his or her path to recovery.

***Individual/Couples Counseling:*** Through a network of partner ministries, House of Hope helps couples, single parents and divorced parents find the help they need so they can provide the strongest support possible for their child.

While House of Hope Portland is a new program, nationally, House of Hope has a long history of success. The national program has received accolades from President Ronald Reagan and more recently President George Bush, Governor Jeb Bush, Senator Mel Martinez, Dr. James Dobson of Focus on the Family, and Sheila Walsh of Women of Faith for its innovative program structure and its long history of success.

**House of Hope Facility at 206 Holmes LN Oregon City**

House of Hope Portland strives to maintain a positive working relationship with its neighbors, our community, a Good Neighbor agreement is available for anyone who would like to have a copy. This agreement provides contact information as well as hours of operations for the office. It is our hope to work with the Rivercrest Neighborhood Association to insure that House of Hope is considered a part of the community and a responsible neighbor. It is our policy to respond to any concerns within 24 hours.

The existing property allows us to utilize the main house structure as the residential facility. 1-5 girls will be placed in the home with at least one fulltime residential staff member providing oversight at all times. The girls will sleep in the upstairs bedrooms while the main floor bedroom will be set up for our residential supervisor. During the day the girls will be supervised by one paid staff member and an additional volunteer. These volunteers serve as tutors, mentors, or house staff depending on the needs of the day. Our Program Director oversees all areas of the girls' daily activities. The existing family room will become our education resources room where the girls will work on their individual studies. House of Hope uses an individualized home schooling program that allows volunteers to work under the guidance of a certified teacher. The existing attached garage will serve as a counseling and administrative center where our Executive Director will oversee the various aspects of the program. The garage door will be replaced with a door entrance. Little else will need to be done for this space to meet our needs. The front drive provides parking for any day visitors to the office while the rear garage and drive will provide parking for teachers, volunteers, and staff.

One night each week parents of the girls in the program visit the residential center. The existing parking will be sufficient to meet this need. While the parents visit the center they will spend time with our staff and receive counseling or training in the counseling center.

At any given time there will typically be no more than four or five cars on site. Our program is a structured one and does not have a come and go feel. Our daily schedule is very strict and is attached to this narrative.

House of Hope Portland  
Daily Schedule

6:30	Wake up / Shower
7:00	Morning Devotional
7:15	Morning chores
7:30	Breakfast
8:00	School
Noon	Lunch
1:00	School
3:30	Lifeskills classes or individual counseling
5:30	Dinner
6:30	Evening activity / Group session / church
8:00	Evening chores / Personal time
9:00	Evening Devotional
10:00	Lights out

The girls in the program are supervised around the clock. Outside visitors are not permitted without prior approval and supervision. During the day, two adults, one paid staff and one volunteer are present at all times. Educational activities are done under the supervision of volunteers and certified teachers. All counselors are either ordained ministers or contracted professional counselors. Parenting classes are one night each week.



**Oregon City Municipal Code  
Chapter 17.56 Conditional Uses**

**17.56.010 Permit--Authorization--Standards--Conditions.**

A conditional use listed in this title may be permitted, enlarged or altered upon authorization of the planning commission in accordance with the standards and procedures of this title. A conditional use permit listed in this section may be permitted, enlarged or altered upon authorization of the planning commission in accordance with the standards and procedures of this section. Any expansion to, alteration of, or accessory use to a conditional use shall require planning commission approval of a modification to the original conditional use permit.

A. The following conditional uses, because of their public convenience and necessity and their effect upon the neighborhood shall be permitted only upon the approval of the planning commission after due notice and public hearing, according to procedure as provided in Chapter 17.50. The planning commission may allow a conditional use, provided that the applicant provides evidence substantiating that all the requirements of this title relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

1. The use is listed as a conditional use in the underlying district;  
*House of Hope Portland is a Boarding School and is listed as a 501(c)(3) organization operating as a boarding school.*
2. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;  
*The existing property and buildings accommodate all of our program needs providing space for the residential center, Education Center, and Administrative/Counseling Center. In addition the existing parking is more than sufficient to meet our needs for tutors, staff, visitors, and parent visits.*
3. The site and proposed development are timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use;  
*House of Hope Portland will have no additional impact to the area than the existing single family unit.*
4. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or precludes the use of surrounding properties for the primary uses listed in the underlying district;  
*No changes are planned for the property. It will continue to be used in the same manner as the existing single family unit.*
5. The proposal satisfies the goals and policies of the city comprehensive plan which apply to the proposed use.  
*Yes, as there are no changes being made to the existing property.*

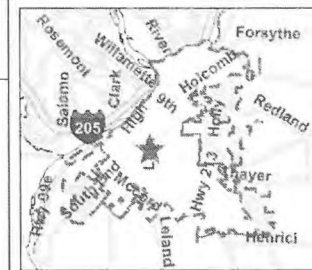
City of Oregon City  
P.O. Box 3040, 320 Warner Mine Rd  
Oregon City, OR 97045  
(503) 667-0691  
www.ci.oregon-city.or.us

## 206 Holmes Ln



0 55 110 165 ft.

The City of Oregon City makes no representations, express or implied, as to the accuracy, completeness and timeliness of the information displayed. This map is not suitable for legal, engineering, surveying or navigation purposes. Notification of any errors is appreciated.



### Legend

- City Limits
- UGB
- Parcels
- Parks
- Buildings
- Highways
- Major Streets
- Other Streets
- Rivers



Scale: 1:579





# CITY OF OREGON CITY PRE-APPLICATION CONFERENCE SUMMARY

Pre-application conferences are required by Section 17.50.030 of the City Code, as follows:

- (A) PURPOSE: The pre-application conference is to provide the applicant the necessary information to make an informed decision regarding their land use proposal.
- (B) A pre-application conference is required for all land use permits.
- (C) Time Limit: A pre-application conference is valid for a period of six (6) months.
- (D) An omission or failure by the Planning Division to provide an applicant with relevant information during a pre-application discussion shall not constitute a waiver of any standard, criterion, or requirement of the City of Oregon City. Information given in the conference is subject available information and may be subject to change without notice. *NOTE: The subsequent application may be submitted to any member of the Planning Staff.*

PRE-APP # 1A07-3 DATE: July 30, 2007  
 APPLICANT: Playwegner  
 SITE ADDRESS: 206 Holmes Lane  
 PROPERTY DESCRIPTION: 3.2E 6A6 7L1702  
 STAFF: C. Robertson, G. Grover, S. Schmitt ZONING: R-10  
 PROPOSED USE/ACTIVITY: 5.7 Student Boarding School  
 INFORMATION NECESSARY TO BEGIN DEVELOPMENT: This listing of information does not preclude the Community Development Department or hearings body from requesting additional data necessary to make a recommendation and/or decision regarding the proposed activity.

## 1. PLANNING

- ☐ Zoning/ Setbacks R-10
- ☐ Is the Site in a Water Resource Overlay District? (Yes or No)
- ☐ List of Minimum Required Planning Processes:

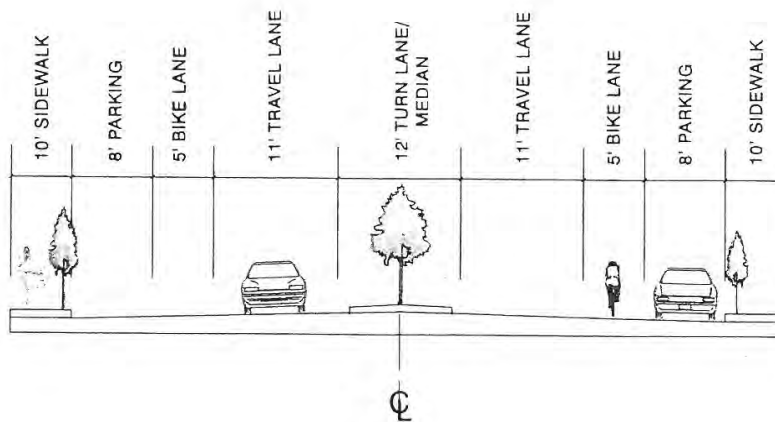
### 1. Conditional Use-

- ☐ OCMC 17.50 – Administrative Processes
- ☐ OCMC 17.56 – Conditional Uses

Other Applicant is interested in Perkinin property in the future to put a second house in back with a second Boarding School home - this future use should be proposed in initial CU if they want it to be addressed now this CU.

No site development is proposed.

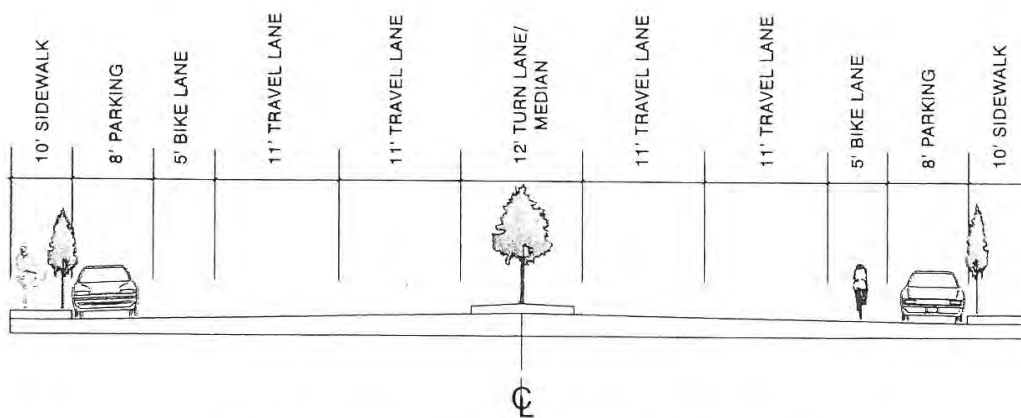
## 2. ENGINEERING



**North and South Segment (80' Right-of-Way)  
with access management**

**Harrison Street to Warner-Milne Road**

**Beavercreek Road to Highway 213**



**Central Segment (102' Right-of-Way)  
with access management**

**Warner-Milne Road to Beavercreek Road**

**Typical Cross Sections  
Full Build-out Plan**

**Figure 13**

January 2001 - Job 1077A

**WALLIS**  
ENGINEERING  
in association with  
**GREENWORKS** **Kittelson & Associates**



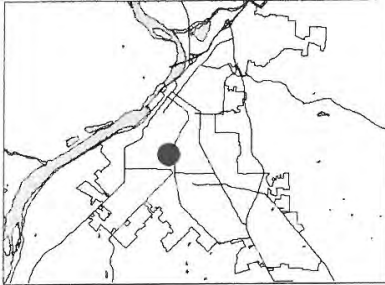
**Molalla Avenue Boulevard and  
Bikeway Improvements Plan**  
**Oregon City, Oregon**

## Oregon City Permit Submittal - Property Zoning Report

Printed July 30, 2007

Taxlot: 3-2E-06AC-01700

Site Address: 206 HOLMES LN



### Taxlot Information

Taxlot Number: 3-2E-06AC-01700

Alt ID: 850494

Site Address: 206 HOLMES LN  
OREGON CITY  
OR 97045

Parcel Area (acres - approx): 0.57

Parcel Area (sq. ft. - approx): 24829

Twn/Rng/Sec: 03S 02E 6

Tax Map Reference: 32E06AC

### Overlay Information

In Historic District? N

In Willamette Greenway? N

Geologic Hazards? N

In Water Resource Overlay District? N

In 1996 Floodplain? N

### Planning Designations

Zoning: R10

- 10,000 SF SFR Dwelling Unit

Comprehensive Plan: Ir

- Residential - Low Density

Subdivision: NONE

Neighborhood Assn: Rivercrest NA

Urban Renewal District:

Historic District:

Historic Designated Structure? N

### Taxpayer Information

Last Name: MEDGIN

First Name: FRANK & JUNE MARGARE

Address: 4589 SW CALDEW ST  
PORTLAND  
OR 97219



This map is not suitable for survey, engineering, legal, or navigation purposes. Data errors and omissions may exist in map and report.

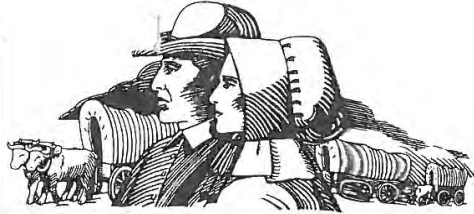
City of Oregon City - PO Box 3040 - 320 Warner Milne Road - Oregon City, OR 97045  
Phone: (503) 657-0891 Fax: (503) 657-7892 Web: [www.ci.oregon-city.or.us](http://www.ci.oregon-city.or.us)

# CITY OF OREGON CITY

## PLANNING DIVISION

320 WARNER MILNE ROAD  
TEL (503) 657-0891

OREGON CITY, OREGON 97045  
FAX (503) 722-3880



## Pre-Application Conference Reference Information

Date of Conference:	July 30, 2007
File Number:	PA 07-33
Proposed Use/Activity:	Conditional Use
Address:	206 Holmes Lane
Clackamas County Map:	3-2E-06AC-01700
Approximate Size (Acre):	0.57
Approximate Size (Feet):	24,829
Zoning:	R-10 Single-Family Dwelling District
Water Resource:	No
Geologic Hazards:	No
Historic:	No
1996 Flood Plain:	No
Road:	Holmes – Neighborhood Collector
Pedestrian System:	-
Bike:	Holmes – Striped Bike Lanes
Transit:	-
Trails Master Plan:	Holmes – Proposed Community Trail
Neighborhood Association:	Rivercrest Neighborhood Association

### Contacts:

Mace Childs  
Fire Prevention/Fire Marshal:  
Clackamas Fire District #1  
2930 S.E. Oak Grove  
Boulevard Milwaukie, Oregon 97267  
(503) 742-2660

John Replinger  
Consulting Traffic Engineer  
David Evans and Associates  
2100 SW River Parkway  
Portland, Oregon 97201  
(503) 223-6663

→ N/A

2 Monday of Sep

**City of Oregon City  
Pre-Application Form**

File Number PA07-33

Meeting Date 6/27/07 Time: 10 A.M. Location: City Hall-320 Warner Milne Rd.  
*Applicants and appropriate representatives are expected to present a detailed explanation of their proposal at the conference.*

**Applicant:**

Name House of Hope Portland  
Contact Person Troy Wagner <sup>08548</sup>  
Address 1836 SE 92ND AVE  
PORTLAND OR 97216  
Phone 503-235-3725

**Owner(s):**

Name Merit Financial (FRANK Medgin)  
Address 5000 SW Capitol Hill Rd  
Portland OR  
Phone 503-245-1080

**Property Description:**

Tax Assessor Map Number(s):


3-2E-06AC-01700

Address: 206 HOLMES LN

OREGON CITY OR 97045

**Proposed Development Action:**

APPLICATIONS for conditional use permit to operate  
residential BOARDING SCHOOL for 4-8 girls

Applicant Signature 

Date 6-15-07

*The pre-application conference is to provide the applicant the necessary information to make an informed decision regarding their land use proposal. Pre-Application Conferences expire six (6) months from the meeting date. Please submit 10 copies of the required information.*

**Please review this material and return comments prior to the above meeting date for consideration.**

**Routing:** PubWks ☐; PW Dir. ☐; Bldg ☐; Eng ☐; Fire ☐; Finance ☐; Clack Co (E) ☐; Clack Co (P) ☐;  
ODOT (Sonya) ☐; ODOT (Loretta) ☐; Schools ☐; Tri-Met ☐; Metro ☐; Police ☐; Other ☐

**Pre-Application Checklist:**

*Failure to submit a complete application may require additional fees and pre-application meetings.*

**Minimum Pre-Application Requirements**

- ☐ Narrative  
A detailed narrative description of your proposal and any specific questions you want the Community Development Department to respond to at the Pre-Application Conference.
- ☐ Site/Plot Plan (8½" x 11" or 11" x 17")
  - Parcel and building setback dimensions
  - Existing and proposed structures
  - Location and dimensions of easements and driveway
  - Location of utilities – storm, sanitary sewers & water (including size of service and street location)
  - Width of adjacent right of way
- ☐ Property Zoning Report (Obtained from City Hall)
- ☐ Additional Information / Requirement

**Additional Subdivision / Minor Partition Requirements**

- ☐ Slope map (if area is over 25% slope)
- ☐ Significant Tree Locations (all trees over 6 inches)
- ☐ Utility layout
- ☐ Proposed detention system with topographic contours
- ☐ Location of on-site water resources
- ☐ Connectivity analysis that includes shadow plats of all adjacent properties demonstrating how they can be developed meeting existing code.

**Additional Site Plan & Design Review Requirements**

- ☐ Proposed elevations
- ☐ Parking lot layout
- ☐ Parking space calculations  
(based on use and square footage of building)





## CONDITIONAL USE CHECKLIST



*The application will not be deemed complete without all of the requirements proceeding.*

City of Oregon City, Community Development Department, 320 Warner Milne Road, P.O. Box 3040, Oregon City, OR 97045, (503) 657-0891

www.orcity.org

1. ☐ **Complete Application Form**
- ✓ 2. ☐ **Narrative**  
A complete and detailed narrative description of the proposed development that describes existing site conditions, existing buildings, public facilities and services, presence of wetlands, steep slopes and other natural features, a discussion of the approval criteria for all permits required for approval of the development proposal that explains how the criteria are or can be met, and any other information indicated by staff at the preapplication conference as being required;
- ✓ 3. ☐ **Code Criteria**  
A narrative explaining all aspects of the proposal in detail and addressing each of the criteria listed in Chapter 17.49, 17.50 and any other applicable section of the Oregon City Municipal Code.
4. ☐ **Site Plan Drawings**  
Showing Existing Conditions/Uses and Proposed Conditions/Uses
- ✓ 5. ☒ **Architectural Drawings** 5 photos of site -  
Including building elevations and envelopes, if architectural work is proposed.
- ✓ 6. ☐ **Pre-Application Conference Summary Sheet**
7. ☒ **Additional Information or Reports** (If Required in Pre-Application Conference)
8. ☐ **Sheet Summary of the Meeting with the Applicable Neighborhood Association**
9. ☒ **A Current Preliminary Title Report for the Subject Property(ies)**
- ✓ 10. ☐ **Mailing Labels for Owners Within 300 Feet of the Subject Site**  
The names and addresses of property owners within 300 feet of the site indicated on the most recent property tax rolls.
11. ☐ **Copies**  
Seventeen (17) copies of all information, reports, and drawings (full-sized and 8.5" by 11") pertaining to this application.
12. ☐ **All Required Application Fees**

Conditional Use Application Submittal Checklist

September 30, 2007

Oregon City Planning Commission  
City of Oregon City  
Attn: Christina Robertson-Gardner  
320 Warner-Milne Road  
Oregon City, OR 97045

Re: Proposed Residential Treatment Facility at 206 Holmes Lane  
Application of House of Hope CU 07-04

Dear Ms Robertson-Gardner,

We would like you to consider this written testimony concerning the above referenced application of House of Hope CU 07-04, and include it in your report to the Planning Commission.

1. The River Crest Addition CCRs state there will not be any multi-family dwellings allowed within this association. The proposed residential care facility will include residents from 3 to 5 different families, plus the staff to oversee their care.
2. Property values will go down because a residential care facility will make the properties less desirable in the marketplace.
3. There will be increased traffic and the residential care residents will bring with them elements from their troubled background such as drug trafficking, street friends, pimps and other undesirable people.
4. Safety of the overall neighborhood will go down for the reasons stated in number 3 above.

This neighborhood is primarily made up of original owners, who are now seniors, and young families with small children. Safety is a major concern of all these people. We don't want problems like increased noise, car prowling, residential break-ins, and street associates hiding contraband in nearby bushes. This is what we have been told has happened in the neighborhoods around other residential treatment facilities.

We've also been told the Oregon City police will not respond to increased noise complaints and there have been no other precautions taken to protect the neighborhood from these outside influences. According to House of Hope, their one staff member and whatever volunteers they may have on hand will control any situations that may arise.

Based on our testimony we respectively request the Planning Commission not approve the application of House of Hope, CU 07-04.

Thank you for considering our testimony.

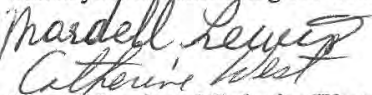
  
Mardell Lewis and Catherine West  
203 Cherry Avenue  
Oregon City, OR 97045

Exhibit 4



Oregon City Office  
PO Box 1006  
Oregon City, Oregon 97045

Glenda Durham  
Attorney at Law  
OSB #80212  
503-622-5621

Welches Office:  
PO Box 1223  
Welches, OR 97067

Please reply to this office

  X  

Please reply to this office

September 17, 2007

To: Oregon City Planning Commission  
City of Oregon City  
320 Warner-Milne Road  
Oregon City, Oregon 97045

RE: Application of House of Hope CU 07-04  
*Miller et al v Riggle et al*, Clackamas County Case CV03110235, CA A130522

My clients assert their contractual rights under Article 1 of the Reservations and Restrictions Upon Use and Occupancy of Property In River Crest Addition in River Crest Addition to Oregon City to insist that the proposed boarding school is an unacceptable use of the property at 206 Holmes Lane. It would drastically interfere with their quiet enjoyment of their properties and would be a violation of the provision that "no structures shall be erected other than one detached, single family dwelling,\*\*\* and other out-buildings incidental to residential use." Therefore the residential boarding school proposed by House of Hope (hereafter "HoH") may not be sited there, and we request that you deny the conditional use permit. The proposed use would also violate Article Three, as an activity that "may be or become an annoyance or nuisance to the neighborhood." Therefore this juvenile treatment center may not be sited there under the deed restrictions, and we request that you deny the conditional use permit

I corresponded with the Planning Commission in February 2005 regarding the conditional use application of the Oregon City Evangelical Church (OCEC), and explained my clients' interests in protecting their homes through enforcement of their subdivision's deed restrictions. There have been a few changes to the roster of plaintiffs and defendants, but all are property owners in River Crest Addition to Oregon City. Mr. Kaibesman and Mr. Kleinman have ready access to the Assessor's records and Circuit Court records for current listings. I submitted a list of clients' names then that is available in your files. I represent the River Crest landowners who are appealing the above-captioned litigation, and the majority of the plaintiffs in the Circuit Court action. Whether there are three landowners enforcing the deed restrictions, fifty, seventy, or one hundred or more, the issues remain the same. House of Hope has applied for a permit to use a River Crest property in violation of the deed restrictions. I will briefly recap the plaintiffs' position.

The contract dispute in the current encounter is now expressed between property owners in River Crest Addition to Oregon City and the non-resident defendants who propose a faith-based juvenile treatment facility on a lot in the subdivision. The litigation is still under the jurisdiction of the Oregon Court of Appeals. As a landowner in the subdivision, the City is subject to the deed restrictions, and responsible to uphold them.

07 SEP 18 PM 2:57  
RECEIVED  
CITY OF OREGON CITY

d. The contract is binding upon all owners of property in River Crest Addition to Oregon City and all those named parties who otherwise claim interest in River Crest Addition, and *they are bound by the restrictions on use of the land in the subdivision.* (Emphasis added.)

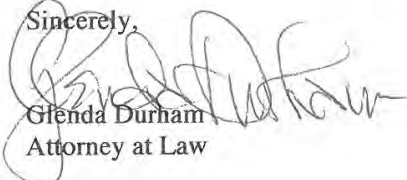
These claims were not allowed a hearing during the "trial," and my clients are petitioning the courts to decide if the restrictions are enforceable. In the meantime, this property is subject to a lis pendens and if the courts decide the contract is enforceable, the boarding school would be shut down. Under that tenuous circumstance, the timing of the current project is not prudent.

The laudatory aims of the applicant organization draw admiration and support from all with compassion for the damaged children in our society. We have deed restrictions and zoning laws because we cannot allow the sadness in the world to overwhelm all spaces in it. We use various modes to assure the quiet safe enjoyment of our homes for our families and neighbors. My clients are using their deed restrictions.

My clients may testify individually, addressing the criteria for a conditional use permit. This letter is to speak as their attorney on the issue of their decision to enforce the deed restrictions of their subdivision to exclude the proposed juvenile residential treatment facility, irrespective of your decision. The matters they raise have merit, but I need not repeat them here.

My duty is to make the record of my clients' decision to enforce Articles 1, 3, and 8 of the "Reservations and Restrictions Upon Use and Occupancy of Property In River Crest Addition to Oregon City" to prevent the operation of a residential boarding school at 206 Holmes Lane, Oregon City, Oregon.

Sincerely,



Glenda Durham  
Attorney at Law

Enclosures:

- Reservations and Restrictions Upon Use and Occupancy of Property in River Crest Addition in River Crest Addition to Oregon City, with amendments
- Letter to House of Hope, September 16, 2007

## RESERVATIONS AND RESTRICTIONS UPON USE AND

## OCCUPANCY OF PROPERTY IN RIVER CREST

ADDITION TO OREGON CITY, OREGON  
AND CORRECTION OF NAME OF PLAT AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That River-Crest Development Co., a corporation created and existing under the laws of the State of Oregon, does hereby certify and declare that the following reservations, conditions, covenants and agreements shall become and are hereby made a part of all conveyances of property within the plat of River Crest Addition to Oregon City Oregon, as the same appear on the map and plat recorded in Book 23, at page 2] Record of Town Plats of Clackamas County, Oregon, of which conveyances the following reservations, conditions, covenants and agreements shall become a part by reference and to which they shall thereupon apply as fully and with the same effect as if set forth at large therein during the period of twenty-five years from and after the 28th day of June, 1940.

1. All lots in the tract shall be known and described as residential lots except as hereinafter noted; no structures shall be erected, altered, placed or permitted to remain on any residential building plot other than one detached single-family dwelling not to exceed two and one-half stories in height, and a private garage for not more than two (2) cars and other out-buildings incidental to residential use.

2. No building shall be located on any residential building plot nearer than twenty (20) feet to the front lot line, nor nearer than twenty (20) feet to any side street line, and no building, except a garage or other out-building located sixty (60) feet or more from any front lot line, shall be located nearer than five (5) feet to any side lot line. No residence or attached appurtenance shall be erected on any lot farther than thirty (30) feet from the front lot line. No residential structure shall be erected or placed on any building plot, which plot has an area of less than 7500 square feet not a width of less than 60 feet at the front building setback line.

3. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No animals other than domestic pets shall be kept on any part of Blocks One (1), Two (2), Three (3), Four (4) and Eight (8). Blocks Five (5), Six (6) and Seven (7) shall be under the same general limitations and restrictions as Block Four (4), except the owners in Blocks (5), Six (6) and Seven (7) who own lots containing One (1) Acre of ground or more have the privilege of keeping poultry sufficient for family use, and any out buildings in which poultry is kept must be built on rear 1/2 half of the tract, not nearer than twenty (20) feet to side lines of lot or tract.

4. No persons of any race other than the Caucasian race shall use or occupy any building or any lot, except that this covenant shall not prevent occupancy by domestic servants of a different race domiciled with an owner or tenant.

5. No trailer, basement, tent, shack, garage, barn or other out building erected in the tract shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

6. No dwelling costing less than \$3,500.00 shall be permitted on any of the following described lots in said subdivision: All lots in Blocks One (1), Two (2) and Eight (8), and Lots One (1) and Twenty (20) in Block Three (3). No dwelling costing less than \$2,000.00 shall be permitted on any other lot in the tract. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 700 square feet in the case of a one -story structure nor less than 600 square feet in the case of a one and one-half, two or two and one-half story structure.

7. It is understood and agreed by and between the parties hereto that Lot Ten (10) in Block Three (3), and Lots One (1) and Five (5) in Block Four (4) of said subdivision are hereby reserved to be used for commercial or other purposes, and none of the restrictions, covenants or conditions contained in paragraphs two, three, six or eight hereof shall apply thereto, and said lots may be sold with or without such restrictions and for such purposes as the grantor may elect.

8. No advertising signs shall be erected on any of the lots herein or on any improvements thereon, save and excepting plates of professional men and "for sale" and "for rent" signs, all of which are to relate only and be restricted to the lots to which the same apply, and further excepting such general advertising signs as may relate to all unsold property in River Crest Addition to Oregon City, Oregon.

9. An easement is reserved over the rear five (5) feet of each lot for utility installation and maintenance.

10. Until such time as the city sewer is available, all sewage disposal shall be by means of septic tanks of type and construction and outlets in accordance with recommendations of the Oregon State Board of Health and the City of Oregon City.

11. These covenants are to run with the land and shall be binding on all the parties and all persons claiming under them until June 28, 1965, at which time said covenants shall be automatically extended for successive periods of ten years unless by a vote of the majority of the then owners of the lots it is agreed to change the said covenants in whole or in part.

12. It is further agreed and covenanted that no breach of the restrictions contained herein shall of itself work a forfeiture of the land conveyed in fee simple, but any such breach shall give the grantor, its officers and agents, or any owner of land in River Crest Addition to Oregon City, Oregon, the right to compel performance of these agreements, and to abate and remove any structures or erections in violation of them through the court or courts having jurisdiction in such cases, and

It is further agreed that the grantor, its officers and agents, shall have the right summarily to enter upon the granted premises, and to abate and remove at the expense of the owner thereof any erection, nuisance, thing or condition that may be thereon contrary to the true intent and meaning of such restrictions or any of them, and that the grantor, its officers or agents, shall not thereby be deemed guilty in any manner of trespass.

13. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

14. That whereas the dedication as shown on the plat recorded in Book 23 at Page 21 of Record of Town Plats of Clackamas County, Oregon, describes the same as River Crest and the caption of the plat describes it as River Crest Addition to Oregon City, Oregon. Now therefore, the true and correct name of the plat and dedication as recorded in Book 23 at Page 21 of Record of Town Plats, as recorded in the office of the County Clerk, Clackamas County, Oregon, is hereby declared to be River Crest Addition to Oregon City, Oregon.

IN WITNESS WHEREOF, River-Crest Development Co., pursuant to a resolution of its Board of Directors, duly and legally adopted, has caused these presents to be signed by its President and Secretary and its corporate seal to be hereunto affixed this 1st day of July 1940.

River Crest Development Co.

s/s Geo. F. Vick

President

River-Crest Development Co.

s/s Maree Odom =

Secretary



AMENDED AND SUPPLEMENTAL RESERVATIONS  
AND RESTRICTIONS UPON USE AND OCCU-  
PANCY OF PROPERTY IN RIVER CREST  
ADDITION TO OREGON CITY, OREGON

KNOW ALL MEN BY THESE PRESENTS, That River-Crest Development Co., a corporation created and existing under the laws of the State of Oregon, does hereby certify and declare that the following reservations, conditions, covenants and agreements shall hereafter become and are hereby made a part of all conveyances of property within River Crest Addition to Oregon City, Oregon, as the same appears on the map and plat recorded in Book 23, page 21, Record of Town Plats of Clackamas County, Oregon, of which conveyances the following reservations, conditions, covenants and agreements shall become a part by reference and to which they shall thereupon apply as fully and with the same effect as if set forth at large therein during the period of twenty-five years from the date hereof. It being the intention to supplement and amend the reservations and restrictions heretofore filed upon River Crest Addition to Oregon City, Oregon, on July 2, 1940, in Book 270, page 312, Deed Records of Clackamas County, Oregon, and except as so supplemented and amended herein the prior reservations and restrictions are to remain and be in full force and effect.

1. Lots 6, 7, 8, 9 and 10, Block 5; Lots 1 and 2, Block 6; and all of Block 7, all in River Crest Addition to Oregon City, Oregon, are hereby divided into northeasterly and southwesterly halves by a line through said lots and blocks parallel to Max Telford Road.

2. Poultry sufficient for family use in Blocks 5 and 6 and the buildings in which they are housed, must be kept on the rear 100 feet, or rear half of each lot; and in Block 7, poultry and the buildings in which they are housed, must be kept on the

EXHIBIT  
PAGE

B  
4

BOOK 272 PAGE 356

rear 79 feet of each lot.

3. No building shall hereafter be erected, placed, or altered on any building plot in this subdivision until the building plans, specifications, and plot plan showing the location of such building have been approved in writing by a majority of a committee composed of F. L. Odom, and Geo. F. Vick, and N. H. Cherry, or their authorized representative, for conformity and harmony of external design with existing structures in the subdivision; and as to location of the building with respect to property and building setback lines. In the case of the death of any member or members of said committee, the surviving member or members shall have authority to approve or disapprove such design or location. If the aforesaid committee or their authorized representative fails to approve or disapprove such design and location within 30 days after plans have been submitted to it, or if no suit to enjoin the erection of such building, or the making of such alterations has been commenced prior to the completion thereof, such approval will not be required. Said committee or their authorized representative shall act without compensation. Said committee shall act and serve until 5 years at which time the then record owners of a majority of the lots which are subject to the covenants herein set forth may designate in writing duly recorded among the land records their authorized representative who thereafter shall have all the powers, subject to the same limitations, as were previously delegated herein to the aforesaid committee.

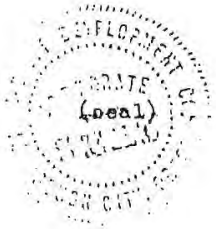
IN WITNESS WHEREOF, River-Crest Development Co., pursuant to a resolution of its Board of Directors, duly and legally adopted, has caused these presents to be signed by its President and Secretary and its corporate seal to be hereunto affixed this

-2-

EXHIBIT B  
PAGE 5

19th day of September, 1940.

BOOK 272 PAGE 357



River-Crest Development Co.

By Geo. F. Vick President

River-Crest Development Co.

By Maree Odom Secretary

STATE OF OREGON ss  
County of Clackamas

On this 19th day of September, 1940, before me appeared Geo. F. Vick and Maree Odom, both to me personally known, who being duly sworn, did say that he, the said Geo. F. Vick is the president, and she, the said Maree Odom is the Secretary of River-Crest Development Co., the within named corporation, and that the seal affixed to said instrument is the corporate seal of said corporation, and that the said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Geo. F. Vick and Maree Odom acknowledged said instrument to be the free act and deed of said corporation.

In Testimony Whereof, I have hereunto set my hand and seal, the day and year last above written.



Alden E. Miller

Notary Public for Oregon

My comm. expires: Nov. 13, 1942

SEAL DOCUMENT 65118 RECORDED SEP 10 1940 5:53 P. M. CLACKAMAS COUNTY CLERK

EXHIBIT B  
PAGE 6



Oregon City Office:  
PO Box 1006  
Oregon City, Oregon 97045

Please reply to this office

  X  

Glenda Durham  
Attorney at Law  
OSB #80212  
503-622-5621

Welches Office:  
PO Box 1223  
Welches, OR 97067

Please reply to this office

September 16, 2007

Troy Wagner, Sr.  
House of Hope  
PO Box 33114  
Portland, Oregon 97292

RE: River Crest Addition to Oregon City  
Application of House of Hope., CU 07-04  
*Miller et al v Riggle et al*, Clackamas County Case CV03110235, CA A130522  
Notice of Pendency of Action

Dear Mr. Wagner:

I have enclosed a copy of the Lis Pendens filed on August 10, 2004 with the Clackamas County Recorder's Office giving notice of the above-referenced legal action. It specifically references the property at 206 Holmes Lane, e.g. 3206AC1700 as item 80 on page 3. Therefore, the property you hold a lease with option to purchase is taken subject to the outcome of this litigation. It would be appropriate for you to consult independent counsel regarding your legal rights and responsibilities in this matter at your earliest opportunity.

My clients assert their contractual rights under Article 1 of the Reservations and Restrictions Upon Use and Occupancy of Property In River Crest Addition to Oregon City to insist that the proposed boarding school is an unacceptable use of the property at 206 Holmes Lane. It would be a violation of the provision that "no structures shall be erected other than one detached, single family dwelling,\*\*\* and other out-buildings incidental to residential use." The proposed use also violates Article Three, as an activity that "may be or become an annoyance or nuisance to the neighborhood." Article Eight also would prohibit signs related to your proposed facility. Therefore a residential boarding school or juvenile treatment facility may not be sited at 206 Holmes Lane, and we oppose your application for a conditional use permit to do so. We ask that you withdraw the application.

We see nothing in the Circuit Court ruling in 2005 that supports an interpretation of the deed restrictions that would allow the subdivision of property at 206 Holmes Lane. I am enclosing a copy of the letter opinion dated July 8, 2005. The court ruled only on the issue concerning resubdivision of lots where the deed restrictions included a second sentence in Article Two regarding "any building plot which plot has an area of less than 7500 square feet." That provision was removed by an amendment to the deed restrictions recorded on September 7, 2005, retroactively effective to November 22, 2003. **The wording that the court found authorized resubdivisions has not been part of any deed created after November 22, 2003, including the present deed for 206 Holmes Lane.** Without the key

provision cited by Judge Van Dyk in your deed's CCRs, it would appear illogical to infer that the ruling is relevant to your present intent to use the residential property for non-residential purposes, to put a second residential facility on the property, and interest in subdividing. Even if the ruling withstands the appeal, it does not impact my clients' ability to assert their dominant tenements in the property at 206 Holmes Lane to prohibit its use for other than a single-family residential purpose.

I am also enclosing a complete copy of the September 7, 2005 recorded amendments to the CCRs for River Crest Addition to Oregon City, and a copy of my letter to the Oregon City Planning Commission recording my clients' objection to your proposed violation of the deed restrictions.

Once again, I encourage you to consult independent legal counsel regarding your rights and responsibilities in this matter.

Sincerely,

  
Grinda Durham

Enclosures

CC: Oregon City Planning Commission (without enclosures)  
River Crest Plaintiffs and undeclared residents (without enclosures)

Page 2 of 2

Oregon City Office:  
PO Box 1006  
Oregon City, Oregon 97045

Please reply to this office  
  X  

Glenda Durham  
Attorney at Law  
OSB #80212  
503-622-5621

Welches Office:  
PO Box 1228  
Welches, OR 97067

Please reply to this office  
          

September 13, 2005

### ADDITIONAL AMENDMENTS TO DEED RESTRICTIONS

Two amendments to the deed restrictions for River Crest Addition to Oregon City, Oregon were recorded at the Clackamas County Recorder's Office on September 7, 2005. The first amendment deleted the last sentence of the second numbered covenant of the Reservations and Restrictions found in Book 270, page 312 as provided in the eleventh numbered covenant. Under the terms of that covenant, the amendment was effective when **the majority of the owners of the lots voted to delete the sentence, that is, as of November 22, 2003.** The deleted sentence read:

"No residential structure shall be erected or placed on any building plot, which plot has an area of less than 7500 square feet not a width of less than 60 feet at the front building setback line."

The second numbered covenant in its entirety now reads:

"No building shall be located on any residential building plot nearer than twenty (20) feet to the front lot line, nor nearer than twenty (20) feet to any side street line, and no building, except a garage or other outbuilding located sixty (60) feet or more from any front lot line, shall be located nearer than five (5) feet to any side lot line. No residence or attached appurtenance shall be erected on any lot farther than thirty (30) feet from the front lot line."

The fourth numbered covenant of the Reservations and Restrictions found in Book 270, Page 312 **was deleted by action of law** when a court order requiring the deletion was signed by a Clackamas County judge **on February 9, 2005.** The former covenant read:

"No persons of any race other than the Caucasian race shall use or occupy any building or any lot, except that this covenant shall not prevent occupancy by domestic servants of a different race domiciled with an owner or tenant."

The amendments were duly recorded in the Clackamas County Recorder's official records on September 7, 2005 as Document 2005-087652. A copy of the text is enclosed. If you wish to inspect the individual signed ballots, they are on file at the Recorder's office as part of the recorded document.



\$461.00

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09/07/2005 01:18:13 PM

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\$440.00 \$11.00 \$10.00

AMENDED RESERVATIONS AND RESTRICTIONS UPON USE AND OCCUPANCY OF  
PROPERTY IN RIVER CREST ADDITION TO OREGON CITY, OREGON

Two additional amendments have been authorized to the covenants heretofore filed upon River Crest Addition to Oregon City, Oregon, on July 2, 1940, in Book 270, page 312, Deed Records of Clackamas County, and amended on September 4, 1940 in Book 272, page 355. Except as amended herein, the prior reservations and restrictions are to remain and be in full force and effect. The following reservations, conditions, covenants, and agreements shall hereafter become and are hereby made a part of all conveyances of property within River Crest Addition to Oregon City, Oregon as the same appears on the map and plat recorded in Book 23, page 21, Record of Town Plats of Clackamas County, Oregon unless and until they are amended as provided in that document.

1. The last sentence of the second numbered covenant of the Reservations and Restrictions found in Book 270, Page 312 was deleted by a vote of the majority of the owners of the lots as provided in the eleventh covenant and was effective as of **November 22, 2003**. A list of the amending owners, their respective addresses, and deed numbers begins at page 2. The ballots begin on page 6. The second numbered covenant in Book 270, Page 312 now provides:

"No building shall be located on any residential building plot nearer than twenty (20) feet to the front lot line, nor nearer than twenty (20) feet to any side street line, and no building, except a garage or other outbuilding located sixty (60) feet or more from any front lot line, shall be located nearer than five (5) feet to any side lot line. No residence or attached appurtenance shall be erected on any lot farther than thirty (30) feet from the front lot line."

2. The fourth numbered paragraph of the Reservations and Restrictions found in Book 270, Page 312 has been deleted by action of law as of **February 9, 2005**. A certified true copy of the judgment of the Clackamas County Circuit Court is attached at page 4.

I, Glenda Durham, an attorney for the majority of the property owners of River Crest Addition to Oregon City. My clients and additional lot owners have agreed to amend the covenants as described above. Upon knowledge and belief, the signatures on the ballots are the original signatures of the property owners submitted on the dates stated on the respective ballots.

Glenda Durham, OSB #80212

After recording, return to Glenda Durham, P.O. Box 1006, Oregon City, Oregon 97045.  
STATE OF OREGON)

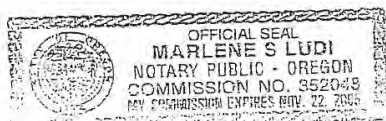
) ss

County of Clackamas)

The foregoing instrument titled "AMENDED RESERVATIONS AND RESTRICTIONS UPON USE AND OCCUPANCY OF PROPERTY IN RIVER CREST ADDITION TO OREGON CITY, OREGON" was acknowledged before me this 6th day of September 2005 by Glenda Durham.

Notary Public for Oregon

My commission expires 11-22-05



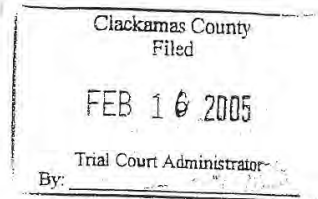
RIVER CREST ADDITION LOT OWNERS VOTING IN FAVOR OF AMENDMENT OF SECOND COVENANT

	Name	Address	Deed #	Date signed		Name	Address	Deed #	Date signed
1	Lord, Linda	142 Holmes	88-20495	8/1/03	27	Neubauer, Ina	164 Telford	2002-105936	9/21/03
2	Brunell, William	222 Harding	90-17353	8/19/03	28	Wiese, Milton & Florian	184 Telford	98-04972	9/21/03
3	Burghard, Virgil & Enid	124 Harding	478-555	8/19/03	29	Robertson, Robert	144 Telford	99-06904	10/16/03
4	Butler, Veronica	154 Harding	94-06959	8/19/03	30	Opoka, Connie Jean	148 Telford	90-17450	10/18/03
5	Schilke, John & Susan	184 Harding	94-73391	8/19/03	31	Erwert, Jody	177 Cherry	2001-000779	10/20/03
6	Buchanan, David	178 Harding	2002-064067	8/27/03	31	Erwert, Alex	177 Cherry	2001-000779	1/7/04
7	Laurs, Margaret	198 Harding	99-20647	8/27/03	32	Downing, Patricia	170 Telford	2000-081939	10/25/03
8	Nagy, John & Joyce	120 Telford	95-46015	8/27/03	33	Millar, Virginia	121 Harding	2003-129934	10/25/03
9	Miller, S Dennis & Nancy	180 McCarver	70-16191	8/28/03	34	Needham, Ben Jr., & Margit	430 Park	93-54734	10/25/03
10	McLeod, Timothy & Lorelei	321 Holmes	2003-025655	8/30/03	35	Smith, Curtis & Angela	183 Cherry	88-06561	10/25/03
11	Wadsworth, Christian	344 Holmes	94-008013	8/30/03	36	Escobar, Victoria	424 Park	94-58850	10/26/03
12	Olson, Kristine	192 Harding	86-38851	8/30/03	37	Reed, Claron & Lee	110 Park	97-046243	10/26/03
12	Olson, Gene	192 Harding	86-38851	1/15/04	38	Sellman-Pilorget, Donna	171 Cherry	98-42270	10/26/03
13	Sipes, Dale Vernon, Sr. & Renee Ardis	157 AV Davis	2002-093060	8/31/03	39	Court, Bailey & Annette Hogue	173 Harding	2003- 144966	10/30/03
14	Jernigan, Jacqueline	204 Telford	2004-012712	9/1/03	40	Hedge, Virginia	152 Harding	93-85632	10/30/03
15	Hohensee, James A. & Karin	158 McCarver	94-60642	9/2/03	41	Helmstadt, Michael & Becky	850 Linn	93-37417	10/30/03
16	Edwards, Paul & Bonnie	167 AV Davis	93-54245	9/3/03	42	Kennett, Agnes & Linda	211 Cherry	458-414; 86- 15397	10/30/03
17	Livingston, Alvin & Dixie	191 Cherry	697-298	9/3/03	43	Bernert, Kenneth & Diane	170 Harding	2004-070975	11/1/03
18	Stephenson, Delores	197 Cherry	73-06857; 72- 14518	9/3/03	44	Hergert, Ronald & LeAnn	115 Park	2003-057049	11/1/03
18	Stephenson, Allan & Violet	197 Cherry	2004- 044229	10/26/04	45	Hitz, Thomas & Linda	130 Park	93-87626	11/1/03
19	Ulry, Martha	179 AV Davis	2000-029939	9/3/03	46	Jackson, Lawrence & Donna	237 Harding	85-19265	11/1/03
20	Johansen, Gregory & Allison	208 Telford	98-54814	9/4/03	47	Paulo, Melanie	114 Park	2003-145238	11/2/03
21	Wells, Dianne Jeanette	166 McCarver	99-20466	9/7/03	48	Smith, William & Teresa	333 Holmes	2001-071971	11/3/03
22	Pointer, Sommer E	134 McCarver	2002-125682	9/8/03	49	Campbell, Robert & Katherine Jennings	114 McCarver	2000-067519	11/4/03
23	Williams, Robert & Lynnda	104 Telford	99-080298	9/9/03	50	Hooper, Cheryl	818 Linn	97-17287	11/4/03
24	Weindenkiller, Robert & Pat	134 Holmes	95-27375	9/11/03	51	Ray, Calton & Alta	156 Harding	94-90399	11/5/03
25	Ruud, Nils & Josephine	120 Park	93-91809	9/16/03	52	Hokanson, Marilyn & Ragnars	1010 Charman	94-02095	11/7/03
26	Loney, Matthew & Jennifer Cameron	176 Telford	2003-065467	9/21/03	53	Moe, Marie	138 Telford	2000-026223	11/7/03



RIVER CREST ADDITION LOT OWNERS VOTING IN FAVOR OF AMENDMENT OF SECOND COVENANT

	Name	Address	Deed #	Date signed		Name	Address	Deed #	Date signed
54	Harris, David & Pamela	826 Linn	91-15406	11/8/03	65	Behrend, Lorrein	146 Park	399-671; 10/13/80ltr	1/6/04
55	Riggs, Walter & Grace	220 Telford	621-784	11/8/03	66	Kornblum, Joseph & Cornelia	910 Linn	93-49995	1/8/04
56	Halupowski, Jason	874 Linn	2002-013535	11/8/03	67	Guscette, Richard	137 AV Davis	90-21268	1/17/04
57	Johnsen, William & Eileen	886 Linn	86-08481	11/8/03	67	Guscette, Denise	137 AV Davis	90-21268	4/1/04
58	Robinson, Elaine	422 Park	2002-063386	11/12/03	68	Williams, Stephen & Cynthia	138 Park	93-85391	1/19/04
59	Ragnone, Patrick	205 Harding	95-65137	11/18/03	69	Laurion, Steven & Christine	142 McCarver	96-001802	1/20/04
60	Still, Rae Gene	255 Harding	95-10312	11/22/03	70	Bigej, Fred	245 Harding	98-51384	3/30/04
61	Larson, Mark	120 Holmes	93-11306	12/2/03	71	Reagan, Mark & Corrina	141 Barclay	86-33124	3/31/04
62	Hopkins, Glenn & Heidi	150 McCarver	99-113387	12/5/03	72	Epperson, Eric & Tiffanie	113 Harding	2002-080200	4/8/04
63	Milne, Thomas	307 Holmes	2001-058617	12/7/03	73	Kirkendall, Robert & Leslee	125 Cherry	2004-026394	6/15/04
64	Clark, Brian & Patricia	165 Cherry	97-83248	12/15/03	74	McNiece, Kristina and Steve Leistiko	856 Linn	2004-072493	4/9/05
					75	Anderson, James D.	110 Holmes	2005-036287	4/30/05
51% OF 118 = VOTES FROM OWNERS OF 60 LOTS					75/118=amendment passed by vote of owners of 64% of the lots				



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CLACKAMAS

S. DENNIS MILLER, *et al*,

Plaintiffs,

v.

JAMES RIGGLE, *et al*,

Defendants

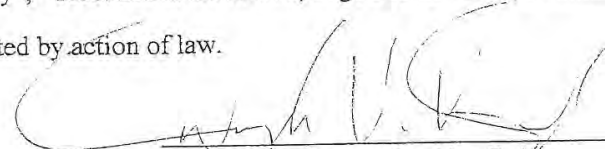
Case No.: CV03110235

JUDGMENT AS TO  
FEWER THAN  
ALL CLAIMS

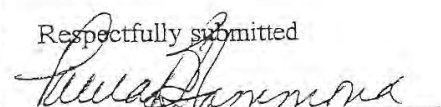
On Feb. 9, 2005, this court ordered that the racial  
restriction on occupancy in River Crest Addition to Oregon City, Oregon is immediately  
removed by action of law.

IT IS HEREBY ADJUDGED that fourth numbered covenant on page one in the  
"Reservations and Restrictions Upon Use and Occupancy of Property in River Crest  
Addition to Oregon City", " recorded at Book 270, Page 312 in the Clackamas County  
Records Office, is deleted by action of law.

2-9-05

  
The Honorable Douglas Van Dyk  
Clackamas County Circuit Court Judge

Respectfully submitted

  
Paula B. Hammond, OSB # 85224

Of Attorneys for Plaintiffs Miller *et al*

Page 1- Judgment As To Fewer Than All Claims

4

07 SEP -5 PM 6:13

RECEIVED  
CITY OF OREGON CITY

September 1, 2007

To the Oregon City Planning Commission:

We have received and read the Notice of Limited Land Use Application that you recently mailed to us. I have some strong concerns about this issue, but I will not be able to attend the hearing as we will be out of town at that time. For this reason, I am writing to register my comments with you.

My husband I are long-time residents of this neighborhood. We moved to our present home in this neighborhood 37 years ago, in August of 1970. We have raised our children here and still enjoy the neighborhood very much. Our children and grandchildren visit us here, and we are very much interested in the character of this neighborhood.

The Rivercrest neighborhood has always been first and foremost a neighborhood of single-family residences. The applicant for this Conditional Use permit intends to operate a residential boarding school for girls. As I understand it, these resident girls will be teen-agers with behavior problems, who may be on probation for property crimes, and whose parents have been unable to control them and their behavior.

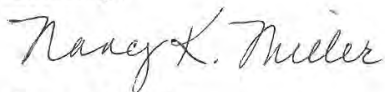
While this is a laudable intention, I feel that locating such a facility in the middle of this residential neighborhood is not a good choice. I have several concerns about this matter:

1. There are already several facilities in the very immediate area that do not fit into the single-family residence character of this neighborhood: a group home at 155 A.V.Davis Road and and Christian high school. I believe that this neighborhood already houses more than its share of facilities that are not single-family residences.
2. I am concerned about the security at such a residential facility for troubled teenage girls.
3. I am also concerned that the city will not be able to impose any restrictions on noise coming from this facility.
4. The existence of another institutional facility in this neighborhood could generate more traffic. There is already a significant amount of traffic on Holmes Lane leading to and from Linn Avenue, and
5. There are a number of families with young children in the immediate vicinity of the proposed facility. I believe that such a facility is not a good fit among houses with small children and may create security and safety concerns for these families.
6. There are also a number of elderly citizens living in the very immediate vicinity whose well-being and safety, not to mention peace of mind, may be compromised by the existence of such a facility in very close proximity to their homes. Some of these citizens also have serious health problems and thus are even more vulnerable.



I do appreciate the good intentions of the people who wish to open and operate this residential boarding school, but I think the location they have chosen is inappropriate for such use. I ask the members of the Planning Commission to give very serious thought to granting such a permit and to consider the well-being and wishes of the people who are already residents of this neighborhood. The future of our neighborhood is in your hands, and we are counting on you to weigh our concerns as you arrive at a decision.

Sincerely,

A handwritten signature in cursive script that reads "Nancy K. Miller". The ink is dark and the signature is fluid.

Nancy K. Miller  
(Mrs. S. Dennis Miller)

AUG 27 AM 8:15  
RECEIVED  
CITY OF OREGON CITY

Tuesday Aug. 14, 2007

Special meeting Rivercrest Neighborhood Assoc. Steering Committee  
Re: Hope House

Members present: Diane McKnight, Patty Brown, Linda Belshaw, Vern Buttolph, Kim Cameron, Lesley Krueger, Ileen Olson, Marcie Hershberger.  
Representatives for Hope House: Troy Wagner, Rita Consenza.

Mr. Troy Wagner representing Hope House of Portland contacted me around the 1<sup>st</sup> of August with regards to his organization establishing a residential treatment center for troubled girls. He stated that the House of Hope had applied for a conditional use Permit with the O.C. Planning Dept and was informed that he would have to make a presentation to the Rivercrest Neighborhood Assoc. I told him our next neighborhood general membership meeting wasn't scheduled until Oct. 17, 2007, so I called a special meeting of the Steering Committee for Aug. 14<sup>th</sup>, 2007 at 7:00 p.m. at 161 Barclay Avenue, Oregon City.

After introductions Ms. Consenza began her presentation, after which, steering committee members began a question and answer session.

Question: Who will be on site?

Ms. Consenza: I will be living in the home and the girls are supervised 24/7 by a staff member, volunteer or me.kk

Question: Will the girls attend Oregon City schools?

Ms. Consenza: No, they attend the home schooling program on site.

Question: Will they come from outside the Oregon City area?

Ms. Consenza: Yes, we serve the greater Portland Metropolitan area so they could come from Portland, Gresham, Hillsboro, etc.

Question: What are your qualifications for dealing with troubled teens?

Ms. Consenza: I have 20 years in law enforcement as a supervisor in communications center working with dispatch and emergency services and 6 years with the Boys and Girls Aid Society as a foster parent for juvenile justice girls.

Question: What is wrong with these girls who will be living in the house? Why do they come to you?

Ms. Consenza: Most of them are struggling with rebellion, poor school performance, their parents have tried, but the relationships are strained.

Question: Are they referred by the courts? Are they on probation?

Ms Consenza: They will probably not be coming from the court system. They could be on probation but our referrals usually come from pastors and area churches.

Mr. Wagner: Our program is early intervention. We hope to help them before they have the major problems that land them in the court system!

Question: Were the owner of the property in question going to subdivide the property?

Ms. Consenza: They were going to take it off the market and go through the process of subdividing it but we have a lease with an option to buy so they are not going forward with those plans.

Question: Are the girls supervised at all times?

Patty Brown  
503 655-0213  
P.O. Box 1222  
Oregon City 97045

(Continued)

Ms. Cosenza: Our program is very structured. From the time they wake up they are busy. They are never left unsupervised.

Question: Will they have cars or be allowed to date?

Ms. Cosenza: No, they are not allowed to be off the property without supervision.

Question: Will we be able to contact you if we have concerns about what is happening at the house?

Ms. Cosenza: Yes! You will be able to contact either Troy or myself and we encourage that.

Question: Are any of these girls pregnant?

Ms. Cosenza: Our program does not work with pregnant girls.

Question: How long does the program last? When do they finish?

Ms. Cosenza: It is a phased program over 12-18 months. They progress by reaching stages. School work, relationships, counseling, and community service, are all evaluated to determine when they progress to the next phase. They move toward weekend visits and then are placed back home by they continue to check in with us.

Question: What is your success rate?

Ms. Cosenza: The nation House of Hope is just starting to establish measures to judge success. Therefore, we do not really have a way to determine that right now. They used to say 95%, but that refers to some sort of reconciliation of the family. We do not really use that number any more.

Question: How are you funded?>>

Ms. Cosenza: Private foundations, churches, grants, donors, fundraisers.

Question: Are you currently buying the property?

Ms. Cosenza: We have a lease agreement with an option to buy.

Question: What is your timeline?

Ms. Cosenza: We would like to take possession by Oct. 1. Our lease agreement is contingent on this process.

Question: Is this before the City Commission or the Planning Commission?

Ms. Cosenza: The Planning Commission.

Comment: You know this is a residential neighborhood and businesses are not supposed to operate a business creating foot traffic.

Mr. Wagner: Our use is required to have no greater impact than a single-family unit does.

Ms. Cosenza: We will not have anything that will be noticed above normal active family. I live in a two bedroom upstairs apartment and while I was a foster parent, I never had any complaints from the people who lived downstairs or in the complex.

Question: The church there owns many of the surrounding lots. They are working toward expansion.

Ms. Cosenza: They recently voted not to do that. They are focusing on serving the community instead of expansion.

Question: Have there been problems with other Houses of Hope and their neighborhoods?

Ms. Cosenza: No, there were concerns just like yours, but there have been no problems.

Question: Mr. Wagner, what is your role? Are you the male presence in the house?

Mr. Wagner: I do not live there. I have my own family. I am an ordained minister and have worked with youth 15 years. I am the Executive Director and serve as the administrator, oversee volunteers and teach parenting classes. I oversee counseling and do the counseling referrals.

(Continued)

Question: What do the volunteers do?

Ms. Cosenza: They teach living skills, sewing, knitting, cooking and art. They serve as teachers, tutors and mentors.

Question: Do these families pay a fee?

Ms. Cosenza: Yes. It is on a sliding scale. Even the poorest families pay, and they have to make a commitment. It may be a little as \$10 a month.

Question: These are girls that have not yet become hard core?

Mr. Wagner: Yes. The goal is to help them before the problem grows. Education is really the key.

Question: When is your hearing?

Ms. Cosenza: We are probably too late for the 2<sup>nd</sup> Monday of September so it will most likely be the 4<sup>th</sup> Monday of September.

Thank you, We will try to let you know something after we have had an opportunity to discuss the issue a little further.

From: Linda Lord  
142 Holmes Lane  
Oregon City , Oregon 97045  
October 1, 2007

To: Oregon City Planning Commission  
City of Oregon City  
320 Warner-Milne Road  
Oregon City, Oregon 97045

RE: Application of House of Hope CU 07-04

07 OCT - 1 PM 12:35  
RECEIVED  
CITY OF OREGON CITY

I oppose the application for a conditional use permit to operate a residential treatment center for teen girls proposed for 206 Holmes Lane in Oregon City. The facility would substantially impair my ability as an adjacent landowner to enjoy my home in secure and peaceful relaxation, as is the purpose for low-density single-family residential zones. I own the property immediately to the south of the proposed site, at 142 Holmes Lane, sharing a boundary of over 200'.

The Notice process for this application has been inadequate

The Notice that described a request for a permit to operate as a residential boarding school for 3 to 5 girls was misleading. It did not accurately describe the project to inform community members of the public safety risks associated with this proposed land use. The narrative uses the more accurate phrasing of "residential treatment facility," but it too fails to reveal the possible criminal acts of the teens who the applicants tell their donors are to be rescued by the work. The Internet site for the House of Hope Portland prominently names illegal drug addiction as a client issue, at <http://houseofhope-portland.org/HofH/Services.html>. The national House of Hope's Internet site describes clients with problems of "drugs, sex abuse, prostitution, pornography, and abortion." <http://www.nationalhouseofhope.org/training.htm>. A reform school is different than a girls' Christian high school, but the Notice gave no inkling of the dangers inherent in the nature of population to be served by the population.

The Notice of Land Use Action to the public withheld critical information that might have allowed the public to make more informed decisions. The application omitted the true "nature of the condition or circumstances for which the planned treatment will be provided," failing to meet that requirement of OCMC 17.56.040F(1.) The request also omitted the estimated length of stay per resident and the names of the agencies responsible for regulating residential treatment facilities in Oregon, contrary to OCMC 17.56.040F(1). Neither the staff nor the citizenry can adequately evaluate the proposal without a full description of the clients, the program, and the applicable statutes and regulations. Therefore the application must be denied.

g. The application process was also flawed because only the seven members of the Rivercrest Neighborhood Association (RNA) Steering Committee were notified of the proposal or invited to the meeting with the applicant's representatives. No other neighborhood residents were told about the proposal or offered an opportunity to give input before or after the meeting.

Application of House of Hope CU 07-04  
Testimony of Linda Lord  
October 1, 2007

The Chairperson of the RNA is a defendant in litigation about the use of residential property in the neighborhood for non-residential purposes and dispute about subdivision of properties. Mrs. McKnight may personally profit if this land use proposal succeeds in the applicant's challenge of the property's deed restrictions. According to the minutes of the RNA meeting, she did not declare her conflict of interest before deciding not to inform the general membership of the RNA about the proposal, or at any time during the meeting with the applicants. Several plaintiffs in the litigation live with 300 feet of the proposed site, but none were notified by the RNA to be allowed input prior to the meeting or input for the report to the City. The City is itself a defendant in the litigation, and has promoted the increased density that would result if the defendants prevail. The applicants have aligned with the defendants' position in the litigation. Staff notes from the pre-application conference reflect applicant's interest in adding an additional residence on the site, an action forbidden by the first deed restriction.

The proposed conditional use permit itself fails to meet the requirements of the City Code because the applicant has failed to meet the criteria required by the ordinance and by state law. It should be denied. I will address each deficiency in turn.

The applicant does not have the required licenses to operate a residential treatment facility with on-site school

a. The organization does not have the required license to operate a residential school from the Department of Human Services, as required under ORS 418.327, a violation of OCMC 17.56.020.F (2) (a). Non-profits are not exempted from this law. A copy of the statute is found at Appendix A1.

b. The organization also does not have a license to operate a residential treatment facility from the Department of Human Services (DHS) as required under ORS 418.205 and 418.240. The statute reads:

"All private child-caring agencies shall obtain from DHS a license authorizing their work."

"Private" is defined in the law as organizations that are not governmental, and only certain fraternal membership groups are exempt from the requirement. The Oregon statutes are found at Appendix A2-3.

The applicant has not supplied proof of compliance with ORS 336.575 by proving notice and consultation with the local school district prior to establishing a residential program that would serve five or more children. The statute can be found at Appendix A4. This consultation is the necessary first step to apply for a license from DHS to operate a residential treatment facility, according to OAR 413-210-0020 (2)(d). Without the DHS license, the application does not qualify for a conditional use permit under OCMC 17.56.040((2)(a). The Administrative Rule can be found at Appendix A5



c. The building does not meet the DHS requirements under OAR 413-210-0560 (7) and (8) for housing a residential treatment facility. It lacks a toilet, sink, and bathing facilities on the floor where the applicant proposes that the residents would sleep. Additionally, the proposed bedrooms do not have individual closets, chests of drawers or separate beds for all residents. At the Open House on September 29, 2007, the organization's Director informed me that the applicant plans on providing bunk beds in the small bedrooms rather than having separate beds. The rules require separate beds for each resident with a minimum of three feet between them, and a bathroom on each floor where residents sleep. The application states that "no changes are proposed to the existing facility." If the facility does not meet the building requirements, the license will not be granted. Without the license, the conditional use permit may not be issued under OCMC 17.56.040((2)(a)). A copy of the regulations is available at Appendix A5-8.

#### Threat to Public Safety

d. The residents pose a threat to public safety under definitions used by the Oregon Criminal Justice Commission, with a potential to drain police resources that are inadequately staffed to meet the community's current needs. Oregon City and Clackamas County taxpayers would have to pay the costs through taxpayer monies when the girls get out of control, when OC Police and the County Juvenile Justice services are involved. The program's disciplinary code found in the Residents' Manual incorporates use of Oregon City Police or the Sheriff for discipline for five offenses, including first and second runaway attempts. The relevant excerpted pages are found at Appendix A 9-10. The applicant has incorporated City Police as part of the program's disciplinary staff, understanding that public safety risks are inherent with this population and police activity as part of its operational plan. Since the public safety resources of the City are already underfunded, the proposal conflicts with OCMC 17.56.010A3

The troubled teens who are the intended residents for the proposed facility are from a population who have been studied by professionals seeking to reduce the rates of juvenile crime and to guide at-risk youth for healthier outcomes. In a July 2003 report to the Oregon Crime Commission, a summary re-capped the current state of knowledge and identified the risk factors that are most relevant. The pages cited are reproduced in Appendix 1, page11. The report is titled, "Juvenile Crime Prevention Program Evaluation:"

"..... Many chronic offenders begin their criminal careers at *an early stage with pre-delinquent activity and escalate....* Major characteristics of repeat offenders include...

- *15 years or younger at first offense*
- *History of poor school attendance and performance*
- *Significant family problems*
- *Drug and/or alcohol abuse*
- *A history of pre-delinquent behavior*
- *Delinquent peers*

Application of House of Hope CU 07-04  
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October 1, 2007

'While children seem able to cope with one or two risk factors, there is conclusive evidence that *having multiple risk factors increases a youth's probability of committing a crime....*

"Risk factors are powerful tools for identifying and locating *populations and individuals with a high potential for becoming violent...*" (Emphasis added.)

The Oregon Juvenile Crime Prevention Risk Assessment Instrument used by the Clackamas County Juvenile Department uses a similar list of risk factors. [www.ojdda.org/Risk/Risk\\_Index](http://www.ojdda.org/Risk/Risk_Index):

- Family functioning
- Peer Relationships
- Substance Use
- Individual Attitudes, values, & beliefs
- School Issues
- Antisocial Behavior.

On their web sites and in printed matter, The House of Hope materials discuss their clients as having some or all of each of these risk factors. The treatment plan provides close supervision to protect the girls and the community from the risks they present to themselves and others. The residents' manual describes the close supervision planned as a crucial element of the treatment regimen for new clients:

The girls will be closely supervised in a highly structured program 24-hours a day, seven days a week. They will not be allowed to leave the residential center unsupervised. They are allowed one 5-minute outgoing phone call per week, and mail, only to parents or approved relatives, with approval of staff. They may have Sunday visitation on campus for 2 hours, and their #1 goal is to "learn to submit to authority." Staff keeps possession of the monthly allowance that parents provide. Their conversational topics are restricted and monitored. Taboo topics, such as talk about boys or complaints about the program, are subject to disciplinary action. Residents are not allowed to have radios or other electronic devices, or to listen to secular music or read secular literature. Possession of illegal contraband or violence toward another person is reason to be reported to the police (Excerpts from Residents' Manual are available at Appendix A 12/14).

When I see that it is not safe for the residents to be in the community unsupervised, it is a sign that the applicant also understands that the community is not safe from the residents. The teens' judgment is not to be trusted, and they must be closely supervised. However, the applicants plan to provide no supervision at night when the daytime supervisor is asleep. The applicant has not provided adequate security to protect the neighborhood from a known and knowable threat during these hours. The proposed clients of the facility have "negative peers" who would be attracted to the site to come to the aid of their colleague, further endangering the established homeowners. This threat to personal and public security is an obvious impediment to neighbors' ability to relax in their homes. We have many families with small children, as well as many disabled and elderly retirees who are very vulnerable to predatory gang members who may be among the "negative peers" the programs' participants would attract to our neighborhood. We



Application of House of Hope CU 07-04  
Testimony of Linda Lord  
October 1, 2007

would be unprepared to deal with the dangers that would follow them into our quiet, tree-lined streets.

In addition to personal safety, property values would plummet, since no buyer would want to move his or her children next to a reform school for wayward teen girls. My life savings are invested in my property, and I do not want to see that value disappear because the applicant would not find a more appropriate setting for their mission.

e. The Director of the applicant organization stated to the neighborhood association that they may accept girls on probation as clients. To accept teens on probation for residential treatment, the applicant would require a license and contract with Juvenile Justice agencies under ORS 420.855 and 421A.025, OAR 416-330-0010 to 0020, and OAR 416-530-0125ff. The laws are found at Appendix A 11-12. Those juvenile justice authorities would retain custody of the teens on probation, and the probationers cannot be housed with teens not on probation under OAR 416-530-0130(4). Therefore when they accept clients on probation, the facility would become an extension of the corrections agency, and under OCMC 17.56.030H, correctional facilities are only allowed in the GI district. Having a correctional facility in the R-8 zone also would obviously substantially impair the ability of the current residents to maintain the peaceful enjoyment of their homes, and would be a violation of OCMC 17.56.030 H and OCMC 17.56.010 A(4).

The applicant's claim to successful outcomes without public safety problems at other locations for facilities called "House of Hope" are anecdotal only, and not from juvenile justice professionals.

The applicant's claims in the narrative of successful outcomes elsewhere cannot be substantiated by objective evaluations. The application states that the national House of Hope has a "long history of success" with "accolades for its innovative program structure" and "very high rates of success." The quoted sources are not professionals from the juvenile justice field. The minutes of the meeting with the RNA Steering Committee quote the organization's Director stating that "the national House of Hope is just starting to establish measures to judge success. Therefore, we do not really have a way to determine that right now."

The House of Hope program does not use any of the many proven evaluation methodologies cited in the Model Programs Index of the US Office of Juvenile Justice and Delinquency Prevention (OJJDP). It is not listed as an "effective" model program on the national index of programs maintained by the OJJDP. See [www.ojjdp.ncjrs.gov/fbci/programs.html](http://www.ojjdp.ncjrs.gov/fbci/programs.html); [www.dsgonline.com/residential\\_treatment.html](http://www.dsgonline.com/residential_treatment.html). The OJJDP selected and funded its national Demonstration Project on Faith Based Initiatives with the Florida Department of Justice. They examined established faith-based juvenile residential treatment programs in Florida and did not select the House of Hope as a partner for the project, although they do have a partner from Orlando. (See Operational Manual, Florida Faith-based Juvenile Corrections Initiative, pg. 33-36) Available at [www.djj.state.fl.us/faith/index.html](http://www.djj.state.fl.us/faith/index.html).

Application of House of Hope CU 07-04  
Testimony of Linda Lord  
October 1, 2007

Applicant's staff has cited lack of security problems at the Orlando facility as reassurance to those who have expressed concern about public safety at the Holmes Lane property. The Orlando facility is not a good comparison because it is a 10-acre property, is surrounded on 3 sides by water and uses professionally trained and experienced staff. It also has numerous buildings, has operated since 1986, and houses multiple workers on site. See [www.nationalhouseofhope.org/saratrollinger.htm](http://www.nationalhouseofhope.org/saratrollinger.htm); [www.nationalhouseofhope.org/directions.htm](http://www.nationalhouseofhope.org/directions.htm)

#### Social Service and Welfare Organizations are excluded from Residential Zones

f. The applicant is a nonprofit, tax-exempt social service organization almost entirely funded by private foundations, churches, grants, donations, and fundraisers, according to the Executive Director speaking at the meeting with the RNA steering committee. The families pay as little as \$10 per month, on a sliding scale, for 24-hour residential treatment for their teen. Under OCMC 17.56.030X, a social service agency or welfare agency is to be excluded from residential districts.

#### Traffic

There are two driveways to the property, within 200' of the three-way intersection of Holmes Lane and McCarver Avenue. The most southerly driveway is within 10' of the intersection of Cherry Avenue and Holmes Lane, an alley entrance enters Holmes Lane within 50' from the driveway where most of the property's traffic is proposed to be exiting and entering. The application states the residential treatment center and organizational headquarters will require parking for staff, tutors, volunteers, visitors, and parents attending required weekly meetings for the residential center. The application estimates there would be "no more than four to five cars on the site at any one time." At the Open House on Saturday, September 29, 2007, there were at least seven cars on site at one time. I had to ask a participant to move a car that was blocking our driveway, even though side street parking was available in addition to space in the driveway at 206 Holmes.

#### Noise

We cannot know in advance how much noise the facility will generate with five rebellious teens in close confinement. We have been told that the Oregon City police do not respond to noise complaints due to understaffing, although it appears that rule is not strictly followed. Several of the items in the program's disciplinary code are related to the teens creating excessive noise, so the staff acknowledges it will be an issue.

#### Deed Restriction

The property is part of River Crest Addition to Oregon City and has deed restrictions that require no more than one single-family residential dwelling per parcel. (Recorded in Clackamas

Application of House of Hope CU 07-04  
Testimony of Linda Lord  
October 1, 2007

County Recorder's Office at Book 270, Page 212, as amended at Book 272, page 355, and at 2005-087652.) I have enforced the deed restriction against the non-residential use of residential property and the resubdivision of residential lots for the last 11 years, since the former owner of 206 Holmes Lane first proposed violating that restriction. I am a plaintiff in the current litigation, and will protect my home against this proposed violation of the plain language of the deed restrictions that say,

"All lots in the tract shall be known and described as residential lots.. and no structures shall be erected o placed other than one detached single-family dwelling." and

" No noxious or offensive trade or activity shall be done thereon which may be or become an annoyance or nuisance to the neighborhood."

A residential treatment facility with high-risk juvenile offenders is a non-residential use that is more than a nuisance. My attorney has notified the applicant that the use is unacceptable to owners of the dominant tenements in the property. As a owner of property interest in that parcel, I claim my right to withhold my approval for this conditional use permit, and request that it be denied, based on my ownership right.

#### Summary

The Applicant has failed to obtain the necessary licenses to operate a residential treatment facility and on-site school at 206 Holmes Lane, and therefore the conditional permit must be denied under OCMC 17.56.040. If the Applicant satisfies the requirements to operate such a facility, it still could not be sited in the R-8 residential zone because it presents a threat to public safety, and it is operated by a social service agency as a welfare project and reform school. It also would substantially impair the ability of the owners of nearby homes to enjoy their properties in peace and relaxation.

Therefore, I respectfully request that you deny the application for a conditional use permit for 206 Holmes Lane. The House of Hope is a very young organization with a laudable goal, but it has not matured to be ready for the challenge it has chosen. It has not investigated the task well enough to know of the laws and regulations that govern the realm in which it will operate. Until that is established and the necessary licenses are secured, the conditional use permit application would be very premature. The fact that the leadership did not know of the need to secure these applications from DHS is an indication that the organization is still developing the capacities required to succeed at the tasks it has chosen. Given the very high public safety concerns at risk, it is too risky for the City to give a conditional use permit for such a use for the unprepared, regardless of how well intentioned they are.

Enclosures



Cheryl Hooper  
818 Linn Ave  
Oregon City, Oregon

October 1, 2007

To: Oregon City Planning Commission  
City of Oregon City  
320 Warner-Milne Road  
Oregon City, Oregon 97045

RE: Application of House of Hope CU 07-04

07 OCT -1 AM 11:58  
RECEIVED  
CITY OF OREGON CITY

I am a Rivercrest neighborhood homeowner. I object to House of Hope's request for approval of a conditional use permit to operate a residential boarding school for 3-5 girls at 206 Holmes, Oregon City, OR 97045

In their application, House of hope states 1-5 girls will be living in this facility with one full time staff member, and that during the day, the girls will be supervised by a paid staff member and an additional volunteer (singular). They continue with "these volunteers (plural), serve as tutors, mentors or house staff depending on the needs." House of Hope goes on to state "The front drive provides parking for any day visitors to the office, while the rear garage and drive will provide parking for teachers, volunteers, and staff." Further, "One night each week, parents of the girls visit the residential center." Is that individually, or everyone on the same night? They say, "At any given time there will typically be no more than four or five cars on site." I am bothered by the word typically. Does that mean at other given times there may be more than five cars? It is not clear exactly how many people will actually be on and off of this property in regard to the above mentioned service. The implication here is this will be a busy facility.

It is my understanding that this use would be a violation of the deed restriction prohibiting use of this or any residential lot in the Rivercrest addition for other than a single family dwelling. This application is for a business, not a single family. Additionally, under Conditional Uses Chapter 17.56.010 A4 "The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or precludes the use of surrounding properties for the primary uses listed in the underlying district." Clearly this application does not meet the criteria.

Apparently there was a neighborhood meeting to discuss the House of Hope plans. Though I am a resident of this neighborhood, I was one of many not invited to the question and answer session. I have since gotten hold of the minutes and am troubled by the content:

Rivercrest Neighborhood Association: "What is wrong with the girls?"

Rita Cosenza: "Most of them are struggling with rebellion, poor school performance. Their parents have tried but the relationship is strained... They will **most likely not** be coming from the court system. They **could be** on probation, but our referrals **usually** come from pastors and churches."

What I infer is these girls **might** come from the court system, they **might** be on probation, and they **might** be referred from elsewhere. I see no mention of applicable licensing or appropriate agencies with regard to these possibilities, perhaps DHS, OYA? (Conditional Uses 17.56.040 F2a)

The Portland website for House of Hope identifies the type of kids they feel they can help. "House of Hope seeks to bring restoration to families that have been scarred by rebellion, abuse, drug addiction, other problems that put children at risk." Returning back to their application information, House of Hope talks about "cases of negative peer influence, running away, self mutilation, suicidal depression." Again, who are the licensed personnel? What are their credentials?

Letter to OC Planning Commission from Cheryl Hooper cont'd

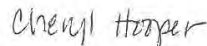
When asked what the success rate was, Rita Cosenza replied "We do not really have a way to determine that right now... just starting to establish measures to judge success." From my point of view, anything could be judged a success – one less "event" per month- as an example.

According to the Juvenile Crime Prevention Program (July 2003) submitted to the Oregon Criminal Justice Commission, "There is conclusive evidence that having multiple risk factors (listed as antisocial behavior, poor family functioning or poor family support, failure in school, substance abuse problems or negative peer association) increases a youth's probability of committing a crime."

After reading all of the material at my disposal, I am left with the notion that this feels like a correction facility. I challenge you to substitute, for the sake of argument, troubled adolescent boys being housed in such a facility with the proposed staff in this neighborhood. It sounds a little more threatening. Perhaps even the schools in the area might object to such a notion. The same idea must be considered for troubled girls. They are just as capable of causing trouble. What if these girls decide to test their boundaries? One live-in supervisor does not seem adequate. What effect would an event have on the community? Noise levels, property damage, personal safety, and police matters? I don't see any contingency plans that would allow surrounding homeowners any sense of security.

I applaud the House of Hope for reaching out to our children in need. This simply is not the appropriate setting for such an endeavor. Again, I want to reiterate that I feel not only will this Conditional Use change the character of the surrounding area, but that it is a violation of the deed restriction with regard to single family dwellings.

Sincerely,



Cheryl Hooper

October 1, 2007

Oregon City Planning Commission  
City of Oregon City, Oregon  
320 Warner-Milne Road  
Oregon City, Oregon 97045

Attention: Associate Planner, Christina Robertson-Gardiner

We are voicing our opinion regarding the House of Hope operating a residential juvenile treatment facility for teen girls at 206 Holmes Lane in Oregon City. This area has a deed restriction that states the property is for residential use only. House of Hope is a business trying to operate in a residential area. They are asking to operate a facility for up to five girls. Down the road, if they decide to expand, what is to keep them from doing so. A business likes this needs to go out into the country and find a large home on some acreage.

If you approve a permit for the House of Hope, it affects all the residents that live in the Rivercrest neighborhood. There are over 500 residences living in the Rivercrest area and most of them do not know about a possible residential juvenile treatment center in there neighborhood. All of these residences need to be notified by the Planning Department, that a business wants to move into the neighborhood.

We have lived at 631 Charman Street since 1969. We chose the area to build our home as it was a residential area. It has been a wonderful neighborhood to live in. We want to keep it a wonderful neighborhood to live in.

We appeal to you to not OK a permit for the House of Hope.

Sincerely,

*Erlyn & Lesley Krueger*

Erlyn and Lesley Krueger  
631 Charman Street  
Oregon City, OR. 97045



10/01/2007

RE: Application of House of Hope., CU 07-04

Dear Planning Commission,

This letter is to express our strong opposition for the House of Hope to operate in the home at 206 Homes Lane. We will be out of town and not able to attend the hearing on October 8<sup>th</sup>.

My wife and I have lived in Oregon City at 130 Telford Rd for the past 20 years and have raised two kids here. I grew up in Oregon City just a ½ mile away on Charman St. My grandfather was mayor of Oregon City and the family history in Oregon City goes back to the early wagon train days.

The enjoyment of living in Oregon City in the Rivercrest Neighborhood will take a turn for the worse with your proposal to allow the House of Hope.

My wife and I strongly oppose this House of Hope and wish to continue to enjoy the secure, peaceful enjoyment of this neighborhood. Please let the grade school kids and Junior High Kids who have been walking to and from school past this home for years to also continue to enjoy the secure and peaceful environment.

Bob Krueger  
130 Telford Rd  
Oregon City, OR 97045  
503 650-9348

A handwritten signature in black ink, appearing to read "Bob Krueger", written over a light blue horizontal line.

10-1-07

Staff Planner, Planning Commission of Oregon City

RE; Residential treatment Center for Girls  
at 206 Holmes home in River-Crest  
Addition, Oregon City, Oregon City.  
Conditional Use Permit; CU04-07

2007 OCT -1 PM  
CITY OF OREGON  
RECEIVE

Having recently received information regarding the Proposed establishment of a residential treatment Center for teenage girls, also called a Girls Boarding School, we wish to voice our Strong opposition.

Our home of 23 plus years in this neighborhood would be located directly across the street and we are very concerned about our safety, the possible downward spiral of our peaceful family neighbor and the increase in traffic. (possible drug or harassment traffic)

Our neighborhood is presently made up of single family homes. this facility would bring in high risk teenagers, not related to each other, thus decreasing the desirability of our neighborhood.

We feel we would also need to re-evaluate our landscaping and property security due to potential car prowls, drug usage and breakins



As taxpayers, we are also concerned that the fall out of this program would Potentially Decrease the Property Value of our home.

Respectfully,

Bill & Eileen Johnson  
886 Linn Av.  
Oregon City, Or 97045



G A R V E Y S C H U B E R T B A R E R

## MEMORANDUM

TO: Christina Robertson-  
Gardiner, Oregon City  
Planning Staff

FROM: William Kabeiseman

DATE: September 26, 2007

RE: CU 07-04  
Application of House of Hope

This office has reviewed a September 17, 2007 letter submitted by Ms. Glenda Durham, who represents opponents to the conditional use permit referenced above. This memo will respond to the issue raised in that letter.

Ms. Dunham asserts that the City may not approve this conditional use application because her clients, property owners within the River Crest subdivision, are protected by contractual rights under Articles One, Three, and Eight of the Reservations and Restrictions Upon Use and Occupancy of Property In River Crest Addition to Oregon City. Ms. Durham has previously raised this same issue before the Commission in two separate land use proceedings, an application to partition residential lots and an application for a conditional use permit (CU 05-04), both within the Rivercrest Addition. The Planning Commission and City Commission have concluded on both occasions that the City may apply only the relevant provisions of its legislatively enacted code provisions as part of a land use proceeding, and it lacks the authority to interpret and/or enforce private Covenants, Conditions and Restrictions (CC&Rs). Ms. Durham brought a claim in circuit court seeking a declaratory judgment to enforce the CC&Rs against the partition application, asserting that the City erred in granting the land use permit in violation of the CC&Rs. In July, 2005, the court found that the City did not err in processing the partition application. Ms. Durham appealed the decision. In March, 2006, the Court of Appeals issued a decision that dismissed all of Ms. Durham's claims relating to CC&Rs.

The current applicant is asking for the City to grant a conditional use permit. As with the previous conditional use permit application in the Rivercrest Addition, the prohibitions contained in the CC&Rs are not relevant to the City's consideration of the conditional use permit currently before it. Nothing in the Oregon City Municipal Code allows the City to consider CC&Rs created by private arrangement between property owners. The City must process this request under the applicable review standards contained in OCMC 17.56 *et seq.* None of these standards authorize the City to consider contract obligations contained in CC&Rs that may work to limit the applicant's ability to pursue such a conditional use. In her letter, Ms. Durham has indicated her belief that the CC&Rs prohibits such an action. The interpretation of the contents of the CC&Rs is vested in the circuit court and the City does not have authority to review that question.

As explained above, the City's role in reviewing a conditional use application is to ensure that application is consistent with local and state land use laws.

PDX\_DOCS:400331.1 [34758-00100] 09/21/07 5:42 PM

Exhibit 5

## Laura Terway

---

**From:** Rita Cosenza [hohportland@mac.com]  
**Sent:** Monday, April 04, 2011 12:14 PM  
**To:** Laura Terway  
**Subject:** House of Hope

Laura,

As you know we have been operational with residents since June of 2008. In that time we have not had any problems with any of our neighbors with the exception of one day when we had a work day and some people parked along the street and a neighbor called the police. The police came by and did not ask anyone to move their cars. We have had to call the police 3 times. Twice when girls have run away (both times they left the city and were later located. One in downtown Portland and one in Salem.) One time we had to call an ambulance for a girl who had cut herself and was refusing to let me take her to the ER. We have maintained a census of 1-3 girls. In the future we would like to convert the garage into living space which would enable us to care for 5 girls which is what our conditional use permit allows. Since we have been here we have improved the landscaping and removed the blackberries from the back yard. The blackberries had been a nuisance to the neighbor to the south and now she is happy with the way the back yard is being taken care of. She told me last fall that we have been the best neighbors she has had for a very long time. If there is additional information you need, please let me now and I will provide it.

*Blessings,*

Rita Cosenza  
President/Director  
House of Hope Portland  
PO Box 3057  
Oregon City, OR 97045  
Office 503-655-8960  
Cell 503-805-9212

*Be joyful in hope, patient in affliction, faithful in prayer. Romans: 12:12*

I GoodSearch & GoodShop for House of Hope Portland

Help us raise money just by searching the Internet with [GoodSearch.com](http://GoodSearch.com) (powered by Yahoo), or shopping online with [GoodShop.com](http://GoodShop.com)

**From:** [Nancy Busch](#)  
**To:** [Laura Terway](#)  
**Subject:** 206 Holmes  
**Date:** Monday, May 02, 2011 4:06:10 PM

---

We have received two complaints since July 2008, they are as follows;

8/5/08 overgrown vegetation and sign complaint

7/2/10 sign complaint



**Nancy Busch**  
[nbusch@orcity.org](mailto:nbusch@orcity.org)  
**Code Enforcement Manager**  
PO Box 3040  
320 Warner Milne Rd.  
Oregon City, Oregon 97045  
503-496-1571 Direct phone  
503-657-0891 City phone  
503-657-6629 Fax  
**Website:** [www.orcity.org](http://www.orcity.org)

NEIGHBORHOOD LIVABILITY STARTS WITH YOU!

**PUBLIC RECORDS LAW DISCLOSURE:** This email is subject to the State Retention Schedule and may be available to the Public.

**From:** [Chris Taylor](#)  
**To:** [Laura Tenway](#)  
**Subject:** 206 Holmes Lane  
**Date:** Monday, May 02, 2011 1:09:37 PM

---

Laura:

Field Contact Report = 1

Runaway Juvenile = 3

Welfare Check = 1

Suicide Attempt = 1

Activity between April 4, 2010 and November 28, 2010

Prior calls date back to November 2007

Thank you

Chris



**From:** [Rita Cosenza](#)  
**To:** [Laura Tenway](#)  
**Subject:** House of Hope  
**Date:** Monday, May 02, 2011 12:44:37 PM

---

Hi Laura,

Regarding our conditional use permit. We will no longer be doing on site schooling and will be looking at changing our program to do foster care instead. We would like to maintain our nonprofit status as House of Hope so that those who wish to continue to support our mission to provide safe stable housing to young women could do so.

We would also like to have a large garden in our back yard as a way to support the needs of our house and would like to make it available to those we know who live in apartments and have no place to garden. It would be our version of a community garden. The access to the back yard is on the north side of our property and will not affect either of our neighbors.

Thank you for looking into these matters and I look forward to hearing your feedback.

*Blessings,*

Rita Cosenza  
President/Director  
House of Hope Portland  
PO Box 3057  
Oregon City, OR 97045  
Office 503-655-8960  
Cell 503-805-9212

*Be joyful in hope, patient in affliction, faithful in prayer. Romans: 12:12*

**I GoodSearch & GoodShop for House of Hope Portland**

**Help us raise money just by searching the Internet with [GoodSearch.com](#) (powered by Yahoo), or shopping online with [GoodShop.com](#)**

**From:** [Rita Cosenza](#)  
**To:** [Laura Terway](#)  
**Subject:** House of Hope  
**Date:** Monday, May 02, 2011 1:57:32 PM

---

The former girls vs the future girls.

The girls who were in the program called House of Hope were girls placed here by their parents. They were girls who were having problems at home with rebellion issues. Some of them had experimented with drugs, had run away, and had been having sex. We provided on site schooling, counseling and daily living skills training for the girls. We provided counseling, and parenting classes for the parents.

The girls I were be working with in the future will be foster girls placed here by the State. I plan to take in 3-5 girls. If I get more than 3 girls, another single woman will move in to help take care of them. The girls who will be living here will go to school, have part time jobs and have normal activities. Currently we do not have any girls living at the house and we have quit the on site schooling.

*Blessings,*

Rita Cosenza  
President/Director  
House of Hope Portland  
PO Box 3057  
Oregon City, OR 97045  
Office 503-655-8960  
Cell 503-805-9212

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Agenda Item No.  
Meeting Date: 09 May 2011

## COMMISSION REPORT: CITY OF OREGON CITY

TO:	Planning Commission
FROM:	Laura Terway, Planner
PRESENTER:	Laura Terway, Planner
SUBJECT:	The applicant received approval of a conditional use permit to operate a farmers market every Wednesday in the summer on 8th Street in downtown Oregon City, from Railroad Avenue to Main Street. An update to the approved Conditional Use was required within a year of approval.
Agenda Heading: Public Hearing	
Approved by: Tony Konkol, Community Development Director	

### RECOMMENDED ACTION (Motion):

As the applicant has operated the Conditional Use as proposed and there have not been any changes in conditions which would alter the findings in the staff report, staff recommends the Conditional Use approval for Planning file CU 10-02 remain subject to the conditions contained therein.

### BACKGROUND:

On May 10, 2010, after reviewing all of the evidence in the record and considering all of the arguments made by the applicant, opposing and interested parties, the Planning Commission voted 3-0 to approve an application to operate a farmers market every Wednesday from May through October in downtown Oregon City (Exhibits 1, 2 and 3). The Conditional Use application was subject to the criteria identified on chapter 17.56 of the Oregon City Municipal Code and was approved with the following conditions:

1. Prior to use of the City properties, the applicant shall submit an approved lease agreement for the parking and staging areas at 12th and Main and 13th and Main. The lease agreement shall be approved by the City and include such details as the hours the City parking lots may be utilized for the Farmers Market, the condition of the property subsequent to the use by the applicant, access to the property by the city at all times, maintenance for impacts of their use, insurance of the property, termination rights, terms, etc.
2. Prior to use of the site, the applicant shall obtain a right-of-way permit from the City.
3. The applicant shall receive approval for all signage associated with the Farmers Market by the City prior to installation.
4. The applicant shall construct the development as proposed with the attached conditions of approval.
5. The applicant shall receive administrative review of CU 10-02 prior to May of 2011.
6. All market and employees and vendors shall park in the staging area at 12th and Main if possible. This update will satisfy the remaining outstanding condition of approval (#5). The remaining conditions of approval have since been satisfied. A lease agreement has been signed between the City and the applicant as demonstrated in Exhibit 6. The applicant obtained a right-of-way permit from the City as shown in Exhibit 7.
7. The applicant worked with the City for all signage associated with the Farmers Market by the City prior to installation and the market operated as proposed with market and employees and vendors parking in the staging area at 12th and Main if possible. The applicant added additional parking to support the vendors and customers who could not walk from the parking lot at 12th and Main.

### BUDGET IMPACT:

FY(s):



## CONDITIONAL USE UPDATE

*File Number: CU 10-02*

**APPLICANT:** J. Hammond-Williams  
Oregon City Farmers Market  
P.O. Box 2931  
Oregon City, Oregon 97045

**OWNER:** City of Oregon City  
P.O. Box 3040  
Oregon City, Oregon 97045

**REQUEST:** The applicant received approval of a conditional use permit to operate a farmers market every Wednesday in the summer on 8<sup>th</sup> Street in downtown Oregon City, from Railroad Avenue to Main Street. An update to the approved Conditional Use was required within a year of approval.

**LOCATION:** 8<sup>th</sup> Street in downtown Oregon City from Railroad Avenue to Main Street  
Clackamas County Map 2-2E-30DD, Tax Lots 04800, 4900, 5100, 5101, 5300

On May 10, 2010, after reviewing all of the evidence in the record and considering all of the arguments made by the applicant, opposing and interested parties, the Planning Commission voted 3-0 to approve an application to operate a farmers market every Wednesday from May through October in downtown Oregon City (Exhibits 1, 2 and 3). The Conditional Use application was subject to the criteria identified on chapter 17.56 of the Oregon City Municipal Code and was approved with the following conditions:

1. Prior to use of the City properties, the applicant shall submit an approved lease agreement for the parking and staging areas at 12<sup>th</sup> and Main and 13<sup>th</sup> and Main. The lease agreement shall be approved by the City and include such details as the hours the City parking lots/staging areas may be utilized for the Farmers Market, the condition of the property subsequent to the use by the applicant, access to the property by the city at all times, maintenance for impacts of their use, insurance of the property, termination rights, terms, etc.
2. Prior to use of the site, the applicant shall obtain a right-of-way permit from the City.
3. The applicant shall receive approval for all signage associated with the Farmers Market by the City prior to installation.
4. The applicant shall construct the development as proposed with the attached conditions of approval.
5. The applicant shall receive administrative review of CU 10-02 prior to May of 2011.
6. All market and employees and vendors shall park in the staging area at 12<sup>th</sup> and Main if possible.

This update will satisfy the remaining outstanding condition of approval (#5). The remaining conditions of approval have since been satisfied. A lease agreement has been signed between the City and the applicant as

demonstrated in Exhibit 6. The applicant obtained a right-of-way permit from the City as shown in Exhibit 7. The applicant worked with the City for all signage associated with the Farmers Market by the City prior to installation and the market operated as proposed with market and employees and vendors parking in the staging area at 12<sup>th</sup> and Main if possible. The applicant added additional parking to support the vendors who could not walk from the staging area at 12<sup>th</sup> and Main.

#### **Details about the Market:**

The market is located on 8<sup>th</sup> Street between Railroad Avenue and Main Street and is open Wednesdays from 3pm to 7pm from May through October. The vendors line the street adjacent to the sidewalks and face inward to the middle of the street. A 20-foot open space between the booths in the middle of the street and the sidewalks behind the booths remains clear. The types of vendors include:

1. Farmers and growers;
2. Processed food vendors such as a bakery, canned or value-added processed foods;
3. Local handmade garden related products and services and canning/preserving equipment; and
4. Food and beverages to be consumed at the market.

As the market is located in the public right-of-way, 8<sup>th</sup> Street is closed to automobile traffic from 1pm until 8pm to allow time to set up and deconstruct the market. The road closure is initiated with the placement of barriers at the intersection of 8<sup>th</sup> and Main and the intersection of 8<sup>th</sup> and Railroad Avenue at 1pm. If a vehicle is parked within the market area when the market begins, the market manager will contact Code Enforcement for removal of the car, unless the car is parked outside of the market footprint and can safely leave the market. All vendor vehicles must be removed 30 minutes before the market opens and are not permitted within the market area until 7:15pm or later if customers are still present.

The Conditional Use approval included a vendor staging area at the vacant lot at 12<sup>th</sup> and Main Street and customer parking at 13<sup>th</sup> and Main, the End of the Oregon Trail or within the public right-of-way.

#### **The First Year of Operations:**

As part of the update, the applicant submitted the following information to city staff summarizing the first year of activities at the Wednesday market (Exhibit 4). The market operated as expected with the exception of additional parking. As the market progressed, additional customer and vendor parking was provided at Busch's Furniture after 5pm and those working at the market who were physically unable to walk from the vendor staging area at 12<sup>th</sup> and Main with small cars began parking at Blue Heron. The arrangement with Blue Heron may continue as long as the mill retains ownership of the lot, but will cease at some point in the near future, at which time all vendor parking will be on the 12<sup>th</sup> Street site. With the increased demand for parking resulting from the market, no noticeable parking problems were identified by businesses, customers or vendors. The Oregon City Municipal Code does not establish a minimum or maximum parking requirement for farmers markets.

The street closure was well executed. The meters were signed as a tow-away zone between the hours of 1pm-8pm during market operations and the market manager placed the street closure barricades across the street entrances at 1pm. Code Enforcement has towed a total of 3 vehicles during the market season, all occurring on one single day. Generally, if there was a vehicle parked illegally the manager either was able to contact the owner inside the courthouse or the owner returned in time to move the vehicle.

The market was opened for 22 days with a total 12,644 customers. An average market day included 574 customers and 19 vendor booths.

Nancy Busch, Code Enforcement Manager submitted comments in Exhibit 5 noting that “there are no major issues with the downtown Wednesday Market”.

**Noticing:**

Notice of the update was sent to all parties with standing and Citizen Involvement Committee. No public comments were received for this application.

**Staff Recommendation:**

As the applicant has operated the Conditional Use as proposed and there have not been any changes in conditions which would alter the findings in the staff report, staff recommends the Conditional Use approval for Planning file CU 10-02 remain subject to the conditions contained therein.

**Exhibits:**

1. Vicinity Map
2. CU 10-02 Notice of Decision
3. CU 10-02 Staff Report
4. April 11, 2011 Email from Jackie Hammond-Williams, Market Manager Oregon City Farmers Market
5. April 14, 2011 Email from Nancy Busch, Code Enforcement Manager
6. Signed Lease Agreement between the City and the Applicant
7. Right-of-Way Permit from the City





CU 10-02



4



City of Oregon City  
P.O. Box 3040  
625 Center St  
Oregon City, OR 97045  
(503) 657-0891  
[www.oregoncity.org](http://www.oregoncity.org)

This map is not suitable for survey, engineering, legal, or navigation purposes. Errors and omissions may exist.

Map created with OCMap 2010

05/04/2010



221 Molalla Ave. Suite 200 | Oregon City OR 97045  
Ph (503) 722-3789 | Fax (503) 722-3880

## NOTICE OF LAND USE DECISION

### CU 10-02

**DATE OF MAILING OF NOTICE OF DECISION: May 12, 2010**

**FILE NO.:** CU 10-02 – Conditional Use Permit

**APPLICANT:** J. Hammond-Williams  
Oregon City Farmers Market  
P.O. Box 2931  
Oregon City, Oregon 97045

**OWNER:** City of Oregon City  
P.O. Box 3040  
Oregon City, Oregon 97045

**REQUEST:** The applicant is requesting approval of a conditional use permit to operate a farmers market every Wednesday in the summer on 8<sup>th</sup> Street in downtown Oregon City, from Railroad Avenue to Main Street.

**LOCATION:** 8<sup>th</sup> Street in downtown Oregon City from Railroad Avenue to Main Street  
Clackamas County Map 2-2E-30DD, Tax Lots 04800, 4900, 5100, 5101, 5300

**CONTACT:** Laura Butler, Assistant Planner, AICP, (503) 496-1553

**DECISION:** On May 10, 2010, after reviewing all of the evidence in the record and considering all of the arguments made by the applicant, opposing and interested parties, the Planning Commission voted 3-0 to approve with conditions the requested Conditional Use Permit. Accordingly, the Planning Commission adopted as its own the Staff Report and Conditions of Approval for File Numbers CU 10-02 and approved with conditions the application.

**PROCESS:** Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. Applications evaluated through this process include conditional use permits, preliminary planned unit development plans, variances, code interpretations, similar use determinations and those rezonings upon annexation under Section 17.06.050 for which discretion is provided. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission or the historic review board hearing is published and mailed to the applicant, recognized neighborhood association and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission or the historic review board, all issues are addressed. The decision of the planning commission or historic review board is appealable to the city commission, on the record. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to 17.50.290(c) must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal. The city commission decision on appeal from the historic review board or the planning commission is the city's final decision and is appealable to LUBA within twenty-one days of when it becomes final.

**CONDITIONS OF APPROVAL**  
**Notice of Decision mailed: May 12, 2010**  
Planning File: CU 10-02

1. Prior to use of the City properties, the applicant shall submit an approved lease agreement for the parking and staging areas at 12<sup>th</sup> and Main and 13<sup>th</sup> and Main. The lease agreement shall be approved by the City and include such details as the hours the City parking lots may be utilized for the Farmers Market, the condition of the property subsequent to the use by the applicant, access to the property by the city at all times, maintenance for impacts of their use, insurance of the property, termination rights, terms, etc.
2. Prior to use of the site, the applicant shall obtain a right-of-way permit from the City.
3. The applicant shall receive approval for all signage associated with the Farmers Market by the City prior to installation.
4. The applicant shall construct the development as proposed with the attached conditions of approval.
5. The applicant shall receive administrative review of CU 10-02 prior to May of 2011.
6. All market and employees and vendors shall park in the staging area at 12<sup>th</sup> and Main if possible.





# OREGON CITY

## Community Development – Planning

221 Molalla Ave. Suite 200 | Oregon City OR 97045

Ph (503) 722-3789 | Fax (503) 722-3880

**FILE NO.:** CU 10-02 – Conditional Use Permit

**HEARING DATE /** May 10, 2010  
**LOCATION:** Oregon City City Hall – Chambers  
625 Center Street  
Oregon City, Oregon 97045

**APPLICANT:** J. Hammond-Williams  
Oregon City Farmers Market  
P.O. Box 2931  
Oregon City, Oregon 97045

**OWNER:** City of Oregon City  
P.O. Box 3040  
Oregon City, Oregon 97045

**REQUEST:** The applicant is requesting approval of a conditional use permit to operate a farmers market every Wednesday in the summer on 8<sup>th</sup> Street in downtown Oregon City, from Railroad Avenue to Main Street.

**LOCATION:** 8<sup>th</sup> Street in downtown Oregon City from Railroad Avenue to Main Street

**REVIEWER:** Laura Butler, Assistant Planner, AICP, (503) 496-1553

**RECOMMENDATION:** Approval with conditions.

**PROCESS:** Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. Applications evaluated through this process include conditional use permits, preliminary planned unit development plans, variances, code interpretations, similar use determinations and those rezonings upon annexation under Section 17.06.050 for which discretion is provided. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission or the historic review board hearing is published and mailed to the applicant, recognized neighborhood association and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission or the historic review board, all issues are addressed. The decision of the planning commission or historic review board is appealable to the city commission, on the record. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to 17.50.290(c) must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal. The city commission decision on appeal from the historic review board or the planning commission is the city's final decision and is appealable to LUBA within twenty-one days of when it becomes final.

### ***I. BACKGROUND:***

The applicant submitted this application to operate a farmers market on Wednesdays from 3pm to 7pm in downtown Oregon City, from May through October. The market will be held in addition to the Saturday Oregon City Farmers Market which currently operates at Red Soils during the summer. The Farmers Market would be held on 8<sup>th</sup> Street in downtown Oregon City, between Railroad Avenue and Main Street and will not include any activities on private property. The proposed location was the historical site of the first "Producers Market" in Oregon City, which opened in 1924. The applicant proposed a vender staging area at the vacant lot at 12<sup>th</sup> and Main Street, which is owned by the City, and customer parking at the City lot at 13<sup>th</sup> and Main as well as on street throughout downtown.

The site may accommodate up to 30 vendors at full capacity, though 20-23 vendors are anticipated for the first year of operation. The vendors will line the sidewalks on both sides of the street and face inward to the middle of the street. A 20-foot open space between the booths in the middle of the street and the sidewalks at the back of the booths will remain clear.

All vendors in the Farmers Market will be approved by the market. The vendors will be permitted via the market's business license and will be included in the market's \$2,000,000 liability insurance policy. Vendors setting up adjacent to the market will be strongly discouraged by the market staff. The vendors would include:

1. Farmers and growers;
2. Processed food vendors such as a bakery, canned or value-added processed foods;
3. Local handmade garden related products and services and canning/preserving equipment; and
4. Food and beverages to be consumed at the market.

As the market will be located in the public right-of-way, 8<sup>th</sup> Street would be closed to automobile traffic from 1pm until 8pm to allow time to set up and deconstruct the market. The applicant proposed to obtain all necessary permits for closure of the street. The road closure will be initiated with the placement of barriers at the intersection of 8<sup>th</sup> and Main and the intersection of 8<sup>th</sup> and Railroad Avenue at 1pm. The barriers will be approved by Public Works and stored by the market while they are not being used. If a vehicle is parked within the market area when the market begins, the market manager will contact Code Enforcement for removal of the car, unless the car is parked outside of the market footprint and can safely leave the market.

The market manager and a minimum of 2 additional board members will be onsite to facilitate the vendors during the hours of the market. The market manager will be located at 8<sup>th</sup> and Main to remove the barricade to allow vendors to enter the market area to unpack their vehicles and direct them to their assigned location. All vendor vehicles will be removed 30 minutes before the market opens and are not permitted within the market area until 7:15 or later if customers are still present.

The market proposed to maintain a clean and safe space. Although no trash cans will be provided in excess of those provided by the City, the demand for additional trash cans and restrooms will be monitored by the market. All vendor associated trash will be packed out by the vendors. The market will assure the site is swept clean before the road is reopened. The market would not utilize any public utilities. Power for the market would potentially be provided from a City-owned power box on the corner of the Busch's Home Furnishings building.

The market will include a variety of advertising. Notices will be placed in several newspapers, a banner will be placed at 213 and Washington Street and a series of A-frame signs placed near to the market area on Wednesday mornings. In addition, the applicant agreed to install permanent signage on 21 parking meters along 8<sup>th</sup> Street to alert the public of the road closure. The applicant is responsible of obtaining all necessary

approvals for the signage. Main Street Oregon City will assist the operation in sending out email reminders the Tuesday before the Wednesday market reminding businesses of the upcoming event.

The market will strive to work with the adjacent businesses. The market representative will canvass the nearby business in the beginning and middle of the market season to assure the market operations are not negatively affecting neighbors and businesses.

The market may additionally operate on Saturdays. The Oregon City Municipal Code requires Conditional Use approval for markets on weekdays before 6pm. After 6pm on the weekdays and on the weekends, the market is a permitted use.

## **II. BASIC FACTS:**

### **A. Location and Current Use**

The Oregon City Farmers Market submitted this Conditional Use application to operate a farmers market every Wednesday in the summer on 8<sup>th</sup> Street in downtown Oregon City, from Railroad Avenue to Main Street. All of the market will be within the public right-of-way. In addition, the applicant would like to use the vacant lot at 12<sup>th</sup> and Main Street for a vendor staging area and the City parking lot at 13<sup>th</sup> and Main for patron parking.

### **B. Zoning**

The property is zoned "MUD" Mixed Use Downtown District. The properties adjacent to the site are zoned "MUD" Mixed Use Downtown District.

### **C. Public Comment**

Notice of the public hearings for the proposal was mailed to property owners within 300 feet of the subject site and the Citizen Involvement Council. The notice was advertised in the Clackamas Review and the site was posted with land use notification signs. The notice requested comments and indicated that interested parties could testify at the public hearing or submit written comments prior to or at the hearing. A second notice was sent after additional information was added to the application. The following public comments were submitted:

Mike Conrad, Chief of Police for the City of Oregon City submitted comments noting that the proposal does not conflict with departmental interests (Exhibit 3).

Guy Sperb, Building Official for the City of Oregon City submitted comments noting that the proposal does not conflict with departmental interests (Exhibit 4).

Robert Cullison, Development Services Manager for the City of Oregon City submitted comments stating that the proposal does not conflict with departmental interests if the applicant obtains a right-of-way permit, and coordinates with the Public Works Department on the use of the City property and signage (Exhibit 5).

1. Prior to use of the City properties, the applicant shall submit an approved lease agreement for the parking and staging areas at 12<sup>th</sup> and Main and 13<sup>th</sup> and Main. The lease agreement shall be approved by the City and include such details as the hours the City parking lots may be utilized for the Farmers Market, the condition of the property subsequent to the use by the applicant, access to the property by the city at all times, maintenance for impacts of their use, insurance of the property, termination rights, terms, etc. *The applicant can meet this standard by complying with condition of approval 1.*
2. Prior to use of the site, the applicant shall obtain a right-of-way permit from the City. *The applicant can meet this standard by complying with condition of approval 2.*
3. The applicant shall receive approval for all signage associated with the Farmers Market by the City prior to installation. *The applicant can meet this standard by complying with condition of approval 3.*

Nancy Kraushaar, Public works Director and City Engineer for the City of Oregon City submitted comments suggesting the city and the applicant enter a lease for the use of the land at the corner of 12<sup>th</sup> and Main and 13<sup>th</sup> and Main (Exhibit 6).

- Prior to use of the City properties, the applicant shall submit an approved lease agreement for the parking and staging areas at 12<sup>th</sup> and Main and 13<sup>th</sup> and Main. The lease agreement shall be approved by the City and include such details as the hours the City parking lots may be utilized for the Farmers Market, the condition of the property subsequent to the use by the applicant, access to the property by the city at all times, maintenance for impacts of their use, insurance of the property, termination rights, terms, etc. *The applicant can meet this standard by complying with condition of approval 1.*

Nancy Busch, Code Enforcement Manager for the City of Oregon City submitted comments noting that the City parking lot at 13<sup>th</sup> and Main is a pay lot on Wednesdays (Exhibit 7).

John Lewis, Public Works Operations Manager for the City of Oregon City submitted comments noting that the proposal does not conflict with departmental interests (Exhibit 8).

No additional public comments were received prior to the release of this staff report.

### **III. DECISION-MAKING CRITERIA:**

#### **Chapter 17.56 Conditional Uses**

##### **17.56.010 Permit--Authorization--Standards--Conditions.**

*The planning commission may allow a conditional use, provided that the applicant provides evidence substantiating that all the requirements of this title relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:*

*1. The use is listed as a conditional use in the underlying district;*

**Finding: Complies as Proposed.** The subject site is within the “MUD” Mixed Use Downtown District zoning designation which identified permitted and conditional uses in chapter 17.34 of the Oregon City Municipal Code (OCMC). OCMC chapter 17.34.030.D identifies outdoor markets that do not meet the criteria of section 17.34.020 as a conditional use. OCMC Chapter 17.34.020 lists any use permitted in OCMC Chapter 17.29.020 including outdoor markets, such as produce stands, craft markets and farmers markets that are operated on the weekends and after six p.m. during the weekday. The proposed outdoor farmers market would operate before 6pm during the week and thus conditional use approval is required.

*2. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;*

**Finding: Complies as proposed.** The proposed location of the farmers market (on 8<sup>th</sup> Street from Railroad Avenue to Main Street) would complement the adjacent downtown area. The site is a paved, relatively flat, one-way street in downtown Oregon City, lined with on street metered parking, sidewalks (which would remain open) and adjacent businesses. The adjacent buildings and street intersections act as a natural containment system to limit the size of the market within a single city block.

*3. The site and proposed development are timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use;*

**Finding: Complies as proposed.** The market would operate along 8<sup>th</sup> Street, requiring closure of the road at the intersections of Main and Railroad Avenue. A review of the proposal by John Replinger, the City's transportation engineer from Replinger and Associates, concluded that the development would not result in a dangerous or hazardous transportation system. Based upon last year's winter farmers market in the same location, the proposal is not expected to cause significant automobile congestion and thus a transportation impact analysis is not required. The street connectivity of the downtown Oregon City street system provides

alternative transportation routes for automobiles, pedestrian and cyclists to safely navigate around the closed street. The proposal does not include constructing any permanent transportation system improvements.

*4. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or precludes the use of surrounding properties for the primary uses listed in the underlying district;*

**Finding: Complies as Proposed.** The farmers market would not alter the character of downtown, as it promotes the adopted fundamental goals for downtown Oregon City such as economic opportunities, a diverse business climate, social interaction and efficiently utilizing space. The location was used as the first “Producers Market” in Oregon City, which began operations in 1924. Approval of the market would not result in any permanent physical changes to the site.

The market has already begun working with nearby businesses to inform them of the market proposal and to understand and concerns they may have. A meeting with the businesses and the Citizen Involvement Council (CIC) revealed excitement and support for the market. The development proposal included canvassing the nearby business after the first and second markets as well as after the midsummer season, for feedback from adjacent businesses to assure the market operations are not negatively affecting neighbors.

*5. The proposal satisfies the goals and policies of the city comprehensive plan which apply to the proposed use.* The applicable Comprehensive Plan policies are as follows:

*Goal 2.1 Efficient Use of Land*

*Ensure that property planned for residential, commercial, office, and industrial uses is used efficiently and that land is developed following principles of sustainable development.*

**Finding: Complies with condition.** The market would result in an efficient use of land by locating within the existing public right-of-way on 8<sup>th</sup> Street, from Railroad Avenue to Main Street. Because the market is temporary in nature, no permanent land or structures are dedicated to the proposed use. Patrons will utilize existing on-street downtown parking as well as the off-street public parking lot at 13<sup>th</sup> and Main Street while vendors will park at the gravel lot at 12<sup>th</sup> and Main. The market will promote sustainability with convenient access to fresh, local foods and weekly e-newsletters, signs and press releases that encourage the public to access the market via public transportation, walking, biking, or carpool to reduce single occupancy trips.

*Policy 2.1.2*

*Encourage the vertical and horizontal mixing of different land-use types in selected areas of the city where compatible uses can be designed to reduce the overall need for parking, create vibrant urban areas, reduce reliance on private automobiles, create more business opportunities and achieve better places to live.*

**Finding: Complies as proposed.** Oregon City currently does not have a farmers market which operates during weekdays in the summer months. The market will create a vibrant urban area by providing additional outdoor activity downtown on a weekday while increasing business opportunities and goods available to the public. Retail sales of fresh and local groceries and gifts are permitted in the downtown “MUD” Mixed Use Downtown zoning designation and are thus compatible. It is anticipated that many existing employees, residents and customers who live and work downtown will serve as the primary customer. The farmers market will advertise with weekly e-newsletters, signs and press releases which encourage customers use public transportation, walk, bike, carpool to reduce single occupancy trips.

*Goal 2.2 Downtown Oregon City*

*Develop the Downtown area, which includes the Historic Downtown Area, the “north end” of the Downtown, Clackamette Cove, and the End of the Oregon Trail area, as a quality place for shopping, living, working, cultural and recreational activities, and social interaction. Provide walkways for pedestrian and bicycle traffic, preserve views of Willamette Falls and the Willamette River, and preserve the natural amenities of the area.*

**Finding: Complies as proposed.** The proposed farmers market would provide economic opportunity, link urban and rural economies, promote public health, and create active public spaces to harbor social interaction. The market would provide cultural musical activities, demonstrations and quality shopping for local healthy foods. The adjacent sidewalks along 8<sup>th</sup> Street would remain unobstructed and because there are no permanent physical structures associated with the market, views of Singer Creek Falls, the Willamette River, and all natural amenities would be preserved.

*Policy 2.2.5*

*Encourage the development of a strong and healthy Historic Downtown retail, office, cultural, and residential center.*

**Finding: Complies as proposed.** Approval of the farmers market would infuse new social and economic activity into downtown Oregon City by bringing producers and consumers together. Public markets provide opportunities for farmers to sell goods without high costs for storefronts, encourage spin-off development, enhance tax bases and real estate values, and retain local money in the local economy. The market would encourage customers to spend more money and time in downtown Oregon City and provide the opportunity for customers to obtain a wider range of goods and services.

*Policy 2.2.6*

*Working with major stakeholders, develop and implement a strategy to help the Historic Downtown Area enhance its position as a retail district. Such a strategy might include funding for a "Main Street" or similar program.*

**Finding: Complies as proposed.** The applicant has worked with the non-profit Main Street Oregon City and downtown businesses to develop and promote the farmers market. The market will retain communication with the groups to ensure a successful venture.

*Policy 2.2.8*

*Implement the Oregon City Downtown Community Plan and Oregon City Waterfront Master Plan with regulations and programs that support compatible and complementary mixed uses, including housing, hospitality services, restaurants, civic and institutional, offices, some types of industrial and retail uses in the Regional Center, all at a relatively concentrated density.*

**Finding: Complies as proposed.** Approval of the farmers market would infuse new social and economic activity into downtown Oregon City by providing opportunities for farmers to sell goods without high costs for storefronts, encourage spin-off development, enhance tax bases and real estate values, and retain local money in the local economy. The market would encourage customers to spend more money and time in downtown Oregon City and provide the opportunity for customers to obtain a wider range of goods and services while efficiently utilizing the downtown regional center.

*Policy 2.4.2*

*Strive to establish facilities and land uses in every neighborhood that help give vibrancy, a sense of place, and a feeling of uniqueness; such as activity centers and points of interest.*

**Finding: Complies as proposed.** The outdoor farmers market will provide a unique sense of place and vibrancy by showcasing local foods from Oregon City and surrounding close-in areas of Clackamas County plus providing workshops, demonstrations and live music which are not currently available. There are currently no other farmers markets operating in downtown Oregon City or midweek in Oregon City and thus the market would provide a variety of shopping opportunities and services.

*Policy 6.1.1*

*Promote land-use patterns that reduce the need for distance travel by single occupancy vehicles and increase opportunities for walking, biking and/or transit to destinations such as places of employment, shopping and education.*

**Finding: Complies as proposed.** The Downtown Farmers Market would provide access to fresh, healthy food shopping in the downtown core. The convenient location of the proposed market adjacent to employment and shopping opportunities as well as residences, reduces the demand for customers to drive to other locations to obtain these services. The market would be accessible to mass transit, bicycle trails and the municipal elevator. The market will promote the reduction of single occupancy vehicles through the weekly e-newsletters, advertising and press releases.

*Goal 9.1 Improve Oregon City's Economic Health*

*Provide a vital, diversified, innovative economy including an adequate supply of goods and services and employment opportunities to work toward an economically reasonable, ecologically sound and socially equitable economy.*

**Finding: Complies as proposed.** Downtown Oregon City does not currently offer any locations where individuals may sell or purchase produce. The farmers market would provide diversity in the goods and services available downtown to meet the needs of the community. The market would encourage customers to spend more money and time in downtown Oregon City and provide the opportunity for customers to obtain a wider range of goods and services while efficiently utilizing the downtown regional center.

*Goal 9.2 Cooperative Partnerships*

*Create and maintain cooperative partnerships with other public agencies and business groups interested in promoting economic development.*

**Finding: Complies as proposed.** Market has developed and will maintain partnerships with the City, the Main Street Program, the Downtown Business Coalition and the Oregon City Chamber to promote and support economic development.

*Policy 9.2.1*

*Seek input from local businesses when making decisions that will have a significant economic impact on them.*

**Finding: Complies as proposed.** The market has begun working with nearby businesses to inform them of the market and understand and concerns they may have. Meeting with the businesses and the Citizen Involvement Council (CIC) has suggested that there is community excitement and support for the market. The development proposal included canvassing the nearby business after the first and second markets as well as during the midsummer season, for feedback from adjacent businesses to assure the market operations are not negatively affecting neighbors.

*Goal 9.5 Retail Service*

*Allow a variety of retail outlets and shopping areas to meet the needs of the community and nearby rural areas.*

**Finding: Complies as proposed.** Downtown Oregon City does not currently offer any locations where individuals may sell or purchase produce. The farmers market would provide diversity in the goods and services available downtown to meet the needs of the community via public transit.

*Goal 9.6 Tourism*

*Promote Oregon City as a destination for tourism.*

**Finding: Complies as proposed.** The market will advertise in Edible Portland Magazine, The Oregonian, newspapers in Oregon City, West Linn and Lake Oswego and work closely with Clackamas County's Mt. Hood Territory Tourism Office. In addition, signage will be used to promote the market and downtown Oregon City as a tourist destination.

*Policy 9.6.2*

*Ensure land uses and transportation connections that support tourism as an important aspect of the City's economic development strategy. This could include connections to the End of the Oregon Trail Interpretive Center and the train depot.*



**Finding: Complies as proposed.** The proposed farmers market would be located in downtown Oregon City, providing optimal transportation connections with the freeway, adjacent Highway 99E, transit station and gridded downtown street system. The location of the market would support the downtown regional center in accordance with the City's economic development strategy and would be added as a stop on the trolley route.

*Policy 9.6.3*

*Provide land uses in the Downtown Historic Area, 7th Street corridor, and the End of the Oregon Trail Interpretive Center that support tourism and visitor services.*

**Finding: Complies as proposed.** The market will advertise in Edible Portland Magazine, The Oregonian, newspapers in Oregon City, West Linn and Lake Oswego and work closely with Clackamas County's Mt. Hood Territory Tourism Office. In addition, signage will be used to promote the market and downtown Oregon City as a tourist destination and the market would be added as a stop on the trolley route. The market will also contain information on events happening city-wide.

*Policy 9.6.4*

*Encourage and support citywide events that would attract visitors and tie to the historic attractions of the city. Preserve tourism-related transportation services like the Oregon City Elevator and trolley.*

**Finding: Complies as proposed.** The market is proposed to be located near the base of the municipal elevator and would include events such as cooking demonstrations, food preservation, cheese making workshops, citizen and local city group presentations, safety preparedness by Clackamas Fire District 1 and weekly live music. An information booth at the market will promote city-wide events and the market will promote usage of the trolley and the municipal elevator.

*Policy 12.6.2*

*Identify transportation system improvements that mitigate existing and projected areas of congestion.*

**Finding: Complies as proposed.** A review of the proposal by John Replinger, the City's transportation engineer from Replinger and Associates, concluded that the development would not result in a dangerous or hazardous transportation system. Based upon last year's winter farmers market in the same location, the proposal is not expected to cause significant automobile congestion and thus a transportation impact analysis is not required. The street connectivity of the downtown Oregon City street system provides alternative transportation routes for automobiles, pedestrian and cyclists to safely navigate around the closed street. The proposal does not include constructing any permanent transportation system improvements.

*Policy 12.6.3*

*Ensure the adequacy of travel mode options and travel routes (parallel systems) in areas of congestion.*

**Finding: Complies as proposed.** A review of the proposal by John Replinger, the City's transportation engineer from Replinger and Associates, concluded that the development would not result in a dangerous or hazardous transportation system. Based upon last year's winter farmers market in the same location, the proposal is not expected to cause significant automobile congestion and thus a transportation impact analysis is not required. The street connectivity of the downtown Oregon City street system provides alternative transportation routes for automobiles, pedestrian and cyclists to safely navigate around the closed street. The proposal does not include constructing any permanent transportation system improvements.

*Goal 13.1 Energy Sources*

*Conserve energy in all forms through efficient land-use patterns, public transportation, building siting and construction standards, and city programs, facilities, and activities.*

**Finding: Complies as proposed.** The market will encourage walking, carpooling, biking and using public transportation. The development would provide a source of fresh, local foods downtown to reduce the

carbon footprint of for producers and consumers. The market would not result in the construction of any permanent structure.

*Goal 13.2 Energy Conservation*

*Plan public and private development to conserve energy.*

**Finding: Complies as proposed.** The market will encourage walking, carpooling, biking and using public transportation. The development would provide a source of fresh, local foods downtown to reduce the carbon footprint of for producers and consumers.

*Policy 13.2.1*

*Promote mixed-use development, increased densities near activity centers, and home-based occupations (where appropriate).*

**Finding: Complies as proposed.** The market would result in an efficient use of land by locating within the existing public right-of-way on 8<sup>th</sup> Street, from Railroad Avenue to Main Street in downtown Oregon City. Patrons will utilize existing on-street downtown parking as well as the off-street public parking lot at 13<sup>th</sup> and Main Street while vendors will park at the gravel lot at 12<sup>th</sup> and Main. The market will promote sustainability with convenient access to fresh, local foods and the encouragement to use public transportation.

*B. Permits for conditional uses shall stipulate restrictions or conditions which may include, but are not limited to, a definite time limit to meet such conditions, provisions for a front, side or rear yard greater than the minimum dimensional standards of the zoning ordinance, suitable landscaping, off-street parking, and any other reasonable restriction, condition or safeguard that would uphold the spirit and intent of the zoning ordinance, and mitigate adverse effect upon the neighborhood properties by reason of the use, extension, construction or alteration allowed as set forth in the findings of the planning commission.*

**Finding: Complies with condition.** The applicant has not requested any restriction, condition or safeguard beyond what is normally required by the city to uphold the spirit and intent of the zoning ordinance and mitigate adverse effect upon neighborhood properties. The applicant shall construct this development as proposed with the attached conditions of approval. The Community Development Director may approve minor modifications as deemed necessary. **The applicant can meet this standard by complying with condition of approval 2.**

*C. Any conditional use shall meet the dimensional standards of the zone in which it is to be located pursuant to subsection B of this section unless otherwise indicated, as well as the minimum conditions listed below.*

**Finding: Not Applicable.** The applicant has not proposed any permanent structures.

*D. In the case of a use existing prior to the effective date of the ordinance codified in this title and classified in this title as a conditional use, any change of use, expansion of lot area or expansion of structure shall conform with the requirements for conditional use.*

**Finding: Not applicable.** The applicant has not requested expansion of a prior use or future expansion of the proposed use. All future expansions of this approval shall be heard by the Planning Commission as required.

*E. The planning commission may specifically permit, upon approval of a conditional use, further expansion to a specified maximum designated by the planning commission without the need to return for additional review. (Ord. 91-1025 §1, 1991; prior code §11-6-1)*

**Finding: Not applicable.** The applicant has not requesting expansion of the market at a later date. All future expansions in excess of this approval shall be heard by the Planning Commission as required.

**17.56.040.A. Building Openings.** The city may limit or prohibit building openings within fifty feet of residential property in a residential zone if the openings will cause glare, excessive noise or excessive traffic which would adversely affect adjacent residential property as set forth in the findings of the planning commission.

**Finding: Not applicable.** The applicant has not proposed to construct a permanent building or block any existing building entranceways.

***17.56.060 Revocation of conditional use permits.***

**Finding: Not Applicable.** No previous conditional use permit is being revoked with this application.

***17.56.070 Periodic review of conditional use permits.***

**Finding: Not Applicable.** The site has not been identified as needing a periodic review.

**RECOMMENDED CONCLUSION AND DECISION**

Staff recommends that the Planning Commission approve the application as submitted by the applicant with the recommended conditions of approval for the Conditional Use Permit, identified as Planning File CU 10-02, for a Farmers Market in downtown Oregon City.

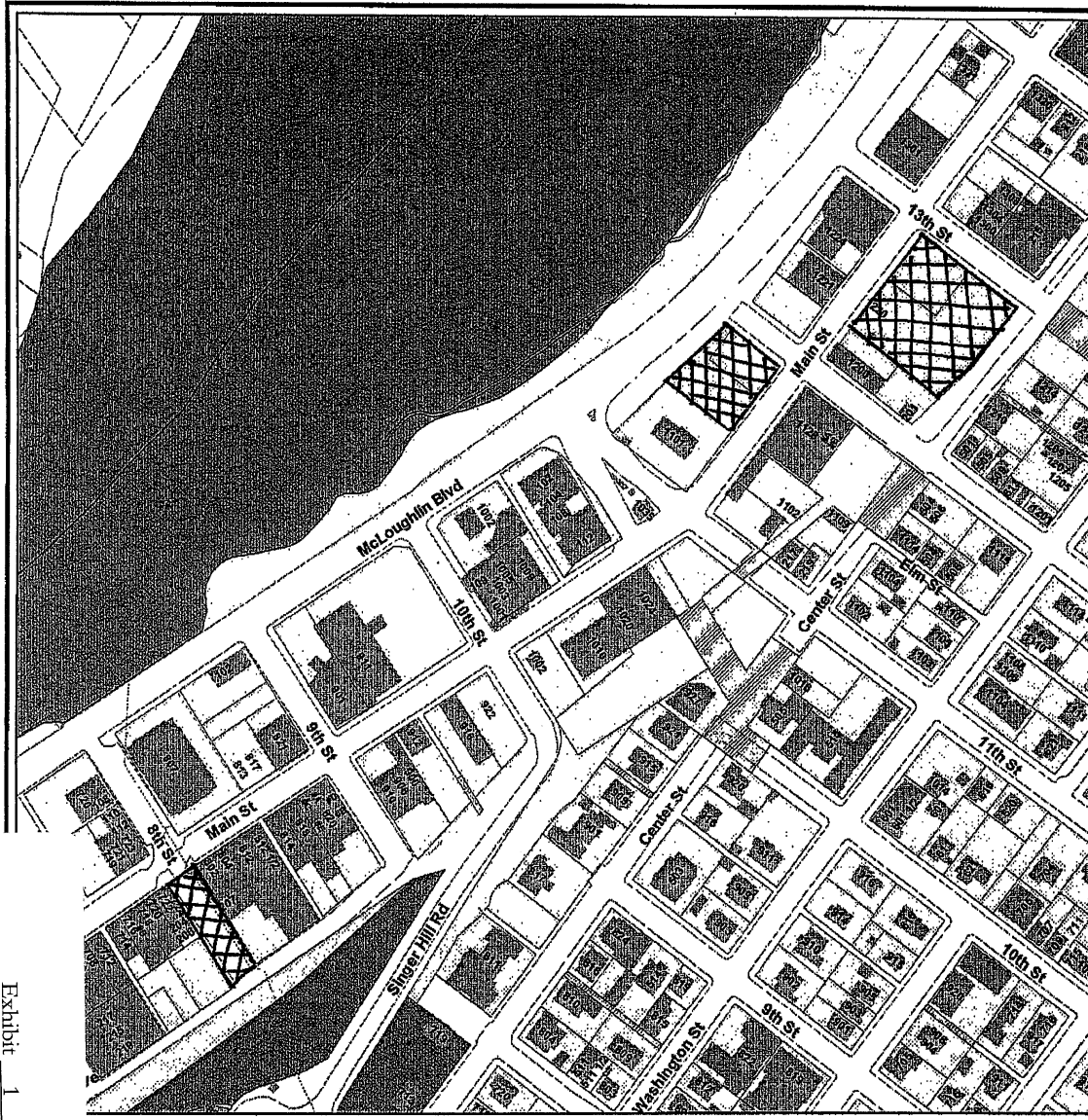
**EXHIBITS**

The following exhibits are attached to this staff report.

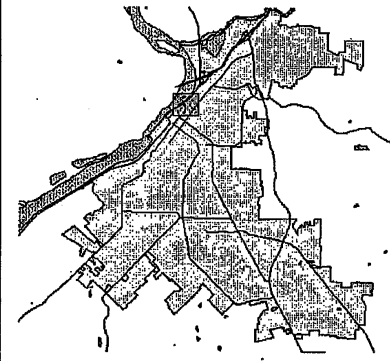
1. Vicinity map;
2. Applicant's Narrative and Site Plan, dated April 9, 2010 (On File)
3. Comments submitted by Mike Conrad, Chief of Police for the City of Oregon City
4. Comments submitted by Guy Sperb, Building Official for the City of Oregon City
5. Comments submitted by Robert Cullison, Development Services Manager for the City of Oregon City
6. Comments submitted by Nancy Kraushaar, Public works Director and City Engineer
7. Comments submitted by Nancy Busch, Code Enforcement Manager for the City of Oregon City
8. Comments submitted by John Lewis, Public Works Operations Manager for the City of Oregon City

Recommended Conditions of Approval  
Planning File: CU 10-02  
Planning Commission Hearing: May 10, 2010

1. Prior to use of the City properties, the applicant shall submit an approved lease agreement for the parking and staging areas at 12<sup>th</sup> and Main and 13<sup>th</sup> and Main. The lease agreement shall be approved by the City and include such details as the hours the City parking lots may be utilized for the Farmers Market, the condition of the property subsequent to the use by the applicant, access to the property by the city at all times, maintenance for impacts of their use, insurance of the property, termination rights, terms, etc.
2. Prior to use of the site, the applicant shall obtain a right-of-way permit from the City.
3. The applicant shall receive approval for all signage associated with the Farmers Market by the City prior to installation.
4. The applicant shall construct the development as proposed in SP 09-04 with the attached conditions of approval.



CU 10-02



City of Oregon City  
P.O. Box 3040  
625 Center St  
Oregon City, OR 97045  
(503) 657-0891  
[www.oregoncity.org](http://www.oregoncity.org)

This map is not suitable for survey, engineering, legal, or navigation purposes. Errors and omissions may exist.

Map created with OCMap 2010

04/21/2010

Exhibit 1



# OREGON CITY

## Community Development – Planning

221 Molalla Ave. Suite 200 | Oregon City OR 97045  
Ph (503) 722-3789 | Fax (503) 722-3880

### TRANSMITTAL

April 22, 2010

#### **IN-HOUSE DISTRIBUTION**

- ☒ Building Official
- ☒ Development Services Manager
- ☒ Public Works Operations
- ☒ City Engineer / Public Works Director
- ☐ GIS
- ☐ Parks Manager
- ☐ Addressing
- ☒ Police
- ☐ Traffic Engineer
- ☒ CODE ENFORCEMENT

#### **MAIL-OUT DISTRIBUTION**

- ☒ CICC
- ☐ Neighborhood Association Chair
- ☐ Neighborhood Association Land Use Chair
- ☐ Clackamas County - Transportation
- ☐ Clackamas County - Planning
- ☒ Fire Chief
- ☐ ODOT - Sonya Kazen
- ☐ ODOT - Loretta Kiefer
- ☐ School District# 62
- ☐ Tri-Met
- ☐ Metro - Ray Valone
- ☐ Oregon City Postmaster
- ☐ DLCD

COMMENTS DUE BY: April 26, 2010

HEARING DATE: May 10, 2010

HEARING BODY: \_\_\_ Staff Review; \_\_\_ PC; XX HRB; \_\_\_ CC

FILE # & TYPE: CU 10-02 – Conditional Use Permit

PLANNER: Laura Butler, AICP, (503) 496-1553

APPLICANT: J. Hammond-Williams, Oregon City Farmers Market

REQUEST: The applicant is requesting approval of a conditional use permit to operate a farmers market every Wednesday in the summer on 8<sup>th</sup> Street in downtown Oregon City, from Railroad Avenue to Main Street. In addition, the applicant would like to use the vacant lot at 12<sup>th</sup> and Main Street for a vendor staging area and the City parking lot at 13<sup>th</sup> and Main for patron parking.

ZONING: "MUD" Mixed Use Downtown District

LOCATION: 8<sup>th</sup> Street in downtown Oregon City from Railroad Avenue to Main Street  
12<sup>th</sup> and Main Street, Clackamas County Map 22E30DD, TL 4800 & 4900  
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- ☒ The proposal does not conflict with our interests.
- ☐ The proposal conflicts with our interests for the reasons attached.
- ☐ The proposal would not conflict our interests if the changes noted below are included.

Signed M. Anderson CHIEF OF POLICE 4/26/10  
PLEASE RETURN YOUR COPY OF THE APPLICATION AND MATERI/

Exhibit 3



# OREGON CITY

## Community Development – Planning

221 Molalla Ave. Suite 200 | Oregon City OR 97045  
Ph (503) 722-3789 | Fax (503) 722-3880

### TRANSMITTAL

April 22, 2010

#### **IN-HOUSE DISTRIBUTION**

- ☒ Building Official
- ☒ Development Services Manager
- ☒ Public Works Operations
- ☒ City Engineer / Public Works Director
- ☐ GIS
- ☐ Parks Manager
- ☐ Addressing
- ☒ Police
- ☐ Traffic Engineer
- ☒ CODE ENFORCEMENT

#### **MAIL-OUT DISTRIBUTION**

- ☒ CICC
- ☐ Neighborhood Association Chair
- ☐ Neighborhood Association Land Use Chair
- ☐ Clackamas County - Transportation
- ☐ Clackamas County - Planning
- ☒ Fire Chief
- ☐ ODOT - Sonya Kazen
- ☐ ODOT - Loretta Kiefer
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- ☐ Metro - Ray Valone
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Signed

*[Signature]* Building Official

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Exhibit 4



# OREGON CITY

## Community Development – Planning

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### TRANSMITTAL

April 22, 2010

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\_\_\_ The proposal does not conflict with our interests.

\_\_\_ The proposal conflicts with our interests for the reasons attached.

☒ The proposal would not conflict our interests if the changes noted below are included.

*Applicant shall obtain a ROW permit for market. Coord w/ PW on 12<sup>th</sup> vacant lot use, coord with PW on signage.*

Signed

*Rabut CC*

PLEASE RETURN YOUR COPY OF THE APPLICATION AND MATERIAL WITH THIS FORM

Exhibit 5



## Laura Butler

---

**From:** Nancy Kraushaar  
**Sent:** Wednesday, April 28, 2010 9:35 PM  
**To:** Laura Butler  
**Cc:** Kathy Griffin  
**Subject:** RE: Downtown Farmers Market

Laura: I think we should have a lease (minimal charge for lease) that defines the limits of their use to certain hours, day of the week; addresses condition of property, maintenance for impacts of their use, right to terminate, terms, etc. An important feature would be the right for us to terminate should we decide to develop the site. We would also have full rights to access for whatever necessary at all times. We would also want to be named as insured on their insurance for any activities in the parking lot.

Can you write the condition fairly generally with the above items in mind? In addition, I would prefer to try to use a standard lease form that they are responsible for drafting for our review and approval. Let me know if you need additional information. Thank you. -Nancy

---

**From:** Laura Butler  
**Sent:** Wed 4/28/2010 4:55 PM  
**To:** Nancy Kraushaar  
**Subject:** Downtown Farmers Market

Nancy,

Do you want a lease or to charge the Farmers Market for using the gravel lot at 12<sup>th</sup> and Main? Any conditions of approval you would like me to add to the staff report?



Laura Butler, AICP  
Assistant Planner  
Planning Division  
PO Box 3040  
221 Molalla Avenue, Suite 200  
Oregon City, Oregon 97045  
503.496.1553 - Planning  
503.496.1550 - Public Works Projects  
Fax: 503.722.3880  
[lbutler@orc.org](mailto:lbutler@orc.org)

**Need an answer?** Did you know that our website can help you 24-hours a day, 7-days a week? Online, you have access to permit forms, applications, handouts, inspection results, codebooks, info on permits applied for since 2002, inspection information, application checklists, and much more. You can request inspections online, and if you are a contractor, you can even apply for permits online. [www.orcity.org](http://www.orcity.org)  
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Online Mapping is available at [OCWebMaps](#)



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# OREGON CITY

## Community Development – Planning

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Ph (503) 722-3789 | Fax (503) 722-3880

### TRANSMITTAL

April 22, 2010

#### **IN-HOUSE DISTRIBUTION**

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- ☒ Development Services Manager
- ☒ Public Works Operations
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- ☐ GIS
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COMMENTS DUE BY: April 26, 2010

HEARING DATE: May 10, 2010

HEARING BODY: Staff Review; \_\_\_ PC; XX HRB; \_\_\_ CC

FILE # & TYPE: CU 10-02 – Conditional Use Permit

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- ☒ The proposal does not conflict with our interests. *13th St. is pay lot on Wed. and no free parking downtown n7!*
- ☐ The proposal conflicts with our interests for the reasons attached.
- ☐ The proposal would not conflict our interests if the changes noted below are included.

Signed

*Nana Busch*

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Exhibit 7



# OREGON CITY

## Community Development – Planning

221 Molalla Ave. Suite 200 | Oregon City OR 97045  
Ph (503) 722-3789 | Fax (503) 722-3880

*Laura*

### TRANSMITTAL

April 12, 2010

#### **IN-HOUSE DISTRIBUTION**

- ☒ Building Official
- ☒ Development Services Manager
- ☒ Public Works Operations
- ☒ City Engineer / Public Works Director
- ☐ GIS
- ☐ Parks Manager
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COMMENTS DUE BY: April 26, 2010  
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 FILE # & TYPE: CU 10-02 – Conditional Use Permit  
 PLANNER: Laura Butler, AICP, (503) 496-1553  
 APPLICANT: J. Hammond-Williams, Oregon City Farmers Market  
 REQUEST: The applicant is requesting approval of a conditional use permit to operate a farmers market every Wednesday in the summer on 8<sup>th</sup> Street in downtown Oregon City, from Railroad Avenue to Main Street.  
 ZONING: "MUD" Mixed Use Downtown District  
 LOCATION: 8<sup>th</sup> Street in downtown Oregon City: from Railroad Ave. to Main St.

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Signed \_\_\_\_\_

**PLEASE RETURN YOUR COPY OF THE APPLICATION AND MATERIAL WITH THIS FORM.**

Exhibit 8

## Laura Terway

---

**From:** marketmanager@orcifyfarmersmarket.com  
**Sent:** Monday, April 11, 2011 1:49 PM  
**To:** Laura Terway  
**Subject:** Wednesday Market  
**Attachments:** Wednesday Mkt 2010 ( Planning).docx

Hi Laura, this is what I came up with.  
I have an end of the season report that I did about the Wed. market if you'd like that, but it's more a narrative.  
Let me know .  
I have put May 9th on the calender.  
Thanks!

Jackie Hammond-Williams  
Market Manager  
Oregon City Farmers Market  
PO Box 2931  
Oregon City, OR 97045  
503.734.0192  
[www.orcifyfarmersmarket.com](http://www.orcifyfarmersmarket.com)  
[marketmanager@orcifyfarmersmarket.com](mailto:marketmanager@orcifyfarmersmarket.com)

### The Downtown Wednesday Market

The first season of the downtown mid-week market saw no noticeable problems with parking, either for businesses, customers, or vendors.

Each day the meters were signed by Code Enforcement as a tow-away zone between the hours of 1pm -8pm. The manager placed the street closure barricades across the street entrances at 1pm each Wednesday.

Code Enforcement called in a tow for a total of 3 vehicles, all on one day. After that if there was a vehicle parked illegally the manager either was able to contact the owner inside the courthouse or the owner returned in time to move the vehicle.

Vendors parked their big trucks and trailers on the designated vendor staging area at 12<sup>th</sup> St and Main, a City-owned lot, for which the Market has a signed lease agreement. The manager would unlock it at 1pm and lock it again at 8pm each Wednesday.

In addition the Blue Heron Mill allowed vendor parking, only for small vehicles, which allowed the older vendors access to a closer parking area. This arrangement may continue as long as the mill retains ownership of the lot, but will cease at some point in the near future, at which time all vendor parking will be on the 12<sup>th</sup> St site.

Each vendor on arriving initially at the market was given a map showing the designated vendor parking, standard market practice. The market has a "Vendor Parking Only" sign that is placed at the 12 St. site.

Busch's Furniture allowed customers last year to park on their lot after 5pm. This will continue during the 2011 season. The market created a "customer parking after 5pm" sign that was placed on Busch's parking lot each Wednesday.

The market heavily advertised the option of parking on the bluff and using the elevator, or parking at the EOT and catching the City's trolley to customers through the market's newsletters, on the web site and in press releases.

The market did not receive any negative comments from any local businesses re: parking issues.

A couple of times the street required sweeping after road construction which required the street sweeper to pull through, but mostly the manager and volunteers swept the street and picked up trash each week prior to opening, leaving the street cleaner than was found.

### Customer Counts; 22 Market days.

Wed. Mkt 12,644 customers were counted for the whole season.

Av. 574 customers per market day. A high of approx. 850 to a low of approx.450.

### Vendor Days

Wed Mkt - 415 booth spaces were rented to vendors during the season.

Av. 19 per week

We had around 22-24 most days, (the number of vendors always declines as the season ends) The last day of the season we had 12 vendors..

## **Laura Terway**

---

**From:** Nancy Busch  
**Sent:** Thursday, April 14, 2011 9:30 AM  
**To:** Laura Terway  
**Subject:** RE: Oregon City Farmers Market

There are no major issues with the downtown Wednesday Market. The citing and towing of vehicles is never popular. It is the trade off for having the market in the public right of way. Wednesday happens to be one of the busiest days downtown, 8th street is also a very congested street.

Nancy Busch  
[nbusch@orccity.org](mailto:nbusch@orccity.org)  
Code Enforcement Manager  
PO Box 3040  
320 Warner Milne Rd.  
Oregon City, Oregon 97045  
503-496-1571 Direct phone  
503-657-0891 City phone  
503-657-6629 Fax  
Website: [www.orccity.org](http://www.orccity.org)

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-----Original Message-----

## COMMERCIAL LEASE

**DATE:** January 27, 2011

**BETWEEN:** City of Oregon City (Agency)  
625 Center Street  
Oregon City, Oregon 97045 ("Landlord")

**AND:** Jackie Hammond-Williams  
Oregon City Farmer's Market  
\_\_\_\_\_  
Oregon City, Oregon 97045 ("Tenant")

### RECITALS

A. Landlord owns a certain parcel of real property located at the intersection of 12th Street/McLoughlin Blvd./Main Street, more specifically identified as Tax Map 2-2E-30DD, Tax Lots 4800 and 4900, referred to as the **12th Street Staging Area**. This property is identified on a property map attached as Exhibit A (the "Staging Area") and is a vacant lot.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties, intending to be legally bound, agree as follows:

### AGREEMENT

#### 1. NEW LEASE AGREEMENT.

**1.1. New Lease.** In consideration of the covenants and agreements herein contained to be paid, kept and faithfully performed by Tenant, Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord, the Staging Area, on the terms and conditions stated herein.

**1.2. Term.** The term of this Lease shall be for a period of two years, commencing on May 1, 2010 and lasting through **April 2012**.

**1.3 Usage Dates and Hours.** Use by the Tenant shall occur each year on Wednesdays during the months of May through October from 1:00 PM to 8:00 PM, and on very other Saturday, during the months of November through April from 8:00 AM to 3:00 PM.

**1.4. Possession.** Tenant's right to possession and obligations under this Lease shall commence May 1, 2010.

**1.5. Renewal Terms.** The Lease Agreement is renewable for up to two additional two-year periods. The Tenant shall request of the Landlord no sooner than sixty days prior to the expiration date of the Lease Agreement and no later than thirty days prior to the expiration of the Lease Agreement, their intent to renew the lease. The Landlord shall reply in writing within thirty days of receipt of such written notice.

**1.6 Condition of Staging Area.** Landlord makes no representations or warranties as to the condition of the Staging Area or any improvements thereon or the adequacy of the Staging Area for Tenant's intended use and further advises Tenant that Landlord has not occupied or inspected the Staging Area, and Tenant accepts the Staging Area "AS IS," based solely upon Tenant's own inspection and not upon any representations or warranties by Landlord.



2. **RENT.**

2.1. **Base Rent.** During the Term of this Lease, Tenant shall pay the following monthly base rent to Landlord for the Staging Area: **\$0 (zero dollars).**

2.2. **Security Deposit.** No security deposit is required for this Lease.

2.3. **Additional Rent.** All taxes, insurance costs, and utility charges that Tenant is required to pay by this Lease, and any other sum that Tenant is required to pay to Landlord or third parties, shall be additional rent.

3. **USE OF STAGING AREA.**

3.1. **Permitted Use.** The uses of the Staging Area shall be for temporary staging of equipment and vehicles directly associated with the operations of the Oregon City Farmers Market.

3.2. **Restrictions on Use.** In connection with the use of the Staging Area, Tenant shall:

3.2.1 Promptly conform to and comply with, and cause all other persons to conform to and comply with, all laws, ordinances, regulations, directions, rules, and other requirements of all public authorities applicable to the use or occupancy of the Staging Area and, in this respect, promptly correct at Tenant's expense any failure of compliance, and promptly make all required repairs, alterations, and additions.

3.2.2 Refrain from any activity that would make it impossible to insure the Staging Area against casualty, would increase the insurance rate, or would prevent Landlord from taking advantage of any ruling of the Oregon Insurance Rating Bureau, or its successor, allowing Landlord to obtain reduced premium rates for long-term fire insurance policies.

3.2.3 Refrain from any use that would be reasonably offensive to owners or users of neighboring properties or that would tend to create a nuisance or damage the reputation of the Staging Area.

3.2.4 Comply with all rules and regulations as may be adopted and made available to Tenant by Landlord from time to time for the safety, care, cleanliness and orderly operation of the Staging Area and Common Areas.

3.3. **Hazardous Substances.** Tenant shall not cause or permit any Hazardous Substance to be spilled, leaked, disposed of, discharged or otherwise released on or under the Staging Area. Tenant may use or otherwise handle on the Staging Area only those Hazardous Substances typically used or sold in the prudent and safe operation of the business specified in Section 3.1; provided, however, if the Tenant uses or handles Hazardous Substances on the Staging Area in the operation of the business specified in Section 3.1, Tenant shall assume full and complete responsibility therefore and all liability and expense relating thereto or arising therefrom. Tenant may store such Hazardous Substances on the Staging Area only in quantities necessary to satisfy Tenant's reasonably anticipated needs. Tenant shall comply with all Environmental Laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used, handled, or stored on the Staging Area. Upon the expiration or termination of this Lease, Tenant shall, at Tenant's sole expense, remove all Hazardous Substances from the Staging Area. If Tenant breaches the obligations stated in this Section 3.3, or if the presence of Hazardous Materials on the Staging Area caused or permitted by Tenant results in contamination of the Staging Area, then Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including without limitation diminution in value of the Staging Area, damages for the loss or restriction on the use of rentable or usable space or of any adverse impact on marketing of space on the Staging Area, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or after the lease term as a result of such contamination. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remediation, removal or restoration work required by any federal, state or local governmental agency, political subdivision, lender or buyer because of Hazardous Material present in the soil or groundwater on or under the Staging Area, diminution in value of the Staging Area, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Staging Area, damages arising from any adverse impact on marketing of space in the Staging Area, and sums paid in

settlement of claims, attorneys' fees, consultant fees, laboratory fees and expert fees. Without limiting the foregoing, if the presence of any Hazardous Materials on the Staging Area caused or permitted by Tenant results in any contamination of the Staging Area, Tenant shall promptly take all actions, at its sole expense, as are necessary to return the Staging Area to the condition existing prior to the contamination of the Staging Area by any such Hazardous Materials. Tenant will deliver to Landlord copies of any documents received from, or sent by Tenant to, the United States Environmental Protection Agency and/or any state, county or municipal environmental or health agency concerning the Tenant's operations on the Staging Area. The term Environmental Law shall mean any federal, state, or local statute, regulation, or ordinance or any judicial or other governmental order pertaining to the protection of health, safety or the environment. The term Hazardous Substance shall mean any hazardous, toxic, infectious or radioactive substance, waste, and material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

**3.4. Continuity of Use.** Tenant shall occupy the Staging Area for the purpose stated in Section 3.1 and at the times stated in Section 1.3.

#### **4. REPAIRS AND MAINTENANCE.**

**4.1. Landlord Has No Obligations.** Landlord shall be under no obligation to make or perform any repairs or maintenance, or any replacements, alterations, or improvements on the Staging Area.

**4.2. Tenant's Obligations.** Tenant shall, at Tenant's sole cost and expense, maintain and keep the Staging Area, and all improvements now located or hereafter placed thereon, in repair, operating condition, working order and appearance during the entire term of this Lease which shall be equal to or better than at the commencement of the Lease. Tenant shall, at Tenant's sole cost and expense, perform and be responsible for all repairs, maintenance, alterations and replacements to the Staging Area.

**4.3. Reimbursement for Repairs Assumed.** If Tenant fails or refuses to make repairs that are required by this Section 4, Landlord may at its option make the repairs on Tenant's behalf and charge the actual costs of repairs to Tenant. Such expenditures by Landlord shall be reimbursed by Tenant on demand together with interest at the rate of nine percent (9%) per annum from the date of expenditure by Landlord.

**4.4. Inspection of Staging Area.** Landlord shall have the right to inspect the Staging Area at any reasonable time or times to determine the necessity of repair.

#### **5. ALTERATIONS.**

**5.1. Alterations Prohibited Without Landlord's Consent.** Tenant shall make no improvements or alterations on the Staging Area of any kind without first obtaining Landlord's written consent.

**5.2. Alterations With Landlord's Consent.** In the event Tenant desires to alter or further improve any portion of the Staging Area, Tenant shall first submit complete final plans, specifications, site plans, drawings, schedules, and cost estimates for the proposed alteration and improvement and obtain Landlord's written consent before proceeding to do or permit any work or to order any services or materials with respect to such work. As a condition of granting consent, among other conditions, Landlord may require Tenant to provide a construction and completion bond or other security in an amount and of a nature satisfactory to Landlord to cover the proposed costs of construction of the proposed alterations or improvements. All alterations and improvements constructed by or for Tenant shall be completed by reputable Oregon licensed contractors in a good and workmanlike manner, lien-free, and in strict compliance with plans, specifications, and drawings approved beforehand in writing by Landlord as provided above, and in strict compliance with all applicable laws and building codes. No approval by Landlord shall be deemed a representation or warranty of Landlord that the approved items or conduct are otherwise lawful, safe, or appropriate, or relieve Tenant from strict compliance with all other provisions of this Lease and all applicable law.

**5.3. Ownership and Removal of Alterations.** All improvements and alterations performed on the Staging Area by either Landlord or Tenant shall be the property of Landlord when installed. Improvements and alterations installed by Tenant shall, at Landlord's option, be removed by Tenant upon expiration or earlier

termination of this Lease and the Staging Area restored unless the applicable Landlord's consent specifically provides otherwise.

**5.4. Liens.** Except with respect to activities for which Landlord is responsible, Tenant shall pay as due all claims for work done on and for services rendered or material furnished to the Staging Area, and shall keep the Staging Area free from any liens. If Tenant fails to pay any such claims or to discharge any lien, Landlord may at its option do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of nine percent (9%) per annum from the date expended by Landlord and shall be payable on demand. Such action by Landlord shall not constitute a waiver of any right or remedy which Landlord may have on account of Tenant's default.

## **6. INSURANCE.**

**6.1. Personal Property Insurance.** Tenant shall, at Tenant's own expense, carry insurance insuring the property of Tenant on the Staging Area against such risks.

**6.2. Waiver of Subrogation.** Neither party shall be liable to the other (or to the other's successors or assigns) for any loss or damage and in the event of insured loss, neither party's insurance company shall have a subrogated claim against the other. This waiver shall be valid only if the insurance policy in question expressly permits waiver of subrogation or if the insurance company agrees in writing that such a waiver will not affect coverage under the policies. Each party agrees to use best efforts to obtain such an agreement from its insurer if the policy does not expressly permit a waiver of subrogation.

## **7. TAXES; UTILITIES.**

**7.1. Real Property Taxes.** Not applicable.

**7.2. Property Taxes.** Not applicable.

**7.3. Special Assessments.** Not applicable.

**7.4. Contest of Taxes.** Not applicable.

**7.5. Payment of Utility Charges.** Not applicable.

## **8. DAMAGE OR DESTRUCTION.**

### **8.1. Definitions.**

**8.1.1** "Staging Area Partial Damage" shall herein mean damage or destruction to the Staging Area to the extent that the cost of repair is less than fifty percent (50%) of the then replacement cost of the Staging Area.

**8.1.2** "Staging Area Total Destruction" shall herein mean damage or destruction to the Staging Area to the extent that the cost of repair is fifty percent (50%) or more of the then replacement cost of the Staging Area.

**8.1.3** "Insured Loss" shall herein mean damage or destruction which was caused by an event required to be covered by the insurance described in Section 6 above.

**8.2. Partial Damage - Insured Loss.** Subject to the provisions of Sections 8.4, 8.5 and 8.6, if at any time during the term of this Lease there is damage which is an Insured Loss and which falls into the classification of Staging Area Partial Damage, then Landlord shall, at Landlord's expense, repair such damage, but not Tenant's fixtures, equipment or tenant improvements, as soon as reasonably possible and this Lease shall continue in full force and effect.

**8.3. Partial Damage - Uninsured Loss.** Subject to the provisions of Sections 8.4, 8.5 and 8.6, if at any time during the term of this Lease there is damage which is not an Insured Loss and which falls within the classification of Staging Area Partial Damage, unless caused by a negligent or willful act of Tenant (in which event Tenant shall make the repairs at Tenant's expense), Landlord may at Landlord's option either (i) repair such damage as soon as reasonably possible at Landlord's expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to Tenant within thirty (30) days after the date of the occurrence of such damage of Landlord's intention to cancel and terminate this Lease. Tenant shall have the right within ten (10) days after the receipt of such notice to give written notice to Landlord of Tenant's intention to repair such damage at Tenant's expense, without reimbursement from Landlord, in which event this Lease shall continue in full force and effect, and Tenant shall proceed to make such repairs as soon as reasonably possible. If Tenant does not give such notice within such 10-day period this Lease shall be cancelled and terminated as of the date of the occurrence of such damage.

**8.4. Total Destruction.** If at any time during the term of this Lease there is damage, whether or not an Insured Loss (including destruction required by any authorized public authority), which falls into the classification of Staging Area Total Destruction, this Lease shall automatically terminate as of the date of such total destruction.

**8.5. Abatement of Rent.** In the event of damage described in Sections 8.2 or 8.3, and Landlord or Tenant repairs or restores the Staging Area pursuant to the provisions of this Section 8, the rent payable hereunder for the period during which such damage, repair or restoration continues shall be abated in proportion to the degree to which Tenant's use of the Staging Area is impaired, except that there shall be no rent abatement where the damage occurred as a result of the fault of Tenant. Except for abatement of rent, if any, Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration.

**8.6. Waiver.** Landlord and Tenant waive the provisions of any statutes which relate to termination of leases when leased property is destroyed and agree that such event shall be governed by the terms of this Lease.

**9. CONDEMNATION.**

Not applicable.

**10. LIABILITY INSURANCE AND INDEMNITY.**

**10.1. Liability Insurance.** None.

**10.2. Indemnification.** Neither Landlord (nor its members, directors, officers, agents, servants, employees, successors or assigns), or any holder of any deed of trust or mortgage, shall be liable to Tenant, or to Tenant's employees, agents, invitees, licensees, contractors, or visitors, or to any other person, for any injury to person or damage to property or for consequential damages of any nature on or about the Staging Area (i) caused by third parties, (ii) caused by any act or omission of Tenant, its agents, servants, or employees, or of any other persons entering upon the Staging Area under express or implied invitation by Tenant, or (iii) caused by the condition of the Staging Area or the improvements located thereon or the failure or cessation of any service provided by Landlord (including security service and devices). Tenant agrees to indemnify, defend, and hold harmless Landlord (and its members, directors, officers, agents, servants, employees, successors and assigns), and any holder of any deed of trust or mortgage, of and from any and all liability, damage, expenses, attorney's fees, causes of actions, suits, claims or judgments, arising out of or connected with (i) Tenant's use, occupancy, management, or control of the Staging Area, (ii) any failure of Tenant to comply with the terms of this Lease, and (iii) the acts or omissions of Tenant, its agents, officers, directors, employees, or invitees. Tenant shall, at its own cost and expense, defend any and all suits which may be brought against Landlord (or its members, directors, officers, agents, servants, employees, successors or assigns) either alone or in conjunction with others upon any such above mentioned cause or claim, and shall satisfy, pay, and discharge any and all judgments that may be recovered against any of them in any such action or actions in which any of them may be a party defendant. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons, in, upon or about the Staging Area arising from any cause and Tenant hereby waives all claims in respect thereof against Landlord. The provisions of this Section 10.2 shall survive the expiration or earlier termination of this Lease.

**11. QUIET ENJOYMENT; MORTGAGE PRIORITY.**

**11.1. Quiet Enjoyment.** Landlord warrants that it is the owner of the Staging Area and will defend Tenant's right to quiet enjoyment of the Staging Area from the lawful claims of all persons during the Lease term.

**11.2. Estoppel Certificate.** Tenant will, within ten (10) days after notice from Landlord, execute and deliver to Landlord a certificate stating whether or not this Lease has been modified and is in full force and effect and specifying any modifications or alleged breaches by Landlord. The certificate shall also state the amount of monthly base rent, the dates to which rent has been paid in advance, and the amount of any security deposit or prepaid rent. Failure to deliver the certificate within the specified time shall be conclusive upon Tenant that this Lease is in full force and effect and has not been modified except as represented in the notice requesting the certificate.

**12. ASSIGNMENT AND SUBLETTING.**

**12.1. Landlord's Consent.** Tenant shall not, either voluntarily or by operation of law, sell, assign or transfer this Lease or sublet the Staging Area or any part thereof, or assign any right to use the Staging Area or any part thereof (each a "Transfer") without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion. Any attempt to do so without such prior written consent shall not be void and, at Landlord's option, shall terminate this Lease. If Tenant requests Landlord's consent to any Transfer, Tenant shall promptly provide Landlord with a copy of the proposed agreement between Tenant and its proposed transferee, which agreement must provide that the transferee expressly assumes and agrees in writing to be bound by and directly responsible for all of Tenant's obligations hereunder, and with all such other information concerning the business and financial affairs of such proposed transferee as Landlord may request. Landlord may withhold such consent if the proposed transferee (i) is unsatisfactory to Landlord as to credit, net worth, character and business standing, (ii) is a person or entity whose possession of the Staging Area would be inconsistent with Landlord's commitments with other tenants or with the mix of uses Landlord desires at the Property, or (iii) will not occupy the Staging Area for the use authorized under this Lease. Landlord's consent to any such Transfer shall in no event release Tenant from its liabilities or obligations hereunder nor relieve Tenant from the requirement of obtaining Landlord's prior written consent to any further Transfer. Landlord's acceptance of rent from any other person shall not be deemed to be a waiver by Landlord of any provision of this Lease or a consent to any Transfer.

**12.2. Involuntary Assignment in Bankruptcy.** If this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, 11 U.S.C. Section 101, et seq. (the "Bankruptcy Code") any and all moneys or other consideration payable or otherwise to be delivered to Landlord shall be and remain the exclusive property of Landlord and shall not constitute property of the Tenant or of the estate of Tenant within the meaning of the Bankruptcy Code. Any and all moneys or other considerations constituting Landlord's property shall be held in trust for the benefit of Landlord and be promptly paid or delivered to Landlord. Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code, shall be deemed without further act or deed to assume all of the obligations arising under this Lease. Any such assignee shall upon demand execute and deliver to Landlord an instrument confirming such assumption.

**12.3. Payment to Landlord and Termination of Lease.**

**12.3.1** Landlord may, as a condition to its consideration of any request for consent to a proposed Transfer, impose a fee to cover Landlord's administrative and legal expenses in connection therewith. Such fee shall (i) be payable by Tenant upon demand, (ii) include all legal fees incurred by Landlord, and (iii) be retained by Landlord regardless of whether such consent is granted.

**12.3.2** If any such proposed Transfer provides for the payment of, or if Tenant otherwise receives, rent, additional rent or other consideration for such Transfer which is in excess of the rent and all other amounts which Tenant is required to pay under this Lease (regardless of whether such excess is payable on a lump sum basis or over a term), then in the event Landlord grants its consent to such proposed Transfer, Tenant shall pay Landlord the amount of such excess as it is received by Tenant. Any violation of this paragraph shall be deemed a material and noncurable breach of this Lease.



**12.3.3** Landlord shall have the option in lieu of granting consent to the Transfer, of terminating this Lease and releasing Tenant from its remaining obligations hereunder. The option granted to Landlord under this paragraph must be exercised within thirty (30) days after Landlord's receipt of all information concerning such proposed Transfer which Tenant is required to provide pursuant to Section 12.1.

**12.3.4** If Tenant is a corporation, an unincorporated association, a partnership, a limited partnership, or a limited liability company, the transfer, assignment or hypothecation of any stock or interest in such entity in the aggregate in excess of twenty-five percent shall be deemed a Transfer of this Lease within the meaning and provisions of this Section 12.

**12.4. Effect of Violation.** Any attempted transfer in violation of the requirements of this Section 12 shall be null and void and, at the option of Landlord, will cause termination of this Lease.

**12.5. Effect of Consent.** Consent by Landlord to one transfer shall not constitute a consent to any further transfer. In the absence of an express written agreement executed by Landlord releasing Tenant, no transfer by Tenant shall act as a release of Tenant or any personal guarantor of this Lease, who shall remain primarily liable under this Lease, and any subsequent amendment of this Lease or forbearance by Landlord shall not release the Tenant or any personal guarantor from such liability.

**13. DEFAULT.** The following shall be events of default:

**13.1. Default in Rent.** Failure of Tenant to pay any rent or other charge within ten (10) days after it is due.

**13.2. Default in Other Covenants.** Failure of Tenant to comply with any term or condition or fulfill any obligation of this Lease (other than the payment of rent or other charges) within twenty (20) days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the 20-day period, this provision shall be complied with if Tenant begins correction of the default within the 20-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

**13.3. Insolvency.** Insolvency of Tenant; an assignment by Tenant for the benefit of creditors; the filing by Tenant of a voluntary petition in bankruptcy; an adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant; the filing of any involuntary petition of bankruptcy and failure of Tenant to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levying of execution on the leasehold interest and failure of Tenant to secure discharge of the attachment or release of the levy of execution within ten (10) days shall constitute a default, provided, however, in the event that any provision of this Section 13.3 is contrary to any applicable law, such provision shall be of no force or effect.

**13.4. Abandonment.** Failure of Tenant for seven (7) days or more to occupy the Staging Area for the purposes permitted under this Lease, unless such failure is excused under other provisions of this Lease.

**14. REMEDIES ON DEFAULT.**

**14.1. Termination.** In the event of a default this Lease may be terminated at the option of Landlord by written notice to Tenant. Whether or not this Lease is terminated by the election of Landlord or otherwise, Landlord shall be entitled to recover damages from Tenant for the default, and Landlord may reenter, take possession of the Staging Area, and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages and without having accepted a surrender.

**14.2. Reletting.** Following reentry or abandonment, Landlord may re-let the Staging Area and in that connection may make any suitable alterations or refurbish the Staging Area, or both, or change the character or use of the Staging Area, but Landlord shall not be required to relet for any use or purpose other than that specified in this Lease, or to any tenant that Landlord may reasonably consider objectionable. Landlord may relet all or part of the Staging Area, alone or in conjunction with other properties, for a term longer or shorter than the term of this Lease, upon any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concession.

**14.3. Damages.** In the event of termination or retaking of possession following default, Landlord shall be entitled to recover immediately, without waiting until the due date of any future rent or until the date fixed for expiration of the lease term, the following amounts as damages:

**14.3.1** The loss of rental from the date of default until a new tenant is secured and paying out.

**14.3.2** The reasonable costs of reentry and reletting including without limitation the cost of any cleanup, refurbishing, removal of Tenant's property and fixtures, costs incurred under Section 14.5, or any other expense occasioned by Tenant's default, including but not limited to, any remodeling or repair costs, attorney fees, court costs, broker commissions, and advertising costs.

**14.3.3** Any excess of the value of the rent and all of Tenant's other obligations under this Lease over the reasonable expected return from the Staging Area for the period commencing on the earlier of the date of trial or the date the Staging Area are relet, and continuing through the end of the lease term. The present value of future amounts will be computed using a discount rate equal to the prime loan rate of major Oregon banks in effect on the date of trial.

**14.4. Right to Sue More Than Once.** Landlord may sue periodically to recover damages during the period corresponding to the remainder of the Lease term, and no action for damages shall bar a later action for damages subsequently accruing.

**14.5. Landlord's Right to Cure Defaults.** If Tenant fails to perform any obligation under this Lease, Landlord shall have the option to do so upon written notice to Tenant. All of Landlord's expenditures to correct the default shall be reimbursed by Tenant on demand with interest at the rate of nine percent (9%) per annum from the date of expenditure by Landlord. Such action by Landlord shall not waive any other remedies available to Landlord because of the default.

**14.6. Remedies Cumulative.** The foregoing remedies shall be in addition to and shall not exclude any other remedy available to Landlord under the terms of this Lease or applicable law.

## **15. SURRENDER AT EXPIRATION.**

**15.1. Condition of Staging Area.** Upon expiration of the lease term or earlier termination on account of default, Tenant shall surrender the Staging Area in first-class condition. Alterations constructed by Tenant with permission from Landlord shall not be removed or restored to the original condition unless the terms of permission for the alteration so require. Tenant's obligations under this Section shall be subordinate to the provisions of Section 8 relating to destruction.

### **15.2. Fixtures.**

**15.2.1** All fixtures placed upon the Staging Area during the Term, other than Tenant's trade fixtures, shall, at Landlord's option, become the property of Landlord. If Landlord so elects, Tenant shall remove any or all fixtures that would otherwise remain the property of Landlord, and shall repair any physical damage resulting from the removal. If Tenant fails to remove such fixtures, Landlord may do so and charge the cost to Tenant with interest at the legal rate from the date of expenditure.

**15.2.2** Prior to expiration or other termination of the Term Tenant shall remove all furnishings, furniture, and trade fixtures that remain its property. If Tenant fails to do so, this shall be an abandonment of the property, and Landlord may retain the property and all rights of Tenant with respect to it shall cease or, by notice in writing given to Tenant within twenty (20) days after removal was required, Landlord may elect to hold Tenant to its obligation of removal. If Landlord elects to require Tenant to remove, Landlord may effect a removal and place the property in public storage for Tenant's account. Tenant shall be liable to Landlord for the cost of removal, transportation to storage, and storage, with interest at the legal rate on all such expenses from the date of expenditure by Landlord.



**15.3. Holdover.**

**15.3.1** If Tenant does not vacate the Staging Area at the time required, Landlord shall take steps to have Tenant evicted from the property. Failure of Tenant to remove fixtures, furniture, furnishings, or trade fixtures that Tenant is required to remove under this Lease shall constitute a failure to vacate.

**16. MISCELLANEOUS.**

**16.1. Nonwaiver.** Waiver by either party of strict performance of any provision of this Lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision. No waiver shall be binding unless executed in writing by the party making the waiver.

**16.2. Attorney Fees.** In the event this Lease is referred to an attorney for collection of any sums due hereunder, or to enforce any other obligation of Tenant, Tenant agrees to pay Landlord's reasonable attorney fees even though no suit or action is filed thereon. In the event any suit, action, or other legal proceeding is instituted to construe, interpret or enforce the terms of this Lease (including any bankruptcy, insolvency or similar proceeding affecting creditor's rights generally), the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney fees at trial or on appeal of such suit or action, and on petition for review and for collection of any judgment, in addition to all other sums provided by law.

**16.3. Notices.** Any notice or other communication required or permitted under this Agreement shall be in writing and shall be effective and deemed received the following business day when sent by a recognized overnight delivery service, upon the date of transmission when sent by facsimile or e-mail (electronically confirmed), on the third business day after the date of mailing when mailed by certified mail, postage prepaid, return receipt requested, from within the United States, or on the date of actual delivery, whichever is the earliest, and shall be sent to the parties at the addresses shown on the first page of this Agreement, or at such other address as either party may hereafter designate by written notice to the other.

**16.4. Succession.** Subject to the above-stated limitations on transfer of Tenant's interest, this Lease shall be binding on and inure to the benefit of the parties and their respective heirs, personal representatives, successors and assigns.

**16.5. Recordation.** This Lease shall not be recorded without the written consent of Landlord.

**16.6. Entry for Inspection.** Landlord shall have the right to enter upon the Staging Area at any time to determine Tenant's compliance with this Lease, to make necessary repairs to the Staging Area or to show the Staging Area to any prospective tenant or purchaser, and in addition shall have the right, at any time during the last 12 months of the term of this Lease, to place and maintain upon the Staging Area notices for leasing or selling of the Staging Area.

**16.7. Interest on Rent and Other Charges.** Any rent or other payment required of Tenant by this Lease shall, if not paid within ten (10) days after it is due, bear interest at the rate of nine percent (9%) per annum (but not in any event at a rate greater than the maximum rate of interest permitted by law) from the due date until paid.

**16.8. Proration of Rent.** In the event of commencement or termination of this Lease at a time other than the beginning or end of one of the specified rental periods, then the rent shall be prorated as of the date of commencement or termination and in the event of termination for reasons other than default, all prepaid rent shall be refunded to Tenant or paid on its account.

**16.9. Time of Essence.** Time is of the essence of the performance of each of Tenant's obligations under this Lease.

**16.10. Entire Agreement.** This document is the entire, final and complete agreement of the parties related to the subject matter hereof and supersedes and replaces all written and oral agreements heretofore made or existing by and between the parties or their representatives with respect to such subject matter. Tenant hereby acknowledges that neither Landlord, nor any of Landlord's employees or agents, have made any oral or written

warranties or representations to Tenant relative to the condition or use by Tenant of the Staging Area. Tenant acknowledges that Tenant assumes all responsibility regarding the legal use and adaptability of the Staging Area and the compliance thereof with all applicable laws and regulations in effect during the term of this Lease.

**16.11. Merger.** The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, or termination by Landlord, shall not work a merger, and shall, at the option of Landlord, terminate all or any existing subtenancies or may, at the option of Landlord, operate as an assignment to Landlord of any or all of such subtenancies.

**16.12. Transfer of Landlord's Interest.** In the event of any transfer or transfers of Landlord's interest in the Staging Area, other than a transfer for security purposes only, Landlord shall be automatically relieved of any and all obligations and liabilities on the part of Landlord accruing from and after the date of such transfer and Tenant agrees to attorn to the transferee who shall assume all Landlord's obligations hereunder.

**16.13. Landlord's Consent.** Any consent required by Landlord under this Lease shall be valid only if granted in writing and, unless otherwise specifically provided herein, may be withheld or conditioned by Landlord in its sole and absolute discretion.

**16.14. No Partnership.** Landlord is not by virtue of this Lease a partner or joint venturer with Tenant in connection with the business carried on under this Lease and shall have no obligation with respect to Tenant's debts and other liabilities.

**16.15. Severability.** In the event any provision or portion of this Lease is held to be unenforceable or invalid by any court of competent jurisdiction, the remainder of this Lease shall remain in full force and effect and shall in no way be affected or invalidated thereby.

**16.16. Amendment.** No amendment or modification of this Lease shall be valid unless in writing and signed by duly authorized representatives of both parties.

**16.17. Governing Law and Venue.** This Lease shall be interpreted, construed and governed by and under the laws of the State of Oregon as to interpretation, enforcement, validity, construction, and effect and in all other respects, without regard to the choice of law provisions thereof. Each of the parties submits to the jurisdiction of any state or federal court sitting in Portland, Oregon in any action or proceeding arising out of or relating to this Lease and agrees that all claims in respect of the action or proceeding may be heard and determined in any such court. Each party also agrees not to bring any action or proceeding arising out of or relating to this Lease in any other court. Each of the parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety, or other security that might be required of any other party with respect thereto. Each party agrees that a final judgment in any action or proceeding so brought shall be conclusive and may be enforced by suit on the judgment or in any other manner provided by law or in equity.

**16.18. Joint and Several Liability.** Each individual person and each entity signing this Lease shall be jointly and severally liable for payment and performance of all of Tenant's obligations hereunder.

**16.19. Captions.** The caption headings of the sections and subsections of this Lease are for convenience of reference only and are not intended to be, and should not be construed as, a part of this Lease.

**16.20. Counterparts.** This Lease may be executed in any number of counterparts, each of which shall be deemed to be an original instrument and all of which together shall constitute a single agreement.

**16.21. Use of Staging Area by Landlord.** Landlord shall have the right to access and use the Staging Area for other uses identified by the landlord as in the best interest of the landlord. This includes the right of the Landlord to use or allow others in contract with the landlord to use the lot for construction project staging and/or parking.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed in duplicate on the day and year first above written.

**LANDLORD:**

CITY OF OREGON CITY

By: David M. Frasher  
David M. Frasher  
City Manager

Date

By: Nancy J.T. Kraushaar  
Nancy J.T. Kraushaar, P.E.  
City Engineer/Public Works Director

02-24-2011  
Date

**TENANT:**

JACKIE HAMMOND-WILLIAMS  
OREGON CITY FARMER'S MARKET

Jackie Hammond-Williams  
Date 2/23/11

**EXHIBIT**

Exhibit A – Description of Property

**EXHIBIT A**  
**TO**  
**COMMERCIAL LEASE**  
**Description of Property**

Tax Map 2-2E-30DD, Tax Lots 4800 and 4900 in the County of Clackamas and State of Oregon.



P:\kgiffin\Special Events\Farmers Market Downtown\Parking Lot Lease 010511.doc



# OREGON CITY

## PUBLIC WORKS

625 Center Street | Oregon City, OR 97045  
Ph: (503) 657-0891 | Fax: (503) 657-7892  
Inspection Line: (503) 496-1548 | Cell: (503) 793-1630

## PUBLIC WORKS PERMIT

THIS PERMIT EXPIRES: ~~11/29/2010~~ \*

Permit No: **PW-10-0011**

Status: **issued**

Permission is hereby requested to encroach into public right of way or public easement(s) to perform work as set forth below. It is understood that this application is limited to the work described herein and that all work is to be done in compliance with the provisions shown on the back of this application and with all other applicable rules, regulations and standards of the City; and that the permittee assumes full responsibility for said compliance, for acceptability of the work, and for repair or replacement thereof if defective, and for repair or replacement of any existing improvement damaged by this work.

**Job Address:** 207 8TH ST  
OREGON CITY OR 97045  
**Parcel No.** 2-2E-31AB-04000  
**Owner's Name:** THOMAS E BUSCH  
**Submitted by:** TIMOTHY & JACQUELINE  
HAMMOND-WILLIAMS  
**Owner's Address:** 19428 SE MARCIA CT  
MILWAUKIE OR 97267

### Permit Description:

Revocable street closure permit: Wednesday 1pm - 8pm (with City Barricades and/or as directed) starting June 2nd, 2010 through October 27, 2010 for the Farmer's Market located on 8th between Main & Railroad. Coordinate with the City/Public Works concerning off-site parking, loading, storage, lease, electrical power access and closure/barricade issues. See CU10-02. \*

**Fees:** JACKIE (503) 734-0192

Description	Fee Amount	Description	Fee Amount
4316 ROW Reinspect	0.00	4316 Right of Way Permit fee	40.00
		<b>Total fees:</b>	<b>\$ 40.00</b>

**Staff Comments:** SEE RW10-0068 (SATURDAY AM WINTER FARMER'S MARKET) 11/01/10

### 24 HRS. ADVANCE NOTICE MUST BE GIVEN FOR INSPECTION

- Exclusive of Saturdays, Sundays and holidays. Forms and subgrade must be inspected and approved before ordering Portland Cement Concrete or Asphaltic Concrete. Failure to obtain approval before proceeding with work may be cause for rejection. Any work to be done on a Saturday or holiday **MUST** be approved by the City at least 24 hours in advance.

CONSTRUCTION WATER SHALL NOT BE TAKEN FROM A FIRE HYDRANT UNTIL A FIRE HYDRANT PERMIT HAS BEEN OBTAINED FROM PUBLIC WORKS (503) 657-8241.

CUSTOMER NO.: **009718**

ISSUED BY:   
(CITY ENGINEER OR AUTHORIZED REPRESENTATIVE)

DATE: 6/2/2010

RECEIPT NO.: 06- **134966**

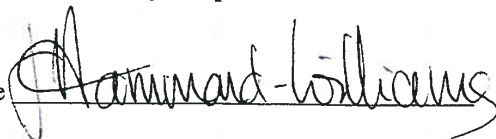
SEE THE SECOND PAGE OF THIS PERMIT FOR CONDITIONS AND PROVISIONS.



THIS PERMIT PW/0-0011 IS ISSUED AND ACCEPTED SUBJECT TO THE FOLLOWING PROVISIONS

1. Permittee shall save, keep, and hold harmless the City of Oregon City, its officers, or agents from all damages, costs or expenses in law or equity that may at any time arise or be set up because of damage to property, or of personal injury received by reason of or in the course of performing work authorized by this permit which may be occasioned by any act or omission of the permittee, his agents or employees. The City will not be liable for any accident, loss or damage to the work prior to its completion and acceptance.
2. Permit is void 60 days after date of issue unless otherwise noted. An extension of time may be requested not less than 24 hours prior to expiration.
3. **Concrete curb, sidewalk, gutters, driveway approaches, alley entrances, etc. shall be constructed per City Standards (see OC Web Site for various standards <http://www.orcity.org/public-works/standards.htm> )**
4. This permit shall be kept at the work site.
5. Work authorized by this permit includes removal and replacement of improvements as necessary.
6. Oregon law requires that the rules adopted by Oregon Utility Notification Center be followed. Those rules are set forth in OAR 952-001-0010 to 0090. You may obtain copies of the rules by calling the center or accessing via Internet at [www.callbeforeyoudig.org](http://www.callbeforeyoudig.org). Call before you dig - Portland Metro Area 503-246-6699.
7. Permittee shall adequately safeguard all excavations and obstructions with barricades, lights, and/or other suitable safety devices per the current "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES", Federal Highway Administration. If the permittee fails to adequately safeguard the public, the City shall place barricades and lights at the expense of the permittee. Placement of safety devices by the City shall not relieve the permittee from liability.
8. Permittee shall coordinate **24 hours in advance of any street closure with Oregon City Code Enforcement: (503) 657-0891** for each day any street is to be closed.
9. Access to fire hydrants shall be maintained.
10. Permittee shall be responsible for preserving construction survey stakes and marks for the duration of their usefulness.
11. Any work done without proper inspection will be subject to rejection. Permittee shall request inspections when:  
(1) forms are complete/ready for concrete; (2) subgrade is compacted and ready for pavement or concrete; (3) excavation is started; (4) sewers are ready for testing; (5) backfill compaction is in progress; (6) temporary resurfacing has been placed; (7) all work authorized by this permit has been completed; (8) any time assistance is needed to assure compliance with City requirements. Reinspections required due to site or work not being ready for inspection when scheduled, or for the replacement of defective work, shall be done at the expense of the permittee.
12. Asphalt pavement, including resurfacing, shall be constructed of Class "B" ODOT asphalt concrete for the roadway.
13. Curbs with depressions for vehicular access will not be accepted until a standard driveway approach has been constructed at each depression. Where none exists, sidewalk adjoining such driveway approaches shall be constructed.
14. Final approval of any work will not be given until construction debris and access material is removed and parkways are graded to conform to the standard street section.
15. Failure to secure permits for previous work or failure to pay fees due on previous permits shall render the applicant, permittee, or employees ineligible for any other City permit until such fees and penalties are paid.
16. Any applicant or contractor who has done work in public rights-of-way not in conformance with City Standard Specifications, Standard Drawings, or Special Provisions, or who violates the City Code shall be ineligible to do work in public rights-of-way until such deficiency has been corrected to the satisfaction of the City Engineer.
17. **Construction hours: Monday-Friday 7am to 6pm, Saturdays 9am to 6pm. NO work shall be done on Sundays.**
18. Metro/Oregon City Business Licenses required as appropriate.
19. **Permittee shall remain responsible for satisfactory workmanship and material for two years after acceptance of improvements authorized by this permit.**

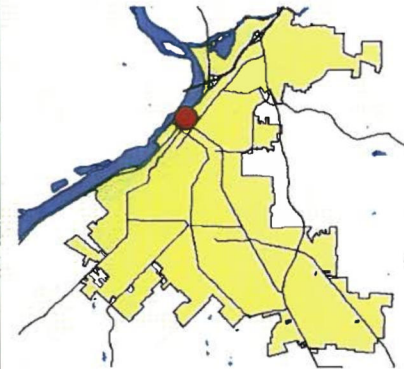
Permittee Signature



rev 10/01/08



## Farmer's Market: 8TH St (between Main & Railroad)



City of Oregon City  
P.O. Box 3040  
625 Center St  
Oregon City, OR 97045  
(503) 657-0891  
[www.orcity.org](http://www.orcity.org)

This map is not suitable for survey, engineering, legal, or navigation purposes. Errors and omissions may exist.

Map created with OCMap 2010

06/04/2010







# OREGON CITY

## Public Works – Development Services

625 Center Street | Oregon City, OR 97045  
Ph: (503) 657-0891 | Fax: (503) 657-7892  
Inspection Line: (503) 496-1548 | Cell: (503) 793-1630

## RIGHT OF WAY PERMIT

THIS PERMIT EXPIRES: ~~12/31/2010~~ \*

Permit No: **RW-10-0068**

Status: **issued**

Permission is hereby requested to encroach into public right of way to perform work as set forth below. It is understood that this application is limited to the work described herein and that all work is to be done in compliance with the provisions shown on the back of this application and with all other applicable rules, regulations and standards of the City; and that the permittee assumes full responsibility for said compliance, for acceptability of the work, and for repair or replacement thereof if defective, and for repair or replacement of any existing improvement damaged by this work.

Job Address: 207 8TH ST  
OREGON CITY OR 97045

### Permit Description:

Saturday AM Farmer's Winter Market revocable street closure permit: 8th St between Main & Railroad from Nov 6, 2010 until April 16, 2011 (7:30am - 3pm). Coordinate with City Public Works & Code Enforcement for off-site parking, loading, storage, lease, electrical power access, restricting metered parking, closure barricades & signage, etc. See CU10-02 / PW10-0011.

Owner's Name: THOMAS E BUSCH  
Submitted by: TIMOTHY & JACQUELINE HAMMOND-WILLIAMS  
Owner's Address: 19428 SE MARCIA CT  
MILWAUKIE OR 97267

### Fees:

Description	Fee Amount	Description	Fee Amount
4316 Right of Way Permit fee		4316 ROW for Code Enforcement	
4316 Temporary Obstruction ROW	40.00	4316 ROW Reinspect	
4616-Parking Meter Fee for ROW			
		Total fees:	<u>\$ 40.00</u>

Staff Comments:

### 24 HRS. ADVANCE NOTICE MUST BE GIVEN FOR INSPECTION

- Exclusive of Saturdays, Sundays and holidays. Forms and subgrade must be inspected and approved before ordering Portland Cement Concrete or Asphaltic Concrete. Failure to obtain approval before proceeding with work may be cause for rejection. Any work to be done on a Saturday or holiday **MUST** be approved by the City at least 24 hours in advance.  
(Normal City work hours)

CONSTRUCTION WATER SHALL NOT BE TAKEN FROM A FIRE HYDRANT UNTIL A FIRE HYDRANT PERMIT HAS BEEN OBTAINED FROM PUBLIC WORKS (503) 657-8241.

CUSTOMER NO.: 009718

ISSUED BY:   
(CITY ENGINEER OR AUTHORIZED REPRESENTATIVE)

DATE: 11/1/2010

RECEIPT NO.: 06- 138990

SEE THE SECOND PAGE OF THIS PERMIT FOR CONDITIONS AND PROVISIONS.



Agenda Item No.  
Meeting Date: 09 May 2011

## COMMISSION REPORT: CITY OF OREGON CITY

TO:	Planning Commission
FROM:	Laura Terway, Planner
PRESENTER:	Laura Terway, Planner
SUBJECT:	SP 11-01: Site Plan and Design Review, WR 11-01: Natural Resource Overlay District and VR 11-01: Variance: The applicant submitted the aforementioned applications in order to install a new utility line and an associated drain line.
Agenda Heading: Public Hearing	
Approved by: Tony Konkol, Community Development Director	

### RECOMMENDED ACTION (Motion):

The Planning Commission approve Site Plan and Design Review (SP 11-01), Variance (VR 11-01) and Natural Resource Overlay District (WR 11-01) with conditions.

### BACKGROUND:

Clackamas County Water Environment Services (WES) operates and maintains two wastewater treatment plants in Clackamas County including the Kellogg Creek Water Pollution Control Plant (WPCP) located in the City of Milwaukie and the Tri-City WPCP located in Oregon City. The Kellogg Creek WPCP is currently receiving wastewater flows from the Clackamas County Sewer District (CCSD) No. 1 in excess of the treatment capacity and does not have room to expand its treatment processes. To reduce wastewater flows directed to the Kellogg Creek WPCP, the proposed development would increase the diversion of raw sewage generated within the District to Tri-City Service District (TCSD). The project will allow future consideration of the decommissioning of the Kellogg Plant and diversion of all flows generated within CCSD No. 1 to the Tri-City WPCP.

Approximately 0.33 miles of the 4.2 mile pipeline is located within Oregon City. The alignment would enter the City on the side of the Oregon City/Gladstone pedestrian bridge and follow the Washington Street right-of-way to Agnes Avenue. A majority of the alignment is within the right-of-way with the exception of a 4-inch emergency drain line which would extend from the public right-of-way to Tri-City property.

### BUDGET IMPACT:

FY(s):  
Funding Source:

### ATTACHMENTS:



**TYPE II - LIMITED LAND USE DECISION  
STAFF REPORT AND NOTICE OF DECISION WITH CONDITIONS OF APPROVAL**

**FILE NO.:** SP 11-01: Site Plan and Design Review  
WR 11-01: Natural Resource Overlay District  
VR 11-01: Variance

Submitted: 2/22/2011  
Complete: 3/23/2011  
120-Day: 7/20/2011

**APPLICANT:** Clackamas County Water Environment Services (WES)  
Dewayne Kliewer  
150 Beavercreek Road  
Oregon City, Oregon 97045

**OWNER(S):** City of Oregon City  
PO Box 3040  
Oregon City, Oregon 97045

Clackamas County Water Environment Services (WES)  
Dewayne Kliewer  
150 Beavercreek Road  
Oregon City, Oregon 97045

**REQUEST:** The applicant submitted the aforementioned applications in order to install a new utility line and an associated drain line.

**LOCATION:** The project would be located within the public right-of-way along Washington Street from the Pedestrian Bridge over the Clackamas River to Agnes Avenue and at 15941 Agnes Avenue, Oregon City (Clackamas County Map 2-2E-20, Tax Lot 503).

**REVIEWER:** Laura Terway, AICP, Planner  
Bob Cullison, Development Services Manager

**RECOMMENDATION:** Approval with Conditions.

**PROCESS:** *Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the City Commission, except upon appeal. Applications evaluated through this process include conditional use permits and Master Plans for which discretion is provided. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission is published and mailed to the applicant, recognized neighborhood association and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission all issues are addressed. The decision of the planning commission is appealable to the city commission, on the record. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to 17.50.290(c) must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal. The city commission decision on appeal from the planning commission is the city's final decision and is appealable to LUBA within twenty-one days of when it becomes final.*

*A city-recognized neighborhood association requesting an appeal fee waiver pursuant to 17.50.290(C) must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal.*

*IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 722-3789.*

## **I. BACKGROUND:**

Clackamas County Water Environment Services (WES) operates and maintains two wastewater treatment plants in Clackamas County including the Kellogg Creek Water Pollution Control Plant (WPCP) located in the City of Milwaukie and the Tri-City WPCP located in Oregon City. The Kellogg Creek WPCP is currently receiving wastewater flows from the Clackamas County Sewer District (CCSD) No. 1 in excess of the treatment capacity and does not have room to expand its treatment processes. To reduce wastewater flows directed to the Kellogg Creek WPCP, the proposed development would increase the diversion of raw sewage generated within the District to Tri-City Service District (TCSD). The project will allow future consideration of the decommissioning of the Kellogg Plant and diversion of all flows generated within CCSD No. 1 to the Tri-City WPCP.

Approximately 0.33 miles of the 4.2 mile pipeline is located within Oregon City. The alignment would enter the City on the side of the Oregon City/Gladstone pedestrian bridge and follow the Washington Street right-of-way to Agnes Avenue. A majority of the alignment is within the right-of-way with the exception of a 4-inch emergency drain line which would extend from the public right-of-way to Tri-City property.

The proposed development is exempt from the Geologic Hazards Overlay, extends above the Floodplain Overlay, and includes disturbance within the Natural Resource Overlay District (NROD). The disturbance within the NROD is mitigated by installation of plantings on adjacent city property. No tree removal is proposed with this development.

### **Surrounding Zoning:**

The surrounding properties are within the “MUD” Mixed Use Downtown District and the “GI” General Industrial District.

### **Traffic Impacts**

The proposal includes installation of utility lines which would not result in a traffic impact.

### **Municipal Code Standards and Requirements:**

The following sections of the Oregon City Municipal Code are applicable to this land use approval:

- Administration and Procedures set forth in Chapter 17.50,
- “MUD” Mixed Use Downtown District in Chapter 17.34,
- Streets Sidewalks and Public Places in Chapter 12.04,
- Public and Street Trees in Chapter 12.08 and
- Tree Protection Standards in Chapter 17.41
- Off-Street Parking and Loading in Chapter 17.52
- Site Plan and Design Review in Chapter 17.62
- Natural Resource Overlay District in Chapter 17.49,
- Flood Management Overlay District in Chapter 17.42,
- Variances in Chapter 17.60 and
- Geologic Hazards in Chapter 17.44

The City Code Book is available on-line at [www.orcity.org](http://www.orcity.org).

## **II. DECISION-MAKING CRITERIA:**

## **CHAPTER 17.34 "MUD" MIXED USE DOWNTOWN DISTRICT**

### **17.34.020 Permitted Uses.**

**Finding: Complies as Proposed.** The applicant proposed to install an underground utility, a use permitted in OCMC 17.29.020.U via OCMC 17.34.020.

### **17.34.030 Conditional Uses.**

**Finding: Not Applicable.** The applicant has not proposed a conditional use.

### **17.34.040 Prohibited Uses.**

**Finding: Not Applicable.** The applicant has not proposed a prohibited use.

### **17.34.050 Pre-Existing Industrial Uses.**

**Finding: Not Applicable.** The applicant has not proposed a pre-existing industrial use.

### **17.34.060.A. Minimum lot area: none.**

**Finding: Not Applicable.** There is no minimum lot area.

### **17.34.060.B. Minimum floor area ratio: 0.30.**

**Finding: Not Applicable.** The applicant has not proposed any above ground work on private property. The above ground work would be located on the Oregon City/Gladstone bridge within the public right-of-way.

### **17.34.060.C. Minimum building height: twenty-five feet or two stories except for accessory structures or buildings under one thousand square feet.**

**Finding: Not Applicable.** The applicant has not proposed any above ground work on private property. The above ground work would be located on the Oregon City/Gladstone bridge within the public right-of-way. The proposed development would not affect the height of the bridge.

### **17.34.060.D. Maximum building height: seventy-five feet, except for the following locations where the maximum building height shall be forty-five feet:**

1. Properties between Main Street and McLoughlin Boulevard and 11th and 16th streets;
2. Property within five hundred feet of the End of the Oregon Trail Center property; and
3. Property within one hundred feet of single-family detached or detached units.

**Finding: Not Applicable.** The applicant has not proposed any above ground work on private property. The above ground work would be located on the Oregon City/Gladstone bridge within the public right-of-way. The proposed development would not affect the height of the bridge.

### **17.34.060.E. Minimum required setbacks, if not abutting a residential zone: none.**

**Finding: Not Applicable.** The applicant has not proposed any above ground work on private property. The above ground work would be located on the Oregon City/Gladstone bridge within the public right-of-way.

### **17.34.060.F. Minimum required interior side yard and rear yard setback if abutting a residential zone: fifteen feet, plus one additional foot in yard setback for every two feet in height over thirty-five feet.**

**Finding: Not Applicable.** The applicant has not proposed any above ground work on private property. The above ground work would be located on the Oregon City/Gladstone bridge within the public right-of-way.

### **17.34.060.G. Maximum Allowed Setbacks.**

1. Front yard: twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.
2. Interior side yard: no maximum.
3. Corner side yard abutting street: twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.
4. Rear yard: no maximum.

5. *Rear yard abutting street: twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.*

**Finding: Not Applicable.** The applicant has not proposed any above ground work on private property. The above ground work would be located on the Oregon City/Gladstone bridge within the public right-of-way.

**17.34.060.H. Maximum site coverage including the building and parking lot: ninety percent.**

**Finding: Not Applicable.** The applicant has not proposed any above ground work on private property. The above ground work would be located on the Oregon City/Gladstone bridge within the public right-of-way.

**17.34.060.I. Minimum landscape requirement (including parking lot): ten percent.**

**Finding:** Please refer to the analysis in OCMC 17.62.050.A.1, which requires a minimum of 15% of the site is landscaped.

**17.34.070 Mixed Use Downtown Dimensional Standards—for Properties Located Within the Downtown Design District.**

**Finding: Not Applicable.** The site is not within the Downtown Design District.

#### **CHAPTER 17.36 “GI” GENERAL INDUSTRIAL DISTRICT**

*17.36.020 - Permitted uses.*

**Finding: Complies as Proposed.** The applicant proposed to install an underground utility, a use permitted in OCMC 17.36.020.L.

*17.36.030 - Conditional uses.*

**Finding: Not Applicable.** The applicant has not proposed a conditional use.

**17.36.040.A Minimum lot area, minimum not required;**

**Finding: Not Applicable.** There is no minimum lot area.

**17.36.040.B Maximum building height, three stories, not to exceed forty feet;**

**Finding: Not Applicable.** The applicant has not proposed any above ground work on private property. The above ground work would be located on the Oregon City/Gladstone bridge within the public right-of-way. The proposed development would not affect the height of the bridge.

**17.36.040.C.1 Minimum setback;**

**Finding: Not Applicable.** The applicant has not proposed any above ground work on private property. The above ground work would be located on the Oregon City/Gladstone bridge within the public right-of-way.

**17.36.040.D Buffer Zone. If a use in this zone abuts or faces a residential or commercial use, a yard of at least twenty-five feet shall be required on the side abutting or facing the adjacent residential use and commercial uses in order to provide a buffer area, and sight obscuring landscaping thereof shall be subject to site plan review. The community development director may waive any of the foregoing requirements if he/she determines that the requirement is unnecessary in the particular case.**

**Finding: Not Applicable.** The applicant has not proposed any above ground work on private property. The above ground work would be located on the Oregon City/Gladstone bridge within the public right-of-way.

**17.36.040.E Outdoor storage within building or yard space other than required setbacks and such occupied yard space shall be enclosed by a sight-obscuring wall or fence of sturdy construction and uniform color or an evergreen hedge not less than six feet in height located outside the required yard, further provided that such wall or fence shall not be used for advertising purposes.**

**Finding: Complies as Proposed.** The applicant has not proposed outdoor storage associated with the development.

#### **CHAPTER 17.62 – SITE PLAN AND DESIGN REVIEW**



**17.62.050.A.1.** *Landscaping, A minimum of fifteen percent of the lot shall be landscaped. Existing native vegetation shall be retained to the maximum extent practicable. All plants listed on the Oregon City Nuisance Plant List shall be removed from the site prior to issuance of a final occupancy permit for the building.*

**Finding: Complies with Condition.** All of the proposed development is located within the public right-of-way with the exception of a 4-inch utility line which would extend onto the Tri-City property. The applicant indicated that the utility alignment would avoid tree removal but did not identify the extent of any shrub or groundcover disturbance. Prior to final the applicant shall submit documentation demonstrating that the disturbance associated with the proposed development on the Tri-City property would not reduce the minimum landscaping onsite below the 15 percent minimum required in 17.62.050.A.1. If the proposed development would result in a reduction of the minimum landscaping to below 15 percent, the applicant shall install replacement trees, shrubs and groundcover equivalent to the existing condition of the development area in quantity and size. The landscaping shall be installed per the standards of the Oregon City Municipal Code. **The applicant can meet this standard through Condition of Approval 1.**

**17.62.050.A.2.** *Vehicular Access and Connectivity.*

**Finding: Not Applicable.** The development proposal does not include an alteration to a vehicular accessway or changes to vehicular connectivity.

**17.62.050.A.3.** *Building structures shall be complimentary to the surrounding area. All exterior surfaces shall present a finished appearance. All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side or rear facades or decking shall be prohibited.*

**Finding: Complies as Proposed.** With the exception of the utility line on the side of the Gladstone/Oregon City pedestrian bridge, the development will be located underground. The bridge currently contains a utility pipe located to one side of the bridge deck and this proposal would add a pipe on the opposite side of the bridge. The proposed pipe would be painted black to provide a finished appearance.

**17.62.050.A.4.** *This standard requires that grading shall be in accordance with the requirements of Chapter 15.48 and the public works stormwater and grading design standards.*

**Finding: Complies with Conditions.** The applicant noted that a minimum amount of grading is required for this project but did not submit a grading plan with the development application. Simple trench repair/replacement outside of the paved area will be necessary on a short portion of the force main in Washington Street right-of-way. The applicant shall coordinate trench repair and surface restoration outside the right-of-way with a Development Services Field Inspector.

The applicant is responsible for this project's compliance with City Engineering Policy 00-01. The policies pertain to any land use decision requiring the applicant to provide any public improvements.

**The applicant can meet this standard through Conditions of Approval 2 and 3.**

**17.62.050.A.5.** *This section requires that development subject to the requirements of the Geologic Hazard overlay district shall comply with the requirements of that district.*

**Finding:** Please refer to the analysis in Chapter 17.44 of this report.

**17.62.050.A.6.** *Drainage shall be provided in accordance with city's drainage master plan, Chapter 13.12, and the public works stormwater and grading design standards.*

**Finding: Not Applicable.** The applicant has not proposed changes to the stormwater system or installation of paving.

**17.62.050.A.7.** *This standard requires the development shall comply with City's parking standards as provided in Chapter 17.52.*

**Finding:** Please refer to the analysis in Chapter 17.52 within this report.



**17.62.050.A.8.** *This section requires that sidewalks and curbs shall be provided in accordance with the city's standards.*

**Finding: Not Applicable.** The applicant has not proposed and is not required to alter the abutting sidewalks or curbs with this development.

**17.62.050.A.9.** *A well-marked, continuous and protected on-site pedestrian circulation system meeting the following standards shall be provided:*

*a. Pathways between all building entrances and the street are required. Pathways between the street and buildings fronting on the street shall be direct. Exceptions may be allowed by the director where steep slopes or protected natural resources prevent a direct connection or where an indirect route would enhance the design and/or use of a common open space.*

*b. The pedestrian circulation system shall connect all main entrances on the site. For buildings fronting on the street, the sidewalk may be used to meet this standard. Pedestrian connections to other areas of the site, such as parking areas, recreational areas, common outdoor areas, and any pedestrian amenities shall be required.*

*c. Elevated external stairways or walkways, that provide pedestrian access to multiple dwelling units located above the ground floor of any building are prohibited. The community development director may allow exceptions for external stairways or walkways located in, or facing interior courtyard areas provided they do not compromise visual access from dwelling units into the courtyard.*

*d. The pedestrian circulation system shall connect the main entrances of adjacent buildings on the same site.*

*e. The pedestrian circulation system shall connect the principal building entrance to those of buildings on adjacent commercial and residential sites where practicable. Walkway linkages to adjacent developments shall not be required within industrial developments or to industrial developments or to vacant industrially-zoned land.*

*f. On-site pedestrian walkways shall be hard surfaced, well drained and at least five feet wide. Surface material shall contrast visually to adjoining surfaces. When bordering parking spaces other than spaces for parallel parking, pedestrian walkways shall be a minimum of seven feet in width unless curb stops are provided. When the pedestrian circulation system is parallel and adjacent to an auto travel lane, the walkway shall be raised or separated from the auto travel lane by a raised curb, bollards, landscaping or other physical barrier. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps for each direction of travel. Pedestrian walkways that cross drive isles or other vehicular circulation areas shall utilize a change in textual material or height to alert the driver of the pedestrian crossing area.*

**Finding: Not Applicable.** The development proposal does not include an alteration to the pedestrian circulation system.

**17.62.050.A.10.** *This standard requires adequate means to ensure continued maintenance and necessary normal replacement of common facilities and areas, drainage ditches, streets and other ways, structures, recreational facilities, landscaping, fill and excavation areas, screening and fencing, groundcover, garbage storage areas and other facilities not subject to periodic maintenance by the city or other public agencies.*

**Finding: Complies as Proposed.** The applicant indicated that maintenance of the sanitary sewer pipeline will be provided by WES. No additional facilities maintained by the city or other public agencies will be constructed as part of the project.

**17.62.050.A.11.** *This standard requires that site planning shall conform to the requirements of Oregon City Municipal Code Chapter 17.41—Tree Protection.*

**Finding:** Please refer to the analysis in OCMC Chapter 17.41 of this report.

**17.62.050.A.12.** *This standard requires compliance with the Natural Resource Overlay District when applicable.*

**Finding:** Please refer to the analysis in OCMC Chapter 17.49 of this report.

**17.62.050.A.13.** *All development shall maintain continuous compliance with applicable federal, state, and city standards pertaining to air and water quality, odor, heat, glare, noise and vibrations, outdoor storage, radioactive materials, toxic or noxious matter, and electromagnetic interference. Prior to issuance of a building permit, the community development director or building official may require submission of evidence*

*demonstrating compliance with such standards and receipt of necessary permits. The review authority may regulate the hours of construction or operation to minimize adverse impacts on adjoining residences, businesses or neighborhoods. The emission of odorous gases or other matter in such quantity as to be readily detectable at any point beyond the property line of the use creating the odors or matter is prohibited.*

**Finding: Complies with Condition.** The applicant indicated there would be no air quality impacts associated with the completed project and that no additional heat, glare, outdoor storage, radioactive materials, toxic or noxious matter, and electromagnetic interference will occur in the project area as a result of the project. The applicant shall assure all development shall maintain continuous compliance with applicable federal, state, and city standards pertaining to air and water quality, odor, heat, glare, noise and vibrations, outdoor storage, radioactive materials, toxic or noxious matter, and electromagnetic interference. Prior to issuance of a building permit, the community development director or building official may require submission of evidence demonstrating compliance with such standards and receipt of necessary permits. The review authority may regulate the hours of construction or operation to minimize adverse impacts on adjoining residences, businesses or neighborhoods. The emission of odorous gases or other matter in such quantity as to be readily detectable at any point beyond the property line of the use creating the odors or matter is prohibited. **The applicant can meet this standard through Condition of Approval 4.**

**17.62.050.A.14.** *Adequate public water and sanitary sewer facilities sufficient to serve the proposed or permitted level of development shall be provided. The applicant shall demonstrate that adequate facilities and services are presently available or can be made available concurrent with development. Service providers shall be presumed correct in the evidence, which they submit. All facilities shall be designated to city standards as set out in the city's facility master plans and public works design standards. A development may be required to modify or replace existing off-site systems if necessary to provide adequate public facilities. The city may require over sizing of facilities where necessary to meet standards in the city's facility master plan or to allow for the orderly and efficient provision of public facilities and services. Where over sizing is required, the developer may request reimbursement from the city for over sizing based on the city's reimbursement policy and fund availability, or provide for recovery of costs from intervening properties as they develop.*

**Finding: Not Applicable.** The applicant is installing a public sanitary sewer force main that does not service any city properties.

**17.62.050.A.15.** *This standard requires that all traffic related impacts should be mitigated. The traffic mitigation elements may include adequate right-of-way improvements, pedestrian ways, and bike routes. The proposal shall demonstrate consistency with the Oregon City Transportation System Plan (TSP).*

**Finding: Not Applicable.** The applicant is installing a public sanitary sewer force main that does not service any city properties. No traffic related impacts are related to this development.

**17.62.050.A.16.** *This standard requires the proposed development to be reviewed by Tri-Met to determine whether transit service is or reasonably can be made available to serve the site.*

**Finding: Not Applicable.** The project is not an industrial, institutional, retail, or office development.

**17.62.050.A.17.** *This standard requires that all utilities shall be placed underground.*

**Finding:** Please refer to the Variance findings within this report.

**17.62.050.A.18.** *Access and facilities for physically handicapped people shall be incorporated into the site and building design consistent with applicable federal and state requirements, with particular attention to providing continuous, uninterrupted access routes.*

**Finding: Not Applicable.** The development proposal does not include construction of or modifications to a structure. The proposed work will be underground or on a bridge.

**17.62.050.A.19.** *This standard requires minimum densities for residential developments.*

**Finding: Not Applicable.** This project is not a residential development.

**17.62.050.A.20.** *This standard requires compatible materials that fully screen roof, ground and wall mounted mechanical equipment.*

**Finding: Not Applicable.** No new mechanical equipment is proposed as part of this project.

**17.62.050.A.21. Building Materials.**

*a. Preferred building materials. Building exteriors shall be constructed from high quality, durable materials. Preferred exterior building materials that reflect the city's desired traditional character are as follows:*

*i. Brick.*

*ii. Basalt stone or basalt veneer.*

*iii. Narrow horizontal wood or composite siding (generally five inches wide or less); wider siding will be considered where there is a historic precedent.*

*iv. Board and baton siding.*

*v. Other materials subject to approval by the community development director.*

*vi. Plywood with battens or fiber/composite panels with concealed fasteners and contiguous aluminum sections at each joint that are either horizontally or vertically aligned.*

*vii. Stucco shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.*

*b. Prohibited materials. The following materials shall be prohibited in visible locations unless an exception is granted by the community development director based on the integration of the material into the overall design of the structure.*

*i. Vinyl or plywood siding (including T-111 or similar plywood).*

*ii. Glass block or highly tinted, reflected, translucent or mirrored glass (except stained glass) as more than ten percent of the building facade.*

*iii. Corrugated fiberglass.*

*iv. Chain link fencing (except for temporary purposes such as a construction site or as a gate for a refuse enclosure).*

*[v.] Crushed colored rock/crushed tumbled glass.*

*[vi.] Non-corrugated and highly reflective sheet metal.*

*c. Special material standards: The following materials are allowed if they comply with the requirements found below:*

*1. Concrete block. When used for the front facade of any building, concrete blocks shall be split, rock- or ground-faced and shall not be the prominent material of the elevation. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than three feet above the finished grade level adjacent to the foundation wall.*

*2. Metal siding. Metal siding shall have visible corner moldings and trim and incorporate masonry or other similar durable/permanent material near the ground level (first two feet above ground level).*

*3. Exterior Insulation and Finish System (EIFS) and similar toweled finishes shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.*

*4. Building surfaces shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint.*

**Finding: Complies with Condition.** The applicant proposed to construct a utility pipe which would extend along the side of the Oregon City/Gladstone bridge before going below the ground. The applicant has not proposed to utilize any of the prohibited or special-material building materials. The applicant shall assure building surfaces shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint. **The applicant can meet this standard through Condition of Approval 5.**

**17.62.050.A.22. Conditions of Approval.** *The review authority may impose such conditions as it deems necessary to ensure compliance with these standards and other applicable review criteria.*

**Finding Complies with Condition.** As demonstrated within this report, the proposal will comply with the standards of the Oregon City Municipal Code with conditions. The applicant shall construct the proposed development with the conditions of approval. **The applicant can meet this standard through Condition of Approval 6.**

**CHAPTER 17.49 - NATURAL RESOURCE OVERLAY DISTRICT**

**17.49.070 - Prohibited uses.**

**Finding: Not Applicable.** The applicant did not propose a prohibited use with this development application.

**17.49.080 - Uses allowed outright (exempted).**

**Finding: Not Applicable.** The applicant did not propose a use allowed outright with this development application.

**17.49.090 - Uses allowed under prescribed conditions.**

*The following uses within the NROD are subject to the applicable standards listed in Sections 17.49.100 through 17.49.190 pursuant to a Type II process:*

A. *Alteration to existing structures within the NROD when not exempted by Section 17.49.080, subject to Section 17.49.130.*

B. *A residence on a highly constrained vacant lot of record that has less than three thousand square feet of buildable area, with minimum dimensions of fifty feet by fifty feet, remaining outside the NROD portion of the property, subject to the maximum disturbance allowance prescribed in subsection 17.49.120.A.*

C. *A land division that would create a new lot for an existing residence currently within the NROD, subject to Section 17.49.160.*

D. *Land divisions when not exempted by Section 17.49.080, subject to the applicable standards of Section 17.49.160.*

E. *Trails/pedestrian paths when not exempted by Section 17.49.080, subject to Section 17.49.170 (for trails) or Section 17.49.150 (for paved pedestrian paths).*

F. *New roadways, bridges/creek crossings, utilities or alterations to such facilities when not exempted by Section 17.49.080.*

G. *Roads, bridges/creek crossings Subject to Section 17.49.150.*

H. *Utility lines subject to Section 17.49.140.*

I. *Stormwater detention or pre-treatment facilities subject to Section 17.49.155.*

J. *Institutional, industrial or commercial development on a vacant lot of record situated in an area designated for such use that has more than seventy-five percent of its area covered by the NROD, subject to subsection 17.49.120B.*

K. *City, county and state capital improvement projects, including sanitary sewer, water and storm water facilities, water stations, and parks and recreation projects.*

**Finding: Complies as Proposed.** The applicant proposed to install a new utility line, a prescribed use in OCMC 17.49.090.H.

**17.49.100.A** *Native trees may be removed only if they occur within ten feet of any proposed structures or within five feet of new driveways or if deemed not wind-safe by a certified arborist. Trees listed on the Oregon City Nuisance Plant List or Prohibited Plant List are exempt from this standard and may be removed. A protective covenant shall be required for any native trees that remain;*

**Finding: Not Applicable.** The applicant has not proposed to remove any trees within the Natural Resource Overlay District.

**17.49.100.B** *The community development director may allow the landscaping requirements of the base zone, other than landscaping required for parking lots, to be met by preserving, restoring and permanently protecting habitat on development sites in the Natural Resource Overlay District.*

**Finding: Complies as Proposed.** The project has been designed to minimize the amount of disturbance by locating a majority of the utility line within the right-of-way pavement. Impacts of the development will be mitigated in accordance with OCMC 17.49.180.E.2.

**17.49.100.C** *All vegetation planted in the NROD shall be native and listed on the Oregon City Native Plant List;*

**Finding: Complies as Proposed.** All species included in the mitigation plan are identified on the Oregon City Native Plant List. Native trees will include: big leaf maple (*Acer macrophyllum*), western flowering dogwood (*Cornus nuttallii*), red alder (*Alnus rubra*), and Douglas fir. Native shrubs will include: Indian plum (*Oemleria cerasiformis*), common snowberry (*Symphoricarpos albus*), red elderberry (*Sambucus racemosa*), and hazelnut (*Corylus corruta*).

**17.49.100.D** Grading is subject to installation of erosion control measures required by the City of Oregon;  
**Finding: Complies with Condition.** The applicant shall obtain an Erosion Control permit for the project area prior to start of construction. **The applicant can meet this standard through Condition of Approval 7.**

**17.49.100.E** The minimum front, street, or garage setbacks of the base zone may be reduced to any distance between the base zone minimum and zero in order to minimize the disturbance area within the NROD portion of the lot;

**Finding: Not Applicable.** The applicant has not proposed a structure with the proposed development. All above ground construction will be within the public right-of-way.

**17.49.100.F** Any maximum required setback in any zone, such as for multi-family, commercial or institutional development, may be increased to any distance between the maximum and the distance necessary to minimize the disturbance area within the NROD portion of the lot;

**Finding: Not Applicable.** The applicant has not proposed a structure with the proposed development. All above ground construction will be within the public right-of-way.

**17.49.100.G** Fences are allowed only within the disturbance area;

**Finding: Not Applicable.** No new fences will be installed as part of this project. Safety fencing along the pedestrian bridge will be temporarily removed during construction and immediately replaced, with the exception of a 10-foot section on the Oregon City side of the bridge.

**17.49.100.H** Incandescent lights exceeding two hundred watts (or other light types exceeding the brightness of a two hundred watt incandescent light) shall be placed or shielded so that they do not shine directly into resource areas;

**Finding: Not Applicable.** No incandescent lights will be installed as part of the project.

**17.49.100.I** If development will occur within the one hundred-year floodplain, the FEMA floodplain standards of Chapter 17.42 shall be met; and

**Finding:** Please refer to the analysis in Chapter 17.42 of this report.

**17.49.100.J** Mitigation of impacts to the regulated buffer is required, subject to Section 17.49.180 or 17.49.190.

**Finding:** Please refer to the analysis in Chapter 17.49.180 and 17.49.190 of this report.

**17.49.110 - Width of vegetated corridor.**

**Finding: Not Applicable.** The applicant has not objected to the boundary of the NROD.

**17.49.120 - Maximum disturbance allowance for highly constrained lots of record.**

**Finding: Not Applicable.** The applicant has not proposed development on a highly constrained lot of record.

**17.49.130.** In addition to the General Development Standards of Section 17.49.100, the following standards apply to alterations and additions to existing development within the NROD, except for trails, rights of way, utility lines, land divisions and mitigation projects.

**Finding: Not Applicable.** This standard is not applicable to utility lines.

**17.49.130.B** Mitigation is required, subject to Section 17.49.180 or 17.49.190.

**Finding:** Please refer to the analysis in Chapter 17.49.180 and 17.49.190 of this report.

**17.49.140 - Standards for utility lines.**

The following standards apply to new utilities, private connections to existing or new utility lines, and upgrades of existing utility lines within the NROD:

**Finding: Applicable.** The applicant proposed a utility line.



**17.49.140.A** *The disturbance area for private connections to utility lines shall be no greater than ten feet wide;*

**Finding: Not Applicable.** The applicant has not proposed a private connection to the utility line. The applicant proposed a public sewer line and a 4-inch emergency drain line associated with the public line.

**17.49.140.B** *The disturbance area for the upgrade of existing utility lines shall be no greater than fifteen feet wide;*

**Finding: Not Applicable.** The proposed project is development of a new utility line.

**17.49.140.C** *New utility lines shall be within the right-of-way, unless reviewed under subsection D.*

**Finding: Complies as Proposed.** This section is applicable to the portion of the utility lines within the Natural Resource Overlay District. The applicant proposed to install the utility line within the right-of-way while in the NROD boundary. The portion of the line outside the public right-of-way, is not within the NROD boundary.

**17.49.140.D** *New utility lines that cross above or underneath a drainage way, wetland, stream, or ravine within the NROD but outside of a right-of-way shall be processed as a Type III permit pursuant to Section 17.49.200, Adjustment from Standards.*

**Finding: Not Applicable.** The applicant proposed to locate the utility line over the Clackamas River on the side of a bridge deck within the public right-of-way. This standard is not applicable.

**17.49.140.E** *No fill or excavation is allowed within the ordinary high water mark of a stream without the approval of the Division of State Lands and/or the U.S. Army Corps of Engineers;*

**Finding: Complies with Condition.** The applicant indicated that no jurisdictional waters of the U.S./state would be impacted from the portion of the pipeline alignment located within Oregon City limits. Therefore, no review is required by Oregon Department of State Lands (DSL) or the U.S. Army Corps of Engineers (USACE) for areas within Oregon City is required. The applicant shall assure that no fill or excavation is allowed within the ordinary high water mark of a stream without the approval of the Division of State Lands and/or the U.S. Army Corps of Engineers. **The applicant can meet this standard through Condition of Approval 8.**

**17.49.140.F.** *The Division of State Lands must approve any work that requires excavation or fill in a wetland;*

**Finding: Not Applicable.** There are no known wetlands in or adjacent to the development area.

**17.49.140.G** *Native trees more than ten inches in diameter shall not be removed unless it is shown that there are no feasible alternatives; and*

**Finding: Not Applicable.** The applicant has not proposed to remove any trees within the Natural Resource Overlay District.

**17.49.140.H** *Each six to ten-inch diameter native tree cut shall be replaced at a ratio of three trees for each one removed. Each eleven-inch or greater diameter native tree shall be replaced at a ratio of five trees for each removed. The replacement trees shall be a minimum one-half inch diameter and selected from the Oregon City Native Plant List. All trees shall be planted on the applicant's site. Where a utility line is approximately parallel with the stream channel, at least half of the replacement trees shall be planted between the utility line and the stream channel.*

**Finding: Not Applicable.** The applicant has not proposed to remove any trees within the Natural Resource Overlay District.

**17.49.140.I** *Mitigation is required, subject to Section 17.49.180 or 17.49.190.*

**Finding:** Please refer to the analysis in Chapter 17.49.180 and 17.49.190 of this report.

**17.49.150 - Standards for vehicular or pedestrian paths and roads.**

**Finding: Not Applicable.** The applicant has not proposed a pedestrian path or road with this development.

**17.49.155 - Standards for stormwater facilities.**

**Finding: Not Applicable.** The applicant has not proposed a stormwater facility with this development.

**17.49.160 - Standards for land divisions.**

**Finding: Not Applicable.** The applicant has not proposed a land division with this development.

**17.49.170 - Standards for trails.**

**Finding: Not Applicable.** The applicant has not proposed a trail with this development.

**17.49.180.A** *Mitigation shall occur at a two-to-one ratio of mitigation area to proposed NROD disturbance area. Mitigation of the removal or encroachment of a wetland or stream shall not be part of this chapter and will be reviewed by the Division of State Lands or the Army Corp of Engineers during a separate review process;*

**Finding: Complies as Proposed.** Approximately 115 linear feet (2,360 square feet) of the proposed development is located outside of the street pavement within the NROD. Following construction, the area will be reseeded with a native grass mix and impacts within the Natural Resource Overlay District (NROD) would be mitigated in accordance with OCMC 17.49.180.E.2.

**17.49.180.B.1** *The mitigation is required for disturbance associated with a right-of-way or utility in the right-of-way;*

**Finding: Complies as Proposed.** The applicant proposed disturbance within the NROD and within the right-of-way. Mitigation is proposed for the disturbance area.

**17.49.180.B.2** *The mitigation shall occur first on the same stream tributary, secondly in the Abernethy, Newell or Livesay Creek or a tributary thereof, or thirdly as close to the impact area as possible within the NROD; and*

**Finding: Complies as Proposed.** The proposed mitigation area is located less than 200 feet to the northwest of the proposed disturbance area between Washington Drive and parking lot used for local park access along the Clackamas River. The proposed impact and mitigation area is located along the same waterway, the Clackamas River and will occur within the same NROD area.

**17.49.180.B.3** *An easement that allows access to the mitigation site for monitoring and maintenance shall be provided as part of the mitigation plan.*

**Finding:** Please refer to the analysis in Chapter 17.49.180.G of this report.

**17.49.180.C** *Mitigation shall occur within the NROD area of a site unless it is demonstrated that this is not feasible because of a lack of available and appropriate area. In such cases, the proposed mitigation area shall be contiguous to the existing NROD area so the NROD boundary can be easily extended in the future to include the new resource site.*

**Finding: Complies as Proposed.** The proposed mitigation area is located less than 200 feet northwest from the proposed disturbance area in a City park and the adjacent public right-of-way. The mitigation area is located within the Natural Resource Overlay District.

**17.49.180.D** *Invasive and nuisance vegetation shall be removed within the mitigation area;*

**Finding: Complies as Proposed.** The proposed mitigation area consists of a grass lawn with no invasive or nuisance vegetation present onsite. Weed removal is proposed in conjunction with planting and maintenance of the mitigation site.

**17.49.180.E** *Required Mitigation Planting. An applicant shall meet Mitigation Planting Option 1 or 2 below, whichever option results in more tree plantings, except that where the disturbance area is one acre or more, Mitigation Option 2 shall be required. All trees, shrubs and ground cover shall be selected from the Oregon City Native Plant List.*

**Finding: Complies as Proposed.** The applicant chose to comply with mitigation option #2. All trees and shrubs proposed are identified on the Oregon City Native Plant List. Native trees will include: big leaf maple (*Acer macrophyllum*), western flowering dogwood (*Cornus nuttallii*), red alder (*Alnus rubra*), and Douglas

fir. Native shrubs will include: Indian plum (*Oemleria cerasiformis*), common snowberry (*Symphoricarpos albus*), red elderberry (*Sambucus racemosa*), and hazelnut (*Corylus corruta*).

**17.49.180.E.1 Mitigation Planting Option 1.**

**Finding: Not Applicable.** The applicant proposed mitigation option #2.

**17.49.180.E.2 Mitigation Planting Option 2.**

**17.49.180.E.2.a Option 2 - Planting Quantity.** In this option, the mitigation requirement is calculated based on the size of the disturbance area within the NROD. Native trees and shrubs are required to be planted at a rate of five trees and twenty-five shrubs per every five hundred square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by five hundred, and then multiplying that result times five trees and twenty-five shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be three hundred thirty square feet of disturbance area, then three hundred thirty divided by five hundred equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times twenty-five equals 16.5, so seventeen shrubs must be planted). Bare ground must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

**Findings: Complies as Proposed.** Approximately 2,360 square feet of pervious surfaces would be disturbed within the Natural Resource Overlay District with the proposed development. The applicant has proposed the following mitigation.

Trees:  $2,360/500 = 4.72$       $4.72 \times 5 = 23.6 = 24$  trees  
Shrubs:  $2,360/500 = 4.72$       $4.72 \times 25 = 118$  shrubs

**17.49.180.E.2.b Option 2 - Plant Size.** Plantings may vary in size dependent on whether they are live cuttings, bare root stock or container stock, however, no initial plantings may be shorter than twelve inches in height.

**Findings: Complies as Proposed.** The mitigation plantings include trees planted at a minimum size of three-gallon containers or greater while shrubs will be a minimum size from one-gallon containers. All container plant species purchased from a nursery will have the requirement of greater than 12 inches in height.

**17.49.180.E.2.c Option 2 - Plant Spacing.** Trees shall be planted at average intervals of seven feet on center. Shrubs may be planted in single-species groups of no more than four plants, with clusters planted on average between eight and ten feet on center.

**Findings: Complies as Proposed.** The proposed mitigation plan displays a mix of trees and plants throughout the mitigation site. The trees and shrubs appear to be planted in accordance with the planting standards in appropriate groupings.

**17.49.180.E.2.d Option 2 — Mulching and Irrigation** shall be applied in the amounts necessary to ensure eighty percent survival at the end of the required five-year monitoring period.

**Findings: Complies as Proposed.** The applicant indicated that the trees and shrubs will be planted to allow proper root establishment over the summer or winter months. If needed water gel packs would be included in the plantings to provide necessary hydrology for root systems to become established. If 80% survivorship of all trees and shrubs is not occurring after the five year monitoring period the applicant will replace the dead plants up to the 80 percent success.

**17.49.180.E.2.e Option 2 — Plant Diversity.** Shrubs shall consist of at least three different species. If twenty trees or more are planted, no more than one-third of the trees may be of the same genus. An alternative planting plan using native plants may be approved in order to create a new wetland area, if it is part of a wetlands mitigation plan that has been approved by the DSL or the U.S. Army Corps of Engineers (USACE) in conjunction with a wetland joint removal/fill permit application.

**Findings: Complies as Proposed.** The mitigation plan includes the 24 trees in 4 different species (6 trees per species) and 4 types of shrubs. The applicant has not proposed an alternative planting plan.



**17.49.180.F Monitoring and Maintenance.** *The mitigation plan shall provide for a five-year monitoring and maintenance plan with annual reports in a form approved by the director of community development. Monitoring of the mitigation site is the on-going responsibility of the property owner, assign, or designee, who shall submit said annual report to the city's planning division, documenting plant survival rates of shrubs and trees on the mitigation site. Photographs shall accompany the report that indicate the progress of the mitigation. A minimum of eighty percent survival of trees and shrubs of those species planted is required at the end of the five-year maintenance and monitoring period. Any invasive species shall be removed and plants that die shall be replaced in kind. Bare spots and areas of invasive vegetation larger than ten square feet that remain at the end the five-year monitoring period shall be replanted or reseeded with native grasses and ground cover species.*

**Finding: Complies with Condition.** The applicant proposed a 5-year mitigation plan including the following elements:

- A minimum of 80% survival of trees and shrubs of those species planted is required at the end of the five year maintenance and monitoring period not within the public right-of-way. The applicant proposed replacement in the right-of-way for planting which have not survived due to plant material type, installation methods, or poor site preparation (i.e., soil compaction). The applicant has not proposed to replace plant materials that have been removed by the land owner, public, or address site failure due to other human caused modification (i.e., subsequent draining or development).
- Removal of invasive species.
- Replacement of dead trees and shrubs in kind after the first year.
- Annual monitoring of the mitigation planting for five-years, beginning in the spring after installation of the plantings. The reports will be submitted to Oregon City by December 31st every year for five-years after monitoring period and will include a general observation and assessment of the planted trees and shrubs and photos. In addition, the assessment will include a stem count and general condition (vigorous, healthy, not-healthy, or dead) for trees and shrubs, the percent cover of non-native/invasive species and other site conditions such as pests and/or debris.
- Bare spots and areas of invasive vegetation larger than 10 square feet that remain at the end the five year monitoring period shall be replanted or reseeded with native grasses and ground cover species.

The applicant has not proposed to replace plant materials that have been removed by the land owner, public, or address site failure due to other human caused modification (i.e., subsequent draining or development). The municipal code does not provide the option to not replace the mitigation plantings which have not survived due to human intervention. The applicant shall assure monitoring and maintenance for all of the NROD mitigation plantings as required per OCMC 17.49.180.F. The applicant may relocate the landscaping from within the right-of-way to the areas within the NROD on the adjacent City property through a type I process. **The applicant can meet this standard through Condition of Approval 9.**

**17.49.180.G Covenant or Conservation Easement.** *Applicant shall record a restrictive covenant or conservation easement, in a form provided by the city, requiring the owners and assigns of properties subject to this section to comply with the applicable mitigation requirements of this section. Said covenant shall run with the land, and permit the city to complete mitigation work in the event of default by the responsible party. Costs borne by the city for such mitigation shall be borne by the owner.*

**Finding: Complies as Proposed.** The applicant proposed to mitigate the NROD disturbance by planting vegetation within the public right-of-way and on adjacent City property. Public ownership of the mitigation area eliminates any need for a further covenant or conservation easement as the city already maintains authority to complete the mitigation work with recovery against the financial guarantee provided by the applicant through Condition of Approval 10.

**17.49.180.H Financial Guarantee.** *A financial guarantee for establishment of the mitigation area, in a form approved by the city, shall be submitted before development within the NROD disturbance area commences. The city will release the guarantee at the end of the five-year monitoring period, or before, upon it's determination that the mitigation plan has been satisfactorily implemented pursuant to this section.*

**Finding: Complies with Condition.** The applicant did not respond to this section. The applicant shall provide a financial guarantee for establishment of the mitigation area, in a form approved by the city, shall be submitted before development within the NROD disturbance area commences. The city will release the guarantee at the end of the five-year monitoring period, or before, upon its determination that the mitigation plan has been satisfactorily implemented pursuant to OCMC chapter 17.49.180.H. **The applicant can meet this standard through Condition of Approval 10.**

*17.49.190 - Alternative mitigation standards.*

**Finding: Not Applicable.** The applicant has not proposed an alternative mitigation standard.

*17.49.200 - Adjustment from standards.*

**Finding: Not Applicable.** The applicant has not proposed an adjustment from the standards.

*17.49.210 - Type II development permit application.*

**Finding: Not Applicable.** The applicant submitted a type III development application.

*17.49.230 - Mitigation plan report.*

**Finding: Complies.** The applicant submitted a mitigation plan prior to completeness.

*17.49.240 - Density transfer.*

**Finding: Not Applicable.** The proposed development does not include a density transfer.

*17.49.250 - Verification of NROD boundary.*

**Finding: Not Applicable.** The applicant did not request a verification of the NROD boundary.

*17.49.255 - Type I verification.*

**Finding: Not Applicable.** The applicant submitted a type III development application.

*17.49.260. - Type II verification.*

**Finding: Not Applicable.** The applicant submitted a type III development application.

*17.49.265 - Corrections to violations.*

**Finding: Not Applicable.** The applicant is not in Code Enforcement.

#### **CHAPTER 17.60 – VARIANCES**

The applicant proposed a variance to OCMC 17.62.050.A.17 to allow approximately 200 feet of the proposed pipeline to be constructed and placed on the north side of the Oregon City/Gladstone pedestrian bridge.

*17.60.030 .A. That the variance from the requirements is not likely to cause substantial damage to adjacent properties by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;*

**Finding: Complies as Proposed.** The installation of the pipeline on the side of the pedestrian bridge would not result in any change to light, air quality, safe access, or other qualities valued by adjacent properties. WES has taken precautionary measures to assure the pipe is secure over the river and above the base flood elevation.

*17.60.030 .B. That the request is the minimum variance that would alleviate the hardship;*

**Finding: Complies as Proposed.** Allowing the pipe on the side of the bridge is the minimum to alleviate placing the pipe beneath the ground. To minimize the potential visual impact, the pipeline will be placed no higher than 2 to 3 inches above the top elevation grade of the pedestrian bridge deck or no higher than the concrete support for the existing fence on the north bridge side to limit the view of the pipeline from the bridge deck. The bottom of the pipeline will be slightly above the bottom of the bridge deck and the pipe will be painted black.

**17.60.030 .C.** *Granting the variance will equal or exceed the purpose of the regulation to be modified.*

**Finding: Complies as Proposed.** The purpose of the regulation on aboveground utilities is to maintain the current aesthetics of Oregon City. The pipeline will blend in visually with the pedestrian bridge with strategic placement of the utility and by painting the pipe black resulting in a neat and finished appearance. The aboveground construction of the pipeline will reduce potential impacts to the in-stream habitat of the Clackamas River, which is protected as a natural resource under OCMC 17.49.

**17.60.030 .D.** *Any impacts resulting from the adjustment are mitigated;*

**Finding: Complies as Proposed.** The current alignment is the result of extensive consultation with Oregon City on the most desirable location of the pipeline on the pedestrian bridge. Potential impacts to aesthetics have been mitigated through appropriate placement and by painting the pipe black resulting in a neat and finished appearance.

**17.60.030 .E.** *No practical alternatives have been identified which would accomplish the same purpose and not require a variance; and*

**Finding: Complies as Proposed.** The alternatives to constructing the pipeline on the side of the bridge would be to construct the pipe on the bridge deck, locate another location to cross the Clackamas River or construct it under the Clackamas River, using either an open-cut trench method or directional drilling. Because the sub-surface geology below the Clackamas River consists of solid and fractured basalt, both open-cutting and directional drilling are likely to result in adverse effects to water quality and federally listed endangered species. Additionally, the segment of pipeline located beneath the Clackamas River would be impossible to drain during maintenance and emergency situations, impossible to flush in order to prevent plugging, and difficult to maintain and inspect without disturbing the in-stream habitat.

**17.60.030.F.** *The variance conforms to the comprehensive plan and the intent of the ordinance being varied.*

**Finding: Complies as Proposed.** The purpose of the regulation on aboveground utilities is to maintain the current aesthetics of Oregon City. The pipeline will blend in visually with the pedestrian bridge with strategic placement of the utility and painting the pipe black, resulting in a finished appearance. Additionally, aboveground construction of the pipeline will reduce potential impacts to the in-stream habitat of the Clackamas River, which is protected as a natural resource under OCMC 17.49. The Variance would support the following Comprehensive Plan goals and policies:

Goal 11.5 Solid Waste - Seek to ensure that the most cost-effective, integrated solid waste plan is developed and implemented.

*Policy 11.5.1 - Acknowledge Metro's responsibility for preparing and implementing the Regional Solid Waste Management Plan, 1995-2005 because solid waste disposal is a regional concern requiring regional solutions.*

#### **CHAPTER 17.44 - GEOLOGIC HAZARDS**

**Finding: Not Applicable.** Per OCMC 17.44.035.D, the installation, construction, reconstruction, or replacement of utility lines in city right-of-way, or public easement, not including electrical substations are exempt from the standards of OCMC chapter 17.44.

#### **CHAPTER 17.52 – OFF STREET PARKING AND LOADING**

**Finding: Not Applicable.** The development proposal does not include alterations to a parking lot. This chapter is not applicable.

#### **CHAPTER 12.04 – STREETS, SIDEWALKS AND PUBLIC PLACES**

**Finding: Not Applicable.** The applicant has not proposed any changes to the design of the street or sidewalk. The development application includes installation of an underground utility line and no dedication or new streets are proposed or required.

#### **CHAPTER 12.08 - PUBLIC AND STREET TREES**

**Finding: Not Applicable.** This chapter regulates trees within the public right-of-way. The applicant has not proposed to remove any street trees in conjunction with this approval. This standard is not applicable. The applicant previously received approval for the removal of 3 trees within the public right-of-way.

#### **CHAPTER 17.41 – TREE PROTECTION STANDARDS**

**Finding: Not Applicable.** This chapter regulates tree removal not within the public right-of-way. The development proposal does not include tree removal. This standard is not applicable.

#### **CHAPTER 17.50 - ADMINISTRATION AND PROCEDURES**

*This chapter provides the procedures by which Oregon City reviews and decides upon applications for all permits relating to the use of land authorized by ORS Chapters 92, 197 and 227. These permits include all form of land divisions, land use, limited land use and expedited land division and legislative enactments and amendments to the Oregon City comprehensive plan and Titles 16 and 17 of this Code.*

**Finding: Complies.** This application was reviewed pursuant to the relevant procedures required by Chapter 17.50. Any appeal, request for reconsideration, or modification of this application shall be processed in accordance with the applicable procedures required by Chapter 17.50. Notice of the public hearings for the proposal was mailed to property owners within 300 feet of the subject site and the Citizen Involvement Council. The notice was advertised in the Clackamas Review and the site was posted with land use notification signs. The notice requested comments and indicated that interested parties could testify at the public hearing or submit written comments prior to or at the hearing. The following public comments were submitted:

John Lewis, Public Works Operations Manager for the City of Oregon City submitted comments noting that the proposal does not conflict with departmental interests (Exhibit 3).

No additional public comments were received prior to the release of this staff report.

#### **CHAPTER 17.42 - FLOOD MANAGEMENT OVERLAY DISTRICT**

**Finding: Not Applicable.** The development proposal includes the construction of a utility line on the side of the Oregon City/Gladstone bridge above the floodplain elevation. No development would occur at or below the elevation of the 100 year floodplain or past flood events. The FEMA 2008 maps identify the 100-year elevation at 49.5 feet while the 1996 flood inundation rose to 50.7 feet. The low cord of the bridge deck will be at 57 feet.

#### **IV. CONCLUSION AND DECISION:**

Based on the analysis and findings as described above, Staff concludes that the Site Plan and Design Review (SP 11-01), Variance (VR 11-01) and Natural Resource Overlay District (WR 11-01) applications for the property located identified in Exhibit 1 can meet the requirements of the Oregon City Municipal Code as proposed by the applicant or by complying with the Conditions of Approval provided in this report. Therefore, the Community Development Director recommends the Planning Commission approve files SP 11-01, VR 11-01 and WR 11-01 with conditions, based upon the findings and exhibits contained in this staff report.

#### **V. EXHIBITS**

1. Vicinity Map
2. Land Use Application and Site Plans
3. Comments from John Lewis, Public Works Operations Manager

**RECOMMENDED CONDITIONS OF APPROVAL**  
**SP 11-01, WR 11-01 and VR 11-01**

1. Prior to final of the project the applicant shall submit documentation demonstrating that the disturbance associated with the proposed development on the Tri-City property would not reduce the minimum landscaping onsite below the 15 percent minimum required in 17.62.050.A.1. If the proposed development would result in a reduction of the minimum landscaping on the Tri-City property to below 15 percent of landscaping within the entire lot, the applicant shall install replacement trees, shrubs and groundcover equivalent to the existing condition of the development area in quantity and size. The landscaping shall be installed per the standards of the Oregon City Municipal Code. *(P)*
2. The applicant is responsible for this project's compliance to Engineering Policy 00-01. *(DS)*
3. The applicant shall coordinate trench repair and surface restoration outside the ROW with Development Services Field Inspector. *(DS)*
4. The applicant shall assure all development shall maintain continuous compliance with applicable federal, state, and city standards pertaining to air and water quality, odor, heat, glare, noise and vibrations, outdoor storage, radioactive materials, toxic or noxious matter, and electromagnetic interference. Prior to issuance of a building permit, the community development director or building official may require submission of evidence demonstrating compliance with such standards and receipt of necessary permits. The review authority may regulate the hours of construction or operation to minimize adverse impacts on adjoining residences, businesses or neighborhoods. The emission of odorous gases or other matter in such quantity as to be readily detectable at any point beyond the property line of the use creating the odors or matter is prohibited. *(P)*
5. The applicant shall assure building surfaces shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint. *(P)*
6. The applicant shall construct the proposed development as submitted and in compliance with the conditions of approval of this staff report. *(P and DS)*
7. The applicant shall obtain an Erosion Control permit for the project area prior to start of construction. *(DS)*
8. The applicant shall assure that no fill or excavation is allowed within the ordinary high water mark of a stream without the approval of the Division of State Lands and/or the U.S. Army Corps of Engineers. *(P)*
9. The applicant shall assure monitoring and maintenance for all of the NROD mitigation plantings as required per OCMC 17.49.180.F. The applicant may relocate the landscaping from within the right-of-way to the areas within the NROD on the adjacent City property as a type I process. *(P)*
10. The applicant shall provide a financial guarantee for establishment of the mitigation area, in a form approved by the city, shall be submitted before development within the NROD disturbance area commences. The city will release the guarantee at the end of the five-year monitoring period, or before, upon it's determination that the mitigation plan has been satisfactorily implemented pursuant to OCMC chapter 17.49.180.H. *(P)*

*(P)* = Verify that condition of approval has been met with the Planning Division.

*(DS)* = Verify that condition of approval has been met with the Development Services Division.





1 inch = 144 feet  
 Note: Clackamas River OHW Elevation: 27 feet; 1996 Flood Elevation: 49.5 feet; FEMA 2008 100 Year Flood Elevation: 50.7 feet; Low-cord 82nd Street Pedestrian Bridge Elevation: 57 feet

**Oregon City Resource Overlay Map**  
**FIGURE 1**

Interline 2 Diversion Project | Clackamas County WES | Land Use Permit





# CITY OF OREGON CITY LAND USE APPLICATION



City of Oregon City, Community Development Department, 221 Molalla Ave., Ste. 200, P.O. Box 3040, Oregon City, OR 97045, (503) 722-3789

## Type I (OCMC 17.50.030.A)

- ☐ Compatibility Review
- ☐ Nonconforming Use review
- ☐ Water Resources Exemption

## Type II (OCMC 17.50.030.B)

- ☐ Extension
- ☐ Detailed Development Review
- ☐ Geotechnical Hazards
- ☐ Minor Partition
- ☒ Minor Site Plan & Design Review
- ☐ Nonconforming Use Review
- ☐ Site Plan and Design Review
- ☐ Subdivision
- ☐ Minor Variance
- ☒ Water Resource Review

## Type III / IV (OCMC 17.50.030.C)

- ☐ Annexation
- ☐ Code Interpretation / Similar Use
- ☐ Concept Development Plan
- ☐ Conditional Use
- ☐ Comprehensive Plan Amendment (Text/Map)
- ☐ Detailed Development Plan
- ☐ Historic Review
- ☐ Oregon City Municipal Code Amendment
- ☒ Variance
- ☐ Zone Change

Application Number: \_\_\_\_\_

Proposed Land Use or Activity: Construct 0.33 miles of a 4.2 mile, 20-inch ductile iron sanitary sewer forcemain to divert raw sewage from the Mt. Scott interceptor and send it to the Tri-City Water Pollution Control Plant (WPCP).

Project Name: Inertle 2 Diversion - Project B 20" & 30" Force Mains Number of Lots Proposed (If Applicable): N/A

Physical Address of Site: See Project Location Maps in Attachment A.

Clackamas County Map and Tax Lot Number(s): N/A. All work will be within public right-of-way.

## Applicant(s):

Applicant(s) Signature: 

Applicant(s) Name Printed: Clackamas County Water Environment Services, Attn: Dewayne Kliever Date: 2/11/11

Mailing Address: 150 Beaver Creek Rd., Oregon City, OR 97045

Phone: (503) 742-4572 Fax: (503) 742-4565 Email: dewaynekli@co.clackamas.or.us

## Property Owner(s):

Property Owner(s) Signature: \_\_\_\_\_

Property Owner(s) Name Printed: N/A. All work will be within Oregon City right-of-way. Date: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

## Representative(s):

Representative(s) Signature: \_\_\_\_\_

Representative (s) Name Printed: \_\_\_\_\_ Date: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

*All signatures represented must have the full legal capacity and hereby authorize the filing of this application and certify that the information and exhibits herewith are correct and indicate the parties willingness to comply with all code requirements.*

[www.oregoncity.org](http://www.oregoncity.org)





**Clackamas County Water Environmental Services**  
**Intertie 2 Diversion**  
**Project B – 20” & 30” Force Mains**  
**Oregon City Application for Land Use Permits**

---

**Contents**

<b>Attachment A:</b>	Legal Description and Project Location Maps
<b>Attachment B:</b>	Written Justification
<b>Attachment C:</b>	Mitigation Plan
<b>Attachment D:</b>	Site Plans
<b>Attachment E:</b>	Pre-Application Meeting Summary
<b>Attachment F:</b>	Citizen Involvement Council Meeting Sign-in Sheet
<b>Attachment G:</b>	Mailing Labels
<b>Attachment H:</b>	Written Documentation of Geologic Hazard Requirement (in progress)
<b>Attachment I:</b>	Additional Information Request (Letter)

## **Attachment A**

### **Legal Description and Project Location Maps**

LEGAL DESCRIPTION  
WATER ENVIRONMENT SERVICES  
INTERTIE 2 DIVERSION – PROJECT B  
OREGON CITY SECTION

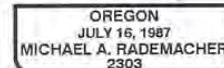
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02/03/11 MAR  
REVISED 2/15/11 MAR

EXHIBIT "A"

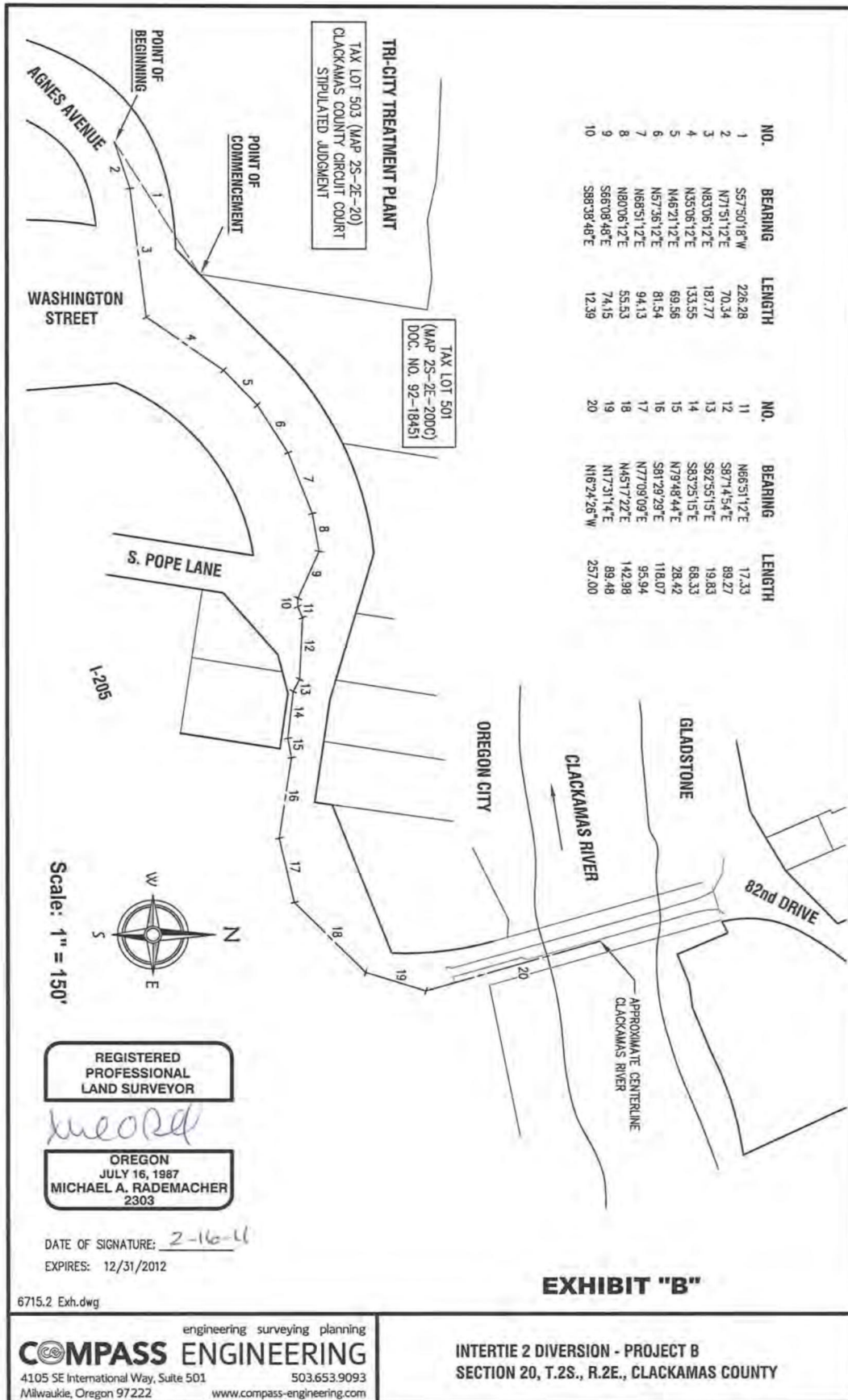
A STRIP OF LAND, VARIABLE IN WIDTH, LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 20, TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF OREGON CITY, CLACKAMAS COUNTY, OREGON, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT-OF-WAY LINE OF WASHINGTON STREET (VARIABLE WIDTH) WITH THE WEST LINE OF THAT TRACT OF LAND DESCRIBED IN DEED DOCUMENT NUMBER 92-18451 (PARCEL 1), CLACKAMAS COUNTY DEED RECORDS; THENCE S.57°50'18"W., 226.28 FEET TO THE POINT-OF-BEGINNING; THENCE N.71°51'12"E., 70.34 FEET; THENCE N.83°06'12"E., 187.77 FEET; THENCE N.35°06'12"E., 133.55 FEET; THENCE N.46°21'12"E., 69.56 FEET; THENCE N.57°36'12"E., 81.54 FEET; THENCE N.68°51'12"E., 94.13 FEET; THENCE N.80°06'12"E., 55.53 FEET; THENCE S.66°08'48"E., 74.15 FEET; THENCE S.88°38'48"E., 12.39 FEET; THENCE N.66°51'12"E., 17.33 FEET; THENCE S.87°14'54"E., 89.27 FEET; THENCE S.62°55'15"E., 19.83 FEET; THENCE S.83°25'15"E., 68.33 FEET; THENCE N.79°48'44"E., 28.42 FEET; THENCE S.81°29'29"E., 118.07 FEET; THENCE N.77°09'09"E., 95.94 FEET; THENCE N.45°17'22"E., 142.98 FEET; THENCE N.17°31'14"E., 89.48 FEET; THENCE N.16°24'26"W., 257.00 FEET, MORE OR LESS, TO THE CENTERLINE OF THE CLACKAMAS RIVER, AND THE TERMINUS OF SAID CENTERLINE.

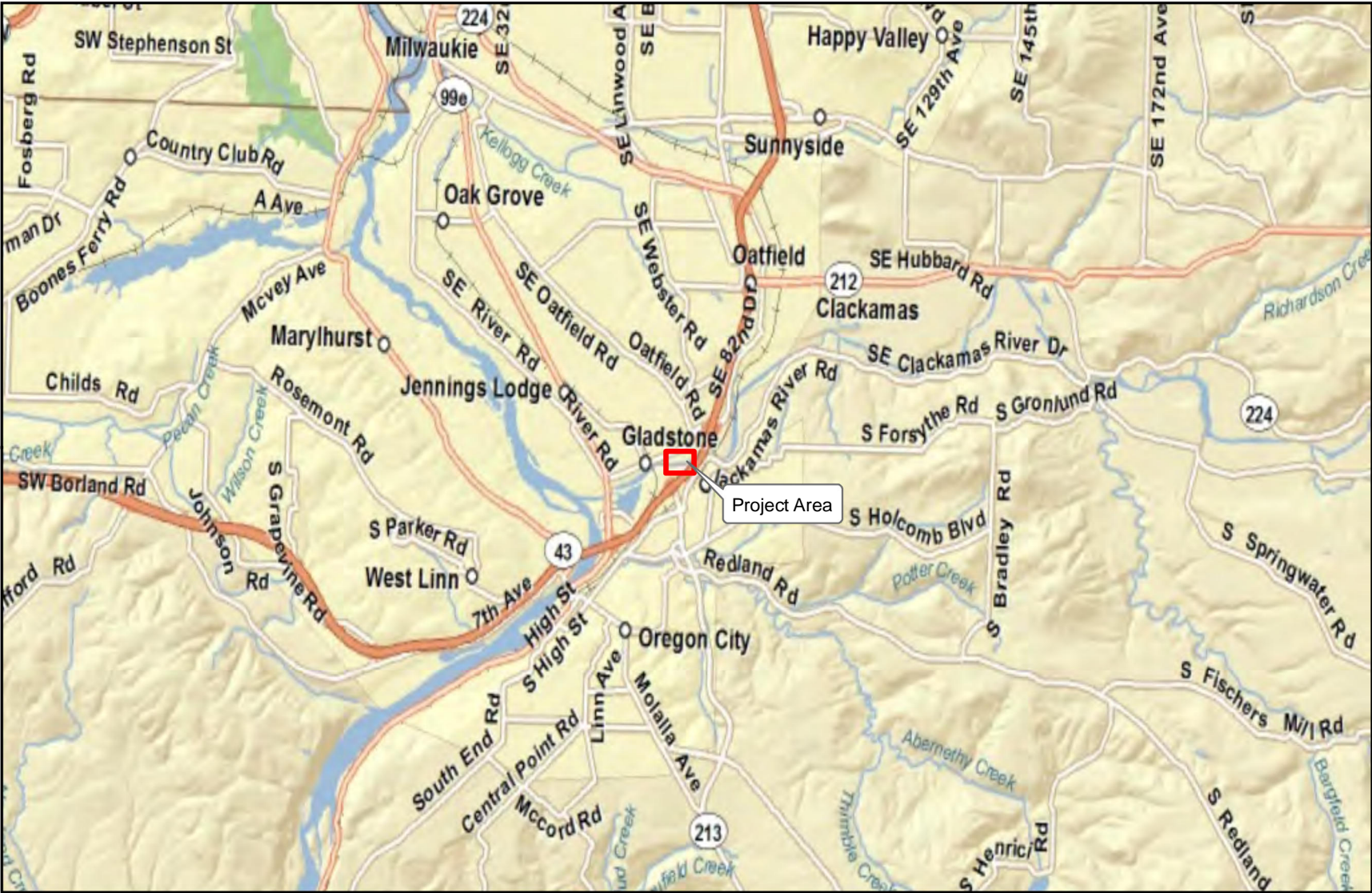
BASIS OF BEARINGS: OREGON STATE PLANE COORDINATE SYSTEM, NORTH ZONE.



DATE OF SIGNATURE: 2-16-11  
EXPIRES: 12/31/2012

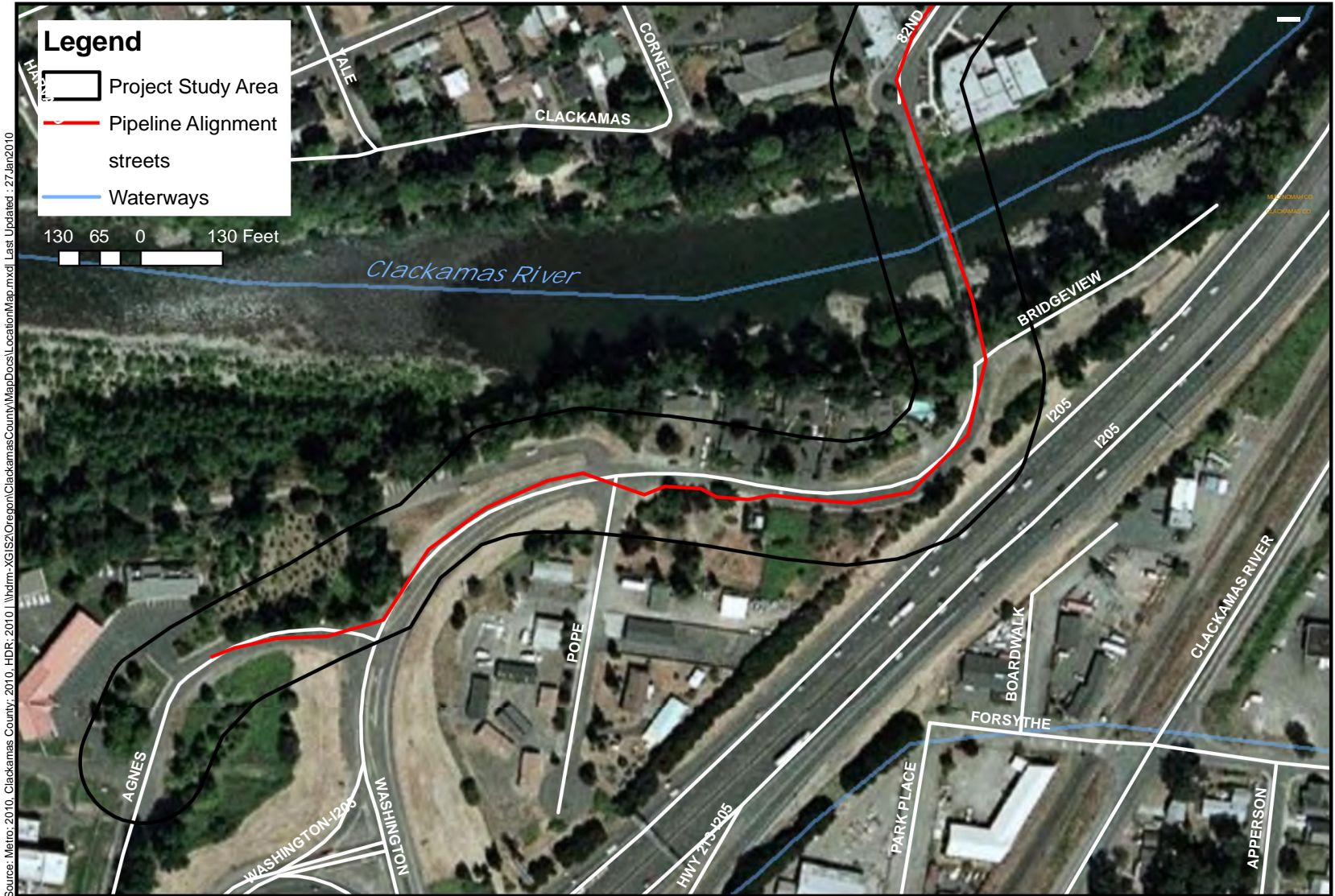






Vicinity Map  
FIGURE 1





**Project Location Map**  
**FIGURE 2**



## **Attachment B**

### **Written Justification**

# Intertie 2 Diversion Project B – 20” & 30” Force Mains

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## City of Oregon City Land Use Applications Written Justification

February 2011



150 Beaver Creek Rd.,  
Oregon City, OR 97045



1001 SW 5<sup>th</sup> Avenue  
Suite 1800  
Portland, OR 97204

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## 1.0 Introduction

Clackamas County Water Environment Services (WES) operates and maintains two wastewater treatment plants in Clackamas County: the Kellogg Creek Water Pollution Control Plant (WPCP) located in the City of Milwaukie, and the Tri-City WPCP located in Oregon City. The Kellogg Creek WPCP is currently leasing capacity to the Clackamas County Sewer District (CCSD) No. 1 in excess of the treatment capacity and does not have room to expand its treatment processes. CCSD No. 1 is financing and building capacity at the Tri-City plant as part of larger efforts mandated by the Oregon Department of Environmental Quality (DEQ), known as the RiverHealth Capacity Management Program (CMP). The intent of the CMP is to relieve the over-capacity Kellogg Creek Water Pollution Control Plant, located in Milwaukie and ultimately protect public health and the Willamette River. To reduce wastewater flows directed to the Kellogg Creek WPCP, an interim diversion is planned to increase the diversion of raw sewage generated within the District to the wastewater treatment and disposal facilities owned by the Tri-City Service District (TCSD).

The objective of this project is to divert raw sewage from the Mt. Scott interceptor (an interceptor in CCSD No. 1 that flows to the Kellogg Creek WPCP) and send it to the Tri-City WPCP. A diversion structure will be placed on the existing interceptor, which will divert sewage via a gravity pipeline to a new pump station located on Johnson Road. The diversion structure and pipeline, pump station, and majority of the new force main (pipeline) alignment is located outside of Oregon City limits. Approximately 1,725 feet (0.33 miles) of the 22,000-foot (4.2 miles) pipeline is located within Oregon City. See sheet C-30 of the site plans provided in Attachment D for the jurisdictional boundary.

## 2.0 Project Description

A 20-inch ductile iron pipeline will be constructed along the east side of the pipe/pedestrian bridge, which crosses over Clackamas River between 82nd Drive in the City of Gladstone and Washington Street in the City of Oregon City. (Bridge No. 00604A) The pipeline will be placed no higher than 2 to 3 inches above the top elevation grade of the pipe/pedestrian bridge deck or no higher than the concrete curb support for the existing fence on the north bridge side to limit the view of the pipeline from the bridge deck. The pipeline will continue south within the Washington Street right-of-way to Agnes Avenue, where it will enter the Tri-City WPCP. The design includes an underground utility vault near the intersection of Washington Street and Agnes Avenue that will hold an air release and vacuum valve, along with an odor control structure. The utility vault will be connected to the nearest Oregon City sanitary manhole with a 2-inch-diameter drain line. During maintenance or emergency situations, the section of pipeline from the north side of the bridge to the utility vault could be drained to the Oregon City sanitary manhole on Washington Street at a maximum flow rate not to exceed 75% of the drain pipe area, as shown on the drawings.

## Natural Resources

Site visits were conducted by HDR environmental scientists to assess the existing conditions of natural resources in the project area on December 9, 2009, December 4, 2009, January 11, 2011, and January 20, 2011. The following section discusses the results of those site visits.

### Vegetation

The majority of the pipeline located within Oregon City would be constructed within the existing paved right-of-way. However, at the request of the Oregon City Public Works Department, the pipeline leaves the paved roadway for approximately 200 feet along the south side of Washington Drive just before the intersection with S. Pope Lane, disturbing approximately 4,755 square feet of herbaceous vegetation and 3 Douglas fir trees within the city right-of-way. Approximately 115 linear feet (2,360 square feet) of this non-paved section of the alignment are located within the Oregon City Natural Resource Overlay District (NROD). All trees impacted trees are located outside of the NROD. Following construction, the area will be reseeded with a native grass mix and tree impacts will be mitigated using cash in lieu of planting pursuant to Oregon City Municipal Code (OCMC) Section 17.41.130. Impacts within the Natural Resource Overlay District (NROD) would be mitigated in accordance with OCMC 17.49.180.E.2. A Mitigation Plan for NROD impacts is currently in development and will be submitted following additional input from Oregon City.

### Soil

Soils within the project area are mapped by Oregon City as Category 2 with medium percolation. According to the Natural Resource Conservation Services' Web Soil Survey (USDA, 2011), soil in the project area consists of Newberg fine sandy loam and Chehalis silt loam. Both have a moderate infiltration rate when thoroughly wet and a low-to-moderate susceptibility to erosion. Construction and operation of the project will not result in changes to existing soils. Erosion control measures are included on sheets C-20, C-21, and E-12 of the site plans provided in Attachment D in compliance with OCMC 15.28. Construction and operation of the project is not expected to have an impact on water resources and wetlands in Oregon City.

### Water Resources and Wetlands

The project crosses over the Clackamas River and associated riparian corridor via the pipe/pedestrian bridge between 82nd Drive in Gladstone and Washington Street in Oregon City. All construction across the river and riparian corridor will occur above the mapped flood hazard area, within the existing paved area, and will not disturb vegetation or alter soil contours. Information provided by Oregon City's OCWebMaps program and verified by in a site visit performed by a qualified environmental scientist show there are no wetlands located within the project area (Oregon City, 2011). Construction and operation of the project is not expected to have an impact on water resources and wetlands in Oregon City.

### Federal- and State-Listed Species

No federal or state-listed threatened or endangered species are known to occur within the project area. Construction and operation of the project is expected to have no impact on federal and state listed species in Oregon City.

### Cultural Resources

An archaeological and cultural resources survey for the project was conducted by Archaeological Services of Clark County in January 2010. No cultural material of archaeological interest was found during either the surface or subsurface investigations. Construction and operation of the project is not expected to have an impact on archaeological and cultural resources in Oregon City.

### Hazardous Materials

A Phase I Environmental Site Assessment (ESA) was prepared by HDR, Inc. for the project in March 2010. The only Hazardous Materials Listed Site determined to be within the vicinity of the Oregon City portion of the project was the Tri-City WPCP, which is considered a historic Recognized Environmental Condition (REC), where environmental releases have occurred in the past, but which do not appear to present a current risk to the project corridor. Construction and operation of the project is not expected to have an impact on hazardous materials or hazardous materials sites within Oregon City.

## 3.0 Description of Request

A pre-application meeting was conducted with Oregon City on December 20, 2010 to determine which sections of the OCMC apply to the project. A summary of the pre-application meetings are included in Attachment E. It was determined that the project is subject to the following permits and approvals:

- Minor Site Plan and Design Review
- NROD Development Permit
- Planning Commission Variance
- Right-of-Way Permit
- Erosion Control Permit
- Grading Permit
- Street Tree Removal Permit

This narrative is intended to address the requirements of the Minor Site Plan and Design Review, NROD Development Permit, and Planning Commission Variance. The approval criteria for the Minor Site Plan and Design Review and Planning Commission Variance are both addressed in OCMC Section 17.50, and the approval criteria for the NROD Development Permit is addressed in OCMC Section 17.49. Applicable sections of the OCMC and findings related to the project are discussed in Sections 4.0 and 5.0 below.

## 4.0 Submittal Requirements

The following Oregon City Minor Site Plan and Design Review submittal items are required and are provided in this submittal:



**1. The submittal requirements of Chapter 17.50**

- a. One copy of a completed city application form that includes the following information:*

- 1. An accurate legal description, tax account number(s), and map and location of all properties that are the subject of the application.*

A legal description and map are provided in Attachment A of this submittal.

- 2. Name, address, telephone number, and authorization signature of all record property owners or contract owners, and the name, address, and telephone number of the applicant, if different from the property owner(s).*

A completed Oregon City Land Use Application form, including all required location, property owner, and applicant information, has been included as part of this submittal.

- b. A complete list of the permit approvals sought by the applicant.*

A complete list of the Oregon City permits and approvals that will be required as a part of this project is provided above in Section 3.0.

- c. A current preliminary title report for the subject property(ies).*

The project will be constructed entirely within Oregon City owned right-of-way. A preliminary title report is not required.

- d. A complete and detailed narrative description of the proposed development that describes existing site conditions, existing buildings, public facilities and services, presence of wetlands, steep slopes and other natural features, a discussion of the approval criteria for all permits required for approval of the development proposal that explains how the criteria are or can be met, and any other information indicated by staff at the pre-application conference as being required.*

A complete project narrative with existing site conditions is provided above in Section 2.0. A discussion of the approval criteria for the Minor Site Plan and Design Review, NROD Development Permit, and Planning Commission Variance is provided below in Section 5.0.

- e. Up to 21 legible copies of all reports, plans, site plans, and other documents required by the section of this code corresponding to the specific approval(s) sought.*

5 copies of the all reports and other required documents have been included as part of this submittal.

- f. At least one copy of the site plan and all related drawings presented in a readable/legible 8-1/2 by 11-inch format for inclusion into the city's bound record of the application.*

5 copies of the site plan have been included as part of this submittal.

- g. Mailing labels for notice to all parties entitled under Section 17.50.090 to receive mailed notice of the application. (The names and addresses of property owners within the notice area indicated on the most recent property tax rolls were used.)*

Mailing labels for all record owners of properties within 300 feet of the alignment as well as the associated neighborhood associations have been included in Attachment G as part of this submittal.

- h. All required application fees.*

WES has prepaid Oregon City for administrative fees related to this project. The amount of \$4,823, due as part of the following applicable fees as described in the 2011 Planning Fee Schedule, should be subtracted from the original payment amount of \$11,000.00:

- Minor Site Plan Design and Review - \$755
- Type III Water Resource Review, non-single/two family lot - \$1,789
- Variance (Hearing) - \$2,279

- i. Annexation agreements (if applicable).*

Not applicable.

- j. Additional documentation as needed by the community development director.*

Based on information provided in the pre-application conference, the following additional document is required as a part of this submittal, but will be submitted at a later date due to limited availability of Oregon City staff members:

- Written documentation from Nancy Kraushaar regarding Geologic Hazard requirements

**2. A narrative explaining all aspects of the proposal in detail and addressing each of the criteria listed in Section 17.62.035C.**

Section 17.62.035C states that all development shall comply with Section 17.62.050 (1–7, 8–15, and 20–22) when deemed applicable by the community development director. Other sections may apply, as directed by the community development director when applicable, to show compliance with this chapter, such as the commercial and institutional standards of section 17.62.055.

Responses to the applicable parts of Section 17.62.050 are provided in Section 5.0 below. Section 17.62.055 relates to institutional and commercial buildings, and does not apply to this project, which consists entirely of a sanitary sewer pipeline. A variance is being requested for OCMC 17.62.050A.17 which states that all utility lines shall be placed underground. A written justification for this variance is provided in Section 5.17 below.

**3. Site plan drawings showing existing conditions/uses and proposed conditions/uses.**

Site plans meeting the requirements of OCMC 17.50 are provided in Attachment D of this submittal.

**4. Architectural drawings, including building elevations and envelopes, if architectural work is proposed.**

Not applicable. No architectural work is proposed as part of this project.

**5. Additional submittal materials may be required by the community development director on a case-by-case basis.**

Not applicable. No additional submittal materials have been discussed at this time.

## **5.0 Approval Criteria**

### **Section 17.62.050 Site Plan and Design Review Standards**

**Landscaping – A minimum of fifteen percent of the lot shall be landscaped. Existing native vegetation shall be retained to the maximum extent practicable. All invasive species, such as Himalayan Blackberry and English Ivy shall be removed onsite prior to building final.**

Not applicable. Landscaping requirements in this section of the OCMC are specific to aboveground developments. Because this project is a below-ground utility pipeline, a Landscaping Plan is not required. The project has been designed to minimize vegetation disturbance by remaining within the existing paved roadway wherever possible. Native vegetation will be retained to the maximum extent practicable, and all plants listed on the Oregon Nuisance Plant List encountered during construction will be removed.

- a. Except as allowed elsewhere in the zoning and land division chapters of this Code, all areas to be credited toward landscaping must be installed with growing plant materials. A reduction of up to 25 percent of the overall required landscaping may be approved by the community development director if the same or greater amount of pervious material is incorporated in the non-parking lot portion of the site plan (pervious material within parking lots are regulated in OCMC 17.52.070).*

Not applicable. Because this project is a below-ground utility pipeline and will not result in any new impervious surfaces, a Landscaping Plan is not required.

- b. Pursuant to Chapter 17.49, landscaping requirements within the Natural Resource Overlay District, other than landscaping required for parking lots, may be met by preserving, restoring, and permanently protecting native vegetation and habitat on development sites.*

Not applicable. The project has been designed to minimize the amount of disturbance to vegetation by remaining within the existing paved roadway wherever possible. Impacts within the NROD will be mitigated in accordance

with OCMC 17.49.180.E.2. A Mitigation Plan for NROD impacts is currently in development and will be submitted following additional input from Oregon City Parks and Planning departments.

- c. The landscaping plan shall be prepared by a registered landscape architect and include a mix of vertical (trees and shrubs) and horizontal elements (grass, groundcover, etc.) that within 3 years will cover 100 percent of the landscape area. No mulch, bark chips, or similar materials shall be allowed at the time of landscape installation except under the canopy of shrubs and within 2 feet of the base of trees. The community development department shall maintain a list of trees, shrubs, and vegetation acceptable for landscaping.*

Not applicable. Because this project is a below-ground utility pipeline and will not result in any new impervious surfaces, a Landscaping Plan is not required.

- d. For properties within the Downtown Design District, or for major remodeling in all zones subject to this chapter, landscaping shall be required to the extent practicable up to the 10 percent requirement.*

The project does not occur within the Downtown Design District of Oregon City. The project is located within the Mixed Use Downtown District and the General Industrial District, which permit basic and linear facilities such as sewer lines according to OCMC 17.29.020.U via 17.34.020 and OCMC 17.32.020.L, respectively.

- e. Landscaping shall be visible from public thoroughfares to the extent practicable.*

Not applicable. Because this project is a below-ground utility pipeline and will not result in any new impervious surfaces, a Landscaping Plan is not required. However, the NROD mitigation planting site will be selected by the City, with preference given to sites visible from public thoroughfares. A Mitigation Plan for NROD impacts is currently in development and will be submitted following additional input from Oregon City Parks and Planning departments.

- f. Interior parking lot landscaping shall not be counted toward the 15 percent minimum.*

Not applicable. No parking lots are proposed as part of this project.

## **2. Vehicular Access and Connectivity**

Not applicable. No parking structures or changes to current transportation facilities are proposed as part of this project. Prior to any construction within the City right-of-way, a Right-of-Way Permit will be obtained in compliance with OCMC 12.04.

- 3. Building structures shall be complimentary to the surrounding area. All exterior surfaces shall present a finished appearance. All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side or rear facades or decking shall be prohibited.**

Not applicable. No aboveground structures are proposed within Oregon City as part of this project.

- 4. Grading shall be in accordance with the requirements of Chapter 15.48 and the public works stormwater and grading design standards.**

Prior to any ground-disturbing activities, a Grading Permit will be obtained in compliance with Chapter 15.48, if required.

- 5. Development subject to the requirements of the Geologic Hazard overlay district shall comply with the requirements of that district.**

Nancy Kraushaar, Oregon City's Public Works Director, is currently in the process of establishing which sections of OCMC 17.44 apply to the project. A response to the applicable sections of OCMC 17.44 will be submitted following receipt of this information from Oregon City.

- 6. Drainage shall be provided in accordance with city's drainage master plan, Chapter 13.12, and the public works stormwater and grading design standards.**

All drainage has been designed in compliance with Chapter 13.12 and is included in the attached site plans. No existing drainage patterns will be changed by this project.

- 7. Parking, including carpool, vanpool, and bicycle parking, shall comply with city off-street parking standards, Chapter 17.52.**

Not applicable. No additional parking facilities are proposed as part of this project.

- 8. Sidewalks and curbs shall be provided in accordance with the city's transportation master plan and street design standards. Upon application, the community development director may waive this requirement in whole or in part in those locations where there is no probable need or comparable alternative location provisions for pedestrians are made.**

Not applicable. No changes to sidewalks and/or curbs are proposed as part of this project. There are no sidewalks in the area where the alignment leaves the paved right-of-way. A

- 9. A well-marked, continuous and protected on-site pedestrian circulation system shall be provided:**

Not applicable. No new buildings are proposed as part of this project and pedestrian traffic will not change in the project area.

**10. There shall be provided adequate means to ensure continued maintenance and necessary normal replacement of private common facilities and areas, drainage ditches, streets and other ways, structures, recreational facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage storage areas and other facilities not subject to periodic maintenance by the city or other public agency.**

All maintenance of the sanitary sewer pipeline will be provided by WES. No additional facilities subject to periodic maintenance by the city or other public agencies will be constructed as part of the project.

**11. Site planning shall conform to the requirements of OCMC Chapter 17.41, Tree Protection.**

The project proposes to remove 3 Douglas fir trees within the public right-of-way and will provide cash in lieu of planting pursuant to Section 17.41.130. A Street Tree Removal permit will be obtained prior to construction in compliance with OCMC 12.08. The trees that are proposed for removal are not designated by the city for protection or conservation.

All trees to be retained within the construction area will be protected using construction fencing and signage to establish an appropriate tree protection zone, in accordance with Section 17.41.130.

**12. Development shall be planned, designed, constructed, and maintained to protect water resources and habitat conservation areas in accordance with the requirements of the city's Natural Resources Overlay District, Chapter 17.49, as applicable.**

According to Section 17.49.[0]90k, city, county, and state capital improvement projects, including sanitary sewer facilities, are allowed within the NROD under prescribed conditions. Section 17.49.100 states the following standards apply to all Uses Allowed under Prescribed Conditions within the NROD with the exception of rights-of-way (subject to Section 17.49.150), trails (subject to Section 17.49.170), utility lines (subject to Section 17.49.140), land divisions (subject to Section 17.49.160), and mitigation projects (subject to Section 17.49.180 or 17.49.190):

- a. Native trees may be removed only if they occur within 10 feet of any proposed structures or within 5 feet of new driveways or if deemed not wind-safe by a certified arborist. Trees listed on the Oregon City Nuisance Plant List or Prohibited Plant List are exempt from this standard and may be removed. A protective covenant shall be required for any native trees that remain;*

The 3 Douglas fir trees to be removed as part of this project are all located outside of the NROD. Additionally, all three trees occur within 10 feet of the new pipeline; all other trees will be protected using construction fencing and signage to establish an appropriate tree protection zone, in accordance with Section 17.41.130.



- b. *The community development director may allow the landscaping requirements of the base zone, other than landscaping required for parking lots, to be met by preserving, restoring, and permanently protecting habitat on development sites in the Natural Resource Overlay District.*

Not applicable. The project has been designed to minimize the amount of disturbance to vegetation by remaining within the existing paved roadway wherever possible. Impacts within the NROD will be mitigated in accordance with OCMC 17.49.180.E.2. The Mitigation Plan found in Attachment C provides a detailed description of NROD mitigation area.

- c. *All vegetation planted in the NROD shall be native and listed on the Oregon City Native Plant List;*

All species included in the native grass seed mix used to reseed the disturbed area will be selected from the Oregon City Native Plant List. Impacts to vegetated areas will be mitigated in compliance with OCMC 17.49.180, which requires that all trees, shrubs, and ground cover be selected from the Oregon City Native Plant List.

- d. *Grading is subject to installation of erosion control measures required by the City of Oregon;*

Erosion control measures are included in sheets C-20, C-21, and E-12 of the site plans provided in Attachment D in compliance with OCMC 15.28.;

- e. *The minimum front, street, or garage setbacks of the base zone may be reduced to any distance between the base zone minimum and zero in order to minimize the disturbance area within the NROD portion of the lot;*

Not applicable. There are no aboveground structures proposed within Oregon City as part of the project, so no front, street, or garbage setbacks are required.

- f. *Any maximum required setback in any zone, such as for multifamily, commercial, or institutional development, may be increased to any distance between the maximum and the distance necessary to minimize the disturbance area within the NROD portion of the lot;*

Not applicable. There are no aboveground structures proposed within Oregon City as part of the project, so no setbacks are required.

- g. *Fences are allowed only within the disturbance area;*

Not applicable. No new fences will be installed as part of this project. Existing safety fencing along the pipe/pedestrian bridge will be temporarily removed during construction and then immediately replaced.

- h. *Incandescent lights exceeding 200 watts (or other light types exceeding the brightness of a 200 watt incandescent light) shall be placed or shielded so that they do not shine directly into resource areas;*

Not applicable. No incandescent lights will be installed as part of the project.

- i. *If development will occur within the 100-year floodplain, the FEMA floodplain standards of Chapter 17.42 shall be met; and*

Not applicable. No development or construction will occur within the 100-year floodplain.

- j. *Mitigation of impacts to the regulated buffer is required, subject to Section 17.49.180 or 17.49.190.*

All impacts to vegetation within the NROD will be mitigated in compliance with OCMC 17.49.180. A Mitigation Plan for NROD impacts is currently in development and will be submitted following additional input from Oregon City Parks and Planning departments.

**13. All development shall maintain continuous compliance with applicable federal, state, and city standards pertaining to air and water quality, odor, heat, glare, noise and vibrations, outdoor storage, radioactive materials, toxic or noxious matter, and electromagnetic interference. Prior to issuance of a building permit, the community development director or building official may require submission of evidence demonstrating compliance with such standards and receipt of necessary permits. The review authority may regulate the hours of construction or operation to minimize adverse impacts on adjoining residences, businesses or neighborhoods. The emission of odorous gases or other matter in such quantity as to be readily detectable at any point beyond the property line of the use creating the odors or matter is prohibited.**

Construction of the proposed pipeline may generate short-term, temporary noise impacts caused primarily by equipment operation (i.e., trucks, cranes, backhoes, etc.) associated with excavation, material removal, pipe delivery and installation, backfilling, and related activities. No noise would be associated with operation of the completed project.

Temporary air quality impacts may occur during construction of the proposed pipeline due to fugitive dust emissions caused by excavation, and other construction activities. Localized increases in exhaust emissions from equipment and vehicle operation would also occur during construction; however, emissions would not be great enough to noticeably affect air quality. There would be no air quality impacts associated with the completed project.

An odor control structure will be installed near the intersection of Washington Drive and S. Agnes Ave. to minimize the potential for odor in the project area. No additional heat, glare, outdoor storage, radioactive materials, toxic or noxious matter, and electromagnetic interference will occur in the project area as a result of the project.

**14. Adequate public water and sanitary sewer facilities sufficient to serve the proposed or permitted level of development shall be provided. The applicant shall demonstrate that adequate facilities and services are presently available or can be made available concurrent with development. Service providers**

**shall be presumed correct in the evidence, which they submit. All facilities shall be designated to city standards as set out in the city's facility master plans and public works design standards. A development may be required to modify or replace existing offsite systems if necessary to provide adequate public facilities. The city may require over sizing of facilities where necessary to meet standards in the city's facility master plan or to allow for the orderly and efficient provision of public facilities and services. Where over sizing is required, the developer may request reimbursement from the city for over sizing based on the city's reimbursement policy and fund availability, or provide for recovery of costs from intervening properties as they develop.**

Not applicable. The project is a sanitary sewer pipeline intended to provide the community with additional capacity. No additional demands on public works will occur as a result of the project. During maintenance or emergency situations, the section of pipeline from the north side of the bridge to the utility vault could be drained to the Oregon City sanitary manhole on Washington Street via a 2-inch diameter drain line. The additional flow required during these situations would not exceed the capacity of the Oregon City sanitary sewer in this location.

- 15. Adequate right-of-way and improvements to streets, pedestrian ways, bike routes and bikeways, and transit facilities shall be provided and be consistent with the city's transportation master plan and design standards and this title. Consideration shall be given to the need for street widening and other improvements in the area of the proposed development impacted by traffic generated by the proposed development. This shall include, but not be limited to, improvements to the right-of-way, such as installation of lighting, signalization, turn lanes, median and parking strips, traffic islands, paving, curbs and gutters, sidewalks, bikeways, street drainage facilities and other facilities needed because of anticipated vehicular and pedestrian traffic generation.**

Not applicable. The project does not include any changes to streets, pedestrian ways, bike routes and bikeways, and transit facilities. Traffic volumes and patterns will not change as a result of the project.

- 16. If Tri-Met, upon review of an application for an industrial, institutional, retail or office development, recommends that a bus stop, bus turnout land, bus shelter, bus landing pad or transit stop connection be constructed at the time of the development, the review authority shall require such improvement, using designs supportive of transit use.**

Not applicable. The project is not an industrial, institutional, retail, or office development.

- 17. All utility lines shall be placed underground.**

A Planning Commission Variance is being requested for this development standard to allow approximately 200 feet of the proposed pipeline to be constructed and placed on the east side of the SE 82nd Drive Bridge. The majority of the pipeline would be buried

within the existing roadway, but approximately 200 feet of the pipeline would be located on the east side of the pipe/pedestrian bridge, which crosses over the Clackamas River between 82nd Drive in the City of Gladstone and Washington Street in the City of Oregon City. (Bridge No. 00604A).

OCMC 17.60.030 states that a variance may be granted only in the event that all of the following conditions exist.

- a. *That the variance from the requirements is not likely to cause substantial damage to adjacent properties by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;*

The installation of the pipeline on the side of the pipe/pedestrian bridge would not result in any change to light, air quality, safe access, or other qualities valued by adjacent properties.

- b. *That the request is the minimum variance that would alleviate the hardship;*

To minimize the potential visual impact of an aboveground pipeline crossing of the Clackamas River, the pipeline will be placed no higher than 2 to 3 inches above the top elevation grade of the pipe/pedestrian bridge deck or no higher than the concrete curb support for the existing fence on the north bridge side to limit the view of the pipeline from the bridge deck.

- c. *Granting the variance will equal or exceed the purpose of the regulation to be modified.*

The purpose of the regulation on aboveground utilities is to maintain the current aesthetics of Oregon City. The pipeline will equal or exceed the purpose of this regulation by making the pipeline blend in visually with the existing pipe/pedestrian bridge through appropriate placement and paint color selection. Additionally, aboveground construction of the pipeline will reduce otherwise potential impacts to the in-stream habitat of the Clackamas River, which is protected as a natural resource under OCMC 17.49.

- d. *Any impacts resulting from the adjustment are mitigated;*

The current alignment is the result of extensive consultation with Oregon City on the most desirable location of the pipeline on the pipe/pedestrian bridge. Potential impacts to aesthetics have been mitigated through appropriate placement and coloration, making the pipeline not noticeable to bridge users and adjacent property owners.

- e. *No practical alternatives have been identified which would accomplish the same purpose and not require a variance*

The only possible alternative to constructing the pipeline on the side of the bridge would be to construct it under the Clackamas River, using either an open-cut trench method or directional drilling. Because the sub-surface geology below the Clackamas River consists of solid and fractured basalt, both open-cutting and directional drilling have the potential to impact water quality and in-stream

habitat. Additionally, the segment of pipeline located beneath the Clackamas River would be challenging to drain during maintenance and emergency situations, flush to prevent plugging, and difficult to maintain and inspect without disturbing the in-stream habitat. Using the pipeline/pedestrian bridge will avoid these challenges, significantly reducing the overall cost of the project and potential risk to the environment.

- f. The variance conforms to the comprehensive plan and the intent of the ordinance being varied.*

CCSD # 1 assumed ownership of the bridge from the City of Gladstone in 1998 for the purpose of using the bridge to carry future utility lines across the Clackamas River. There are currently 2 existing utility lines located on the bridge, a 6-inch natural gas line owned by NW Natural Gas and a 12-inch pressurized sanitary sewer line owned by CCSD#1. The addition of the 20-inch pipeline will be consistent with the intended use of the bridge.

**18. Access and facilities for physically handicapped people shall be incorporated into the site and building design consistent with applicable federal and state requirements, with particular attention to providing continuous, uninterrupted access routes.**

No aboveground structures are proposed as a part of this project. Access to the pipe/pedestrian bridge for physically handicapped people will not change as a result of this project. Pedestrian use and access of the bridge will be temporarily disrupted during project construction, but a plan will be developed by the contractor to divert pedestrian traffic appropriately.

**19. For a residential development, site layout shall achieve at least eighty percent of the maximum density of the base zone for the net developable area. Net developable area excludes all areas for required right-of-way dedication, land protected from development through Natural Resource or Geologic Hazards protection, and required open space or park dedication.**

Not applicable. This project is not a residential development.

**20. Screening of Mechanical Equipment:**

Not applicable. No new mechanical equipment is proposed as part of this project.

**21. Building Materials.**

- a. Preferred building materials. Building exteriors shall be constructed from high quality, durable materials.*

Not applicable. No aboveground structures will be constructed as part of this project.

- b. Prohibited materials. The following materials shall be prohibited in visible locations unless an exception is granted by the community development*

*director based on the integration of the material into the overall design of the structure.*

- i. Vinyl or plywood siding (including T-111 or similar plywood).*

No vinyl or plywood siding is proposed as a part of this project.

- ii. Glass block or highly tinted, reflected, translucent or mirrored glass (except stained glass) as more than ten percent of the building facade.*

No glass block or highly tinted, reflected, translucent or mirrored glass is proposed as a part of this project.

- iii. Corrugated fiberglass.*

No corrugated fiberglass is proposed as a part of this project.

- iv. Chain link fencing (except for temporary purposes such as a construction site or as a gate for a refuse enclosure).*

No new fencing is proposed as a part of this project. Pre-existing chain-link safety fencing along the pipe/pedestrian bridge will be temporarily removed during construction and then immediately replaced.

- v. Crushed colored rock/crushed tumbled glass.*

No crushed colored rock or crushed tumbled glass is proposed as part of this project.

- vi. Non-corrugated and highly reflective sheet metal.*

No non-corrugated and highly reflective sheet metal is proposed as part of this project.

- c. Special material standards: The following materials are allowed if they comply with the requirements found below:*

- 1. Concrete block. When used for the front facade of any building, concrete blocks shall be split, rock- or ground-faced and shall not be the prominent material of the elevation. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than three feet above the finished grade level adjacent to the foundation wall.*

Not applicable. No concrete blocks will be used as part of this project.

- 2. Metal siding. Metal siding shall have visible corner moldings and trim and incorporate masonry or other similar durable/permanent material near the ground level (first two feet above ground level).*

Not applicable. No metal siding will be used as part of this project.

- 3. Exterior Insulation and Finish System (EIFS) and similar toweled finishes shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.*



Not applicable. No Exterior Insulation and Finish Systems or similar towed finishes will be used as part of this project.

4. *Building surfaces shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint.*

Not applicable. No aboveground structures are proposed as a part of this project.

**22. Conditions of Approval. The review authority may impose such conditions as it deems necessary to ensure compliance with these standards and other applicable review criteria, including standards set out in city overlay districts, the city's master plans, and city public works design standards. Such conditions shall apply as described in Sections 17.50.310, 17.50.320 and 17.50.330. The review authority may require a property owner to sign a waiver of remonstrance against the formation of and participation in a local improvement district where it deems such a waiver necessary to provide needed improvements reasonably related to the impacts created by the proposed development. To ensure compliance with this chapter, the review authority may require an applicant to sign or accept a legal and enforceable covenant, contract, dedication, easement, performance guarantee, or other document, which shall be approved in form by the city attorney.**

The applicant accepts these conditions of approval and agrees to comply with any additional requirements deemed necessary by the review authority.

## 6.0 References

Oregon City. 2011. OCWebMaps.

<http://maps.orcity.org/imf/sites/OCWebMaps/jsp/launch.jsp>. Accessed January 2011.

USDA (US Department of Agriculture). 2011. USDA Natural Resource Conservation Service Web Soil Survey.

<http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>. Accessed January 2011.

## **Attachment C**

.....Mitigation Plan

# Intertie 2 Diversion Project B – 20” & 30” Force Mains

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## Natural Resources Overlay District Mitigation Plan Report

March 2011



150 Beavercreek Rd.,  
Oregon City, OR 97045



1001 SW 5<sup>th</sup> Avenue  
Suite 1800  
Portland, OR 97204

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## Introduction

Clackamas County Water Environment Services (WES) operates and maintains two wastewater treatment plants in Clackamas County: the Kellogg Creek Water Pollution Control Plant (WPCP) located in the City of Milwaukie, and the Tri-City WPCP located in Oregon City. The Kellogg Creek WPCP is currently receiving wastewater flows from the Clackamas County Sewer District No. 1 (CCSD # 1) in excess of the treatment capacity and does not have room to expand its treatment processes. To reduce wastewater flows directed to the Kellogg Creek WPCP, an interim diversion is planned to increase the diversion of raw sewage generated within the District to the wastewater treatment and disposal facilities owned by the Tri-City Service District (TCSD). The project is being designed to allow for future consideration of the decommissioning of the Kellogg Plant and diversion of all flows generated within CCSD # 1 to the Tri-City WPCP.

The objective of this project is to divert raw sewage from the Mt. Scott interceptor (an interceptor in CCSD # 1 that flows to the Kellogg Creek WPCP) and send it to the Tri-City WPCP. A diversion structure will be placed on the existing interceptor, which will divert sewage via a gravity pipeline to a new pump station located on Johnson Road. The diversion structure and pipeline, pump station, and majority of the new force main (pipeline) alignment is located outside of Oregon City limits. Approximately 1,725 feet (0.33 miles) of the 22,000-foot (4.2 miles) pipeline is located within Oregon City. See sheet C-30 of the site plans provided in Attachment D for the jurisdictional boundary.

## Project Description

A 20-inch ductile iron pipeline will be constructed along the north side of the pedestrian bridge (Bridge No. 00604A), which crosses over Clackamas River between 82nd Drive in the City of Gladstone and Washington Street in the City of Oregon City. The pipeline will be placed no higher than two to three inches above the top elevation grade of the pedestrian bridge deck or no higher than the concrete support for the existing fence on the north bridge side to limit the view of the pipeline from the bridge deck. The bottom of the pipeline will be slightly above the bottom of the bridge deck. The pipeline will continue south within the Washington Street right-of-way to Agnes Avenue, where it will enter the Tri-City WPCP. The design includes a utility vault near the intersection of Washington Street and Agnes Avenue that will hold an air release and vacuum valve, along with an odor control structure. The utility vault will be connected to the nearest Oregon City sanitary manhole with a two-inch-diameter drain line. During maintenance or emergency situations, the section of pipeline from the north side of the bridge to the utility vault could be drained to the Oregon City sanitary manhole on Washington Street, as shown on the drawings.

## 17.49.230 Mitigation Plan Report

### A. Written Justification - Mitigation Standard 17.49.180

Written responses to each applicable Mitigation Standard 17.49.180 or 17.49.190 indicating how the proposed development complies with the mitigation standards;

#### 17.49.180 Mitigation Standards

The following standards (or the alternative standards of Section 17.49.190) apply to required mitigation:

- A. Mitigation shall occur at a 2:1 ratio of mitigation area to proposed NROD disturbance area. Mitigation of the removal or encroachment of a wetland or stream shall not be part of this chapter and will be reviewed by the Division of State Lands or the Army Corp of Engineers during a separate review process;

*The majority of the pipeline located within Oregon City would be constructed within the existing paved right-of-way. However, the pipeline leaves the paved roadway for approximately 200 feet along the south side of Washington Drive just before the intersection with S. Pope Lane, disturbing approximately 4,755 (ft<sup>2</sup>) of herbaceous vegetation and three Douglas fir (*Pseudotsuga menziesii*) trees within the city right-of-way. Approximately 2,360 ft<sup>2</sup> (115 linear feet) of this non-paved section of the alignment is located within the Oregon City Natural Resource Overlay District (NROD). The three Douglas fir trees that will be impacted are located outside of the NROD. The proposed mitigation replanting area is approximately 17,128 ft<sup>2</sup>, which is greater than 2:1 ratio for mitigation area.*

*Within Oregon City limits, no jurisdictional waters of the U.S./state or wetlands would be impacted by the proposed project. Therefore, no review is required by Oregon Department of State Lands (DSL) or the U.S. Army Corps of Engineers (USACE).*

- B. Mitigation shall occur on the site where the disturbance occurs, except as follows:
  - 1. The mitigation is required for disturbance associated with a right-of-way or utility in the right- of-way;

*The project is a sanitary sewer pipeline located within right-of-way, therefore offsite mitigation is allowed. The proposed mitigation area is located less than 200 feet to the northwest of the proposed disturbance area between Washington Drive and parking lot used for local park access along the Clackamas River.*

- 2. The mitigation shall occur first on the same stream tributary, secondly in the Abernethy, Newell or Livesay Creek or a tributary thereof, or thirdly as close to the impact area as possible within the NROD; and

*The proposed impact and mitigation area is located along the same waterway, the Clackamas River and will occur within the same NROD area.*

3. An easement that allows access to the mitigation site for monitoring and maintenance shall be provided as part of the mitigation plan.

*An easement is not required for access to the mitigation site for monitoring and maintenance because the mitigation site is located within Oregon City public right-of-way.*

- C. Mitigation shall occur within the NROD area of a site unless it is demonstrated that this is not feasible because of a lack of available and appropriate area. In such cases, the proposed mitigation area shall be contiguous to the existing NROD area so the NROD boundary can be easily extended in the future to include the new resource site.

*The proposed mitigation area is located to the northwest less than approximately 200 feet from the proposed disturbance area between Washington Drive and parking lot used for local park access along the Clackamas River. This area is known as River Access Trail. The mitigation proposed would occur within the NROD area of site disturbances.*

- D. Invasive and nuisance vegetation shall be removed within the mitigation area;

*The proposed mitigation area is a planted grass landscaped area. No invasive or nuisance vegetation is currently present onsite. Weed removal is proposed as part of maintenance activities of the mitigation site.*

- E. Required Mitigation Planting. An applicant shall meet Mitigation Planting Option 1 or 2 below, whichever option results in more tree plantings, except that where the disturbance area is one acre or more, Mitigation Option 2 shall be required. All trees, shrubs and ground cover shall be selected from the Oregon City Native Plant List.

NOTE: Applications on sites where no trees are present or which are predominantly covered with invasive species shall be required to mitigate the site, remove the invasive species and plant trees and native plants pursuant to Option 2.

*Approximately 2,360 ft<sup>2</sup> (115 linear feet) of herbaceous vegetation located within NROD would be disturbed during construction of the pipeline. The mitigation option proposed will be Option 2 because no trees within the NROD area would be impacted as part of this project.*

*The proposed mitigation site is located within an area managed by the Oregon City Parks Department. Selected tree and shrub species were developed and chosen with coordination through the Oregon City Parks Department and Pacific Gas and Electric (PG&E)<sup>1</sup>. Native trees will include: big leaf maple (*Acer macrophyllum*), western flowering dogwood (*Cornus nuttallii*), red alder (*Alnus rubra*), and Douglas fir. Native shrubs will include: Indian plum (*Oemleria cerasiformis*), common snowberry (*Symphoricarpos albus*), red elderberry (*Sambucus racemosa*), and hazelnut (*Corylus corruta*).*

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<sup>1</sup> Coordination was conducted with PG&E because of existing overhead distribution lines within the proposed planting areas.



## 2. Mitigation Planting Option 2

- a. Option 2 - Planting Quantity. In this option, the mitigation requirement is calculated based on the size of the disturbance area within the NROD. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bareground must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

*Approximately 2,360 ft<sup>2</sup> of disturbance is proposed. To calculate required tree and shrub plantings, 2,360 ft<sup>2</sup> was divided by 500 which equals 4.72. To determine required tree plantings, 4.72 was multiplied by five which equals 23.6, rounding to the nearest whole number a total of 24 trees are proposed for planting. To determine required shrub plantings, 4.72 was multiplied by 25 which equals 118, the total number of shrubs proposed for replanting. No grading or removal of the herbaceous layer removal would occur within the proposed mitigation area; therefore no bareground replanting is proposed or required.*

- b. Option 2 - Plant Size. Plantings may vary in size dependent on whether they are live cuttings, bare root stock or container stock, however, no initial plantings may be shorter than 12 inches in height.

*Trees planted will be a minimum size of three-gallon containers or greater. Shrubs planted will be a minimum size from one-gallon containers. All container plant species purchased from a nursery will have the requirement of greater than 12 inches in height.*

- c. Option 2 - Plant Spacing. Trees shall be planted at average intervals of seven (7) feet on center. Shrubs may be planted in single-species groups of no more than four (4) plants, with clusters planted on average between 8 and 10 feet on center.

*Trees and shrubs will be planted at required spacing intervals. Please refer to sheets L-1 and L-2 for detailed planting plan of the proposed mitigation area.*

- d. Option 2 – Mulching and Irrigation shall be applied in the amounts necessary to ensure 80% survival at the end of the required 5-year monitoring period.

*Trees and shrubs planting will be scheduled to allow for proper root establishment over the summer or winter months. If needed water gel packs would be included in the plantings to provide necessary hydrology for root systems to become established. Replanting and maintenance activities, as needed, will continue during the required five year monitoring period to ensure 80% survival of tree and shrub species. Please refer to sheets L-1 and L-2 for detailed planting plan of the proposed mitigation area.*

- e. Option 2 – Plant Diversity. Shrubs shall consist of at least three (3) different species. If 20 trees or more are planted, no more than one-third of the trees may be of the same genus.

*Twenty-four trees will be replanted using four different species, six of each proposed species, or one-fourth of the total for each proposed species. Four types of shrub species are proposed for planting within the mitigation area. This meets the plant diversity requirements. Please refer to sheets L-1 and L-2 for detailed planting plan of the proposed mitigation area.*

## **B. Function and Values**

Within the NROD overlay area, the function of the planted grass area (herbaceous vegetation) provides a low level of water infiltration during precipitation events. This planted grass area is located adjacent to the existing roadway and does not provide high quality or functional habitat for species. No federal or state-listed threatened or endangered species are known to occur within the project area. Construction and operation of the project is expected to have no impact on federal and state listed species in Oregon City.

The proposed mitigation of planting 24 trees and 118 shrubs will help to create additional areas near the Clackamas River increasing available habitat for nesting birds, allowing for increased infiltration and uptake of precipitation during rain events, and decreasing potential runoff into the Clackamas River. Additionally, the planted vegetation will increase the tree and shrub canopy cover along the Clackamas River helping to provide additional shade in the higher reaches of the riparian corridor along the Clackamas River.

### C. Regulatory/Resource Agency Coordination

In addition to the Oregon City approvals, the following permits and approvals have been received or will be obtained prior to construction:

- Clackamas County Building Permits (electrical, mechanical, and plumbing)
- Clackamas County Design Review
- Clackamas County/City of Gladstone Site Development (grading and erosion control)
- Clackamas County Habitat Conservation Area (HCA) Permit
- Clackamas County WES/CCSD # 1 Wetland Buffer Variance Approval
- Clackamas County Floodplain Development Permit
- Clackamas County Utility Placement Application Permit
- City of Gladstone Conditional Use Approval
- USACE Section 404 Permit
- DSL Removal-Fill Permit
- Oregon Department of Environmental Quality (DEQ) 401 Water Quality Certification
- Oregon Department of Transportation (ODOT) State Highway Approach Permit
- ODOT Permit to Occupy or Perform Operations Upon a State Highway
- DEQ NPDES 1200-C Construction Stormwater Discharge Permit
- Union Pacific Railroad (UPRR) ROW Permit
- Blasting Permits (City of Gladstone/Clackamas County)

## D. Construction Timetables

Implementation of the NROD plantings will be performed within the same construction year as the pipeline construction. It is expected construction of the pipeline and replanting activities will take approximately three months. The project schedule is as follows:

**Table 7. Proposed Project Construction Schedule**

<b>Construction Task</b>	<b>Estimated Date</b>
Pipeline Construction Begins	Summer 2011
Pipeline Construction Ends	Fall 2011
Replanting and Seeding Activities Begins	Fall 2011
Mitigation Plantings	Fall/Winter 2011
<b>Five Year Monitoring Begins</b>	<b>Spring/Summer 2012</b>

## E. Monitoring and Maintenance

### Purpose and Goals

The goal of this mitigation plan is to meet the City of Oregon City NROD requirements. CCSD # 1/WES proposes:

- A minimum of 80% survival of trees and shrubs of those species planted is required at the end of the five year maintenance and monitoring period.
- Any invasive species shall be removed and all trees and shrubs that die shall be replaced in kind after the first year.
- Bare spots and areas of invasive vegetation larger than 10 square feet that remain at the end the five year monitoring period shall be replanted or reseeded with native grasses and ground cover species.

### Monitoring Methods and Schedule

The site will be monitored annually for five-years, beginning in the spring after installation of the plantings. Site visits should be scheduled, if possible, in the early growing season (March to May). Annual mitigation monitoring reports will be submitted to Oregon City by December 31st every year for five-years after installation of the plantings.

A general observation and assessment will be recorded for the planted trees and shrubs. All trees and shrubs will be assessed for survivability each year. Photo documentation locations will be identified and used as a standard every year. The following information shall be collected during installation and monitoring:

- Stem count and general condition (vigorous, healthy, not-healthy, or dead) for trees and shrubs
- Percent cover of non-native/invasive species made by visual assessment
- Photographs at designated photographic points
- Other site conditions (i.e., pests and/or debris)

### Maintenance

CCSD # 1/WES shall be responsible only for the plantings associated with the NROD mitigation site for the duration of the five year monitoring period. Contingencies will be necessary to provide a means for corrective action, should the mitigation plantings fail to meet all the necessary performance criteria. Objective specific contingencies are listed above and include some of the listed items. Coordination shall occur between the applicant and Oregon City to determine the appropriate corrective measures for failures to meet established performance standards. Contingency measures for the NROD mitigation area may include, but are not limited to the following:

- Supplemental planting

- Reseeding
- Exotic species control

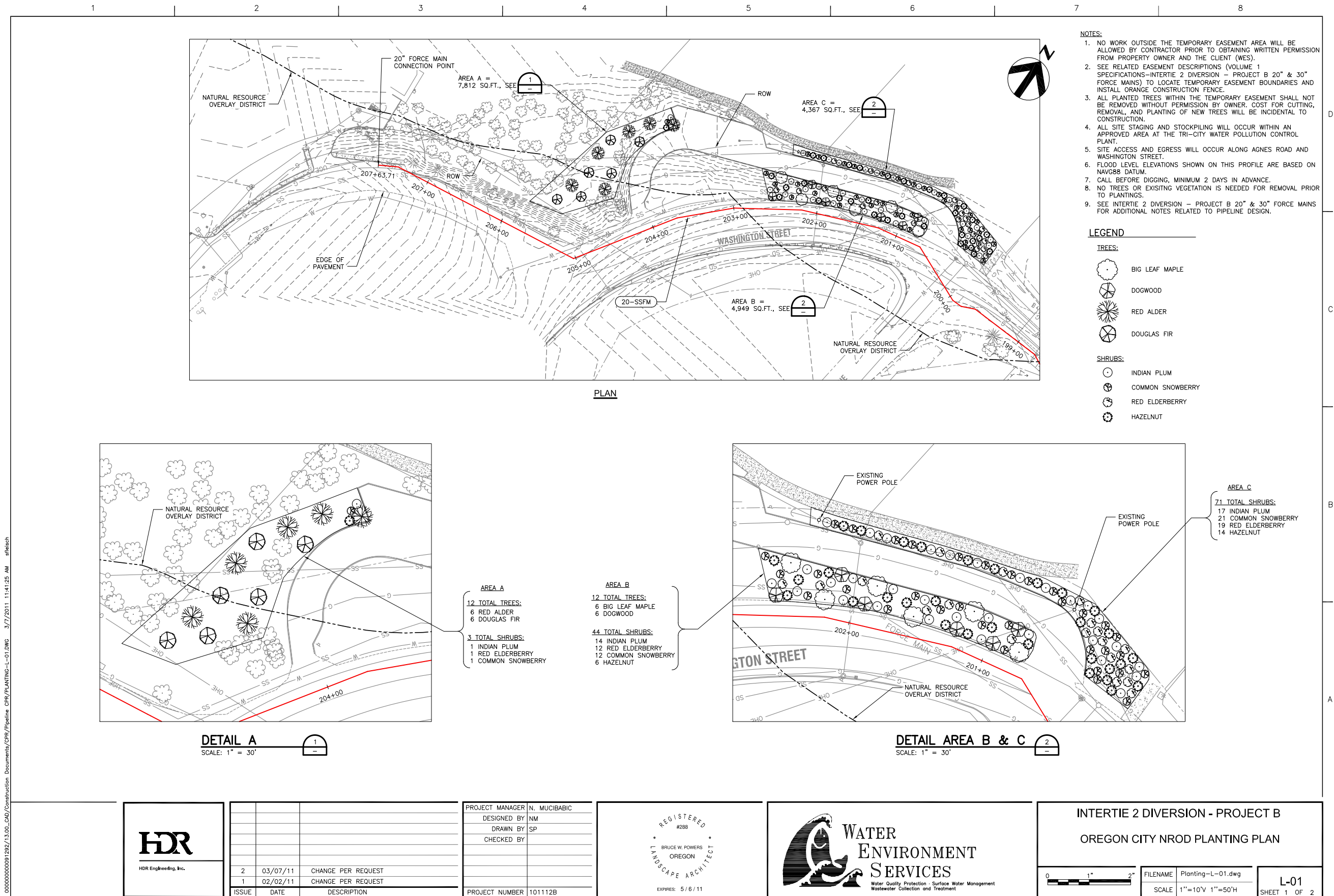
### Contingency Measures

If 80 percent survivorship of all trees and shrubs is not occurring after the five year monitoring period, CCSD # 1/WES will replant any dead plants up to the 80 percent success. CCSD # 1/WES will meet with Oregon City to determine necessary remedial actions, if applicable. However, it should be noted that the proposed plantings are located within Oregon City public right-of-way, and CCSD # 1/WES will not be able to keep the land owner or public from unforeseen impacts or destruction of planted vegetation. Therefore, WES will only replace or restore the site that has not survived due to plant material type, installation methods, or poor site preparation (i.e., soil compaction). CCSD # 1/WES will not replace plant materials that have been removed by the land owner, public, or address site failure due to other human caused modification (i.e., subsequent draining or development).



## Attachment A

### NROD Mitigation Planting Plan





## **Attachment D**

### **Site Plans**

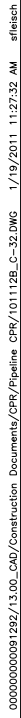








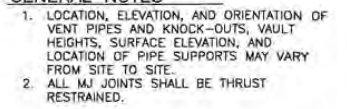




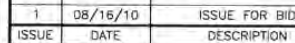


1. LOCATION, ELEVATION, AND ORIENTATION OF VENT PIPES AND KNOCK-OUTS, VAULT HEIGHTS, SURFACE ELEVATION, AND LOCATION OF PIPE SUPPORTS MAY VARY FROM SITE TO SITE.
2. ALL MJ JOINTS SHALL BE THRUST RESTRAINED.

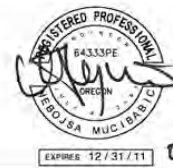
- 1 8" X 4" TEE
- 2 4" PLUG VALVE, FL
- 3 4" AIR RELIEF/VACUUM VALVE
- 4 2" BUTTERFLY VALVE
- 5 2" 90° BEND
- 6 2" TEE
- 7 2" QUICK CONNECT CAM LOCK
- 8 55 GALLON ODOR CONTROL DRUM (CARBON)
- 9 8" OR 10" 90° BEND (SIZE IS SITE DEPENDANT)
- 10 8" OR 10" AIR VENT PIPE WITH GOOSE NECK WITH SS END SCREEN (SIZE IS SITE DEPENDANT)
- 11 8'X10'X8' UTILITY VAULT
- 12 36" DIAMETER VAULT ACCESS
- 13 ACCESS LADDER WITH EXTENSION
- 14 8" OR 12" 90° MJ BEND (SIZE IS SITE DEPENDANT)
- 15 8" OR 12" BLIND FLANGE (CLEANOUT, SIZE IS SITE DEPENDANT)
- 16 PIPE SUPPORTS
- 17 ANNULAR SEAL
- 18 4" FLOOR DRAIN AND DRAIN PIPE (LOCATION IS SITE DEPENDANT)
- 19 8" FLANGED COUPLING ADAPTER, RESTRAINED
- 20 8" PLUG VALVE, FL
- 21 PREFABRICATED GALVANIZED STEEL DRUM SUPPORT, SEE DETAIL 5/D-08.
- 22 4"x2" TEE



- (1) 20" X 6" TEE, FL
- (2) 30" X 6" TEE, FL
- (3) 20" FLANGED COUPLING ADAPTER, RESTRAINED
- (4) 30" FLANGED COUPLING ADAPTER, RESTRAINED
- (5) 6" X 6" TEE, FL
- (6) 6" X 4" 90° MJ BEND
- (7) 4" PLUG VALVE, FL
- (8) 4" AIR RELIEF/VACUUM VALVE
- (9) 2" BUTTERFLY VALVE
- (10) 2" 90° BEND
- (11) 2" TEE
- (12) 2" QUICK CONNECT CAM LOCK
- (13) 55 GALLON ODOR CONTROL DRUM (CARBON)
- (14) 8" 90° BEND
- (15) 8" AIR VENT PIPE WITH GOOSE NECK WITH SS END SCREEN
- (16) 10'X10'X9" UTILITY VAULT
- (17) 36" DIAMETER VAULT ACCESS
- (18) ACCESS LADDER WITH EXTENSION
- (19) ANNULAR SEAL
- (20) 4" FLOOR DRAIN AND DRAIN PIPE (LOCATION IS SITE DEPENDANT)
- (21) PREFABRICATED GALVANIZED STEEL DRUM SUPPORT, SEE DETAIL 5/D-08.
- (22) 12" VAULT RISER
- (23) 4'X2" TEE
- (24) 1'-0" WIDE CONCRETE PIPE SUPPORT (LOCATIONS MAY VARY), LENGTH NOT TO EXCEED FLANGE O.D. OF PIPE FITTINGS. PROVIDE 1/8" THICK RUBBER BETWEEN THE PIPE AND THE CONCRETE SUPPORT.



PROJECT MANAGER	N. MUCIBABIC
DESIGNED BY	NM
DRAWN BY	SP
CHECKED BY	
PROJECT NUMBER	101112B

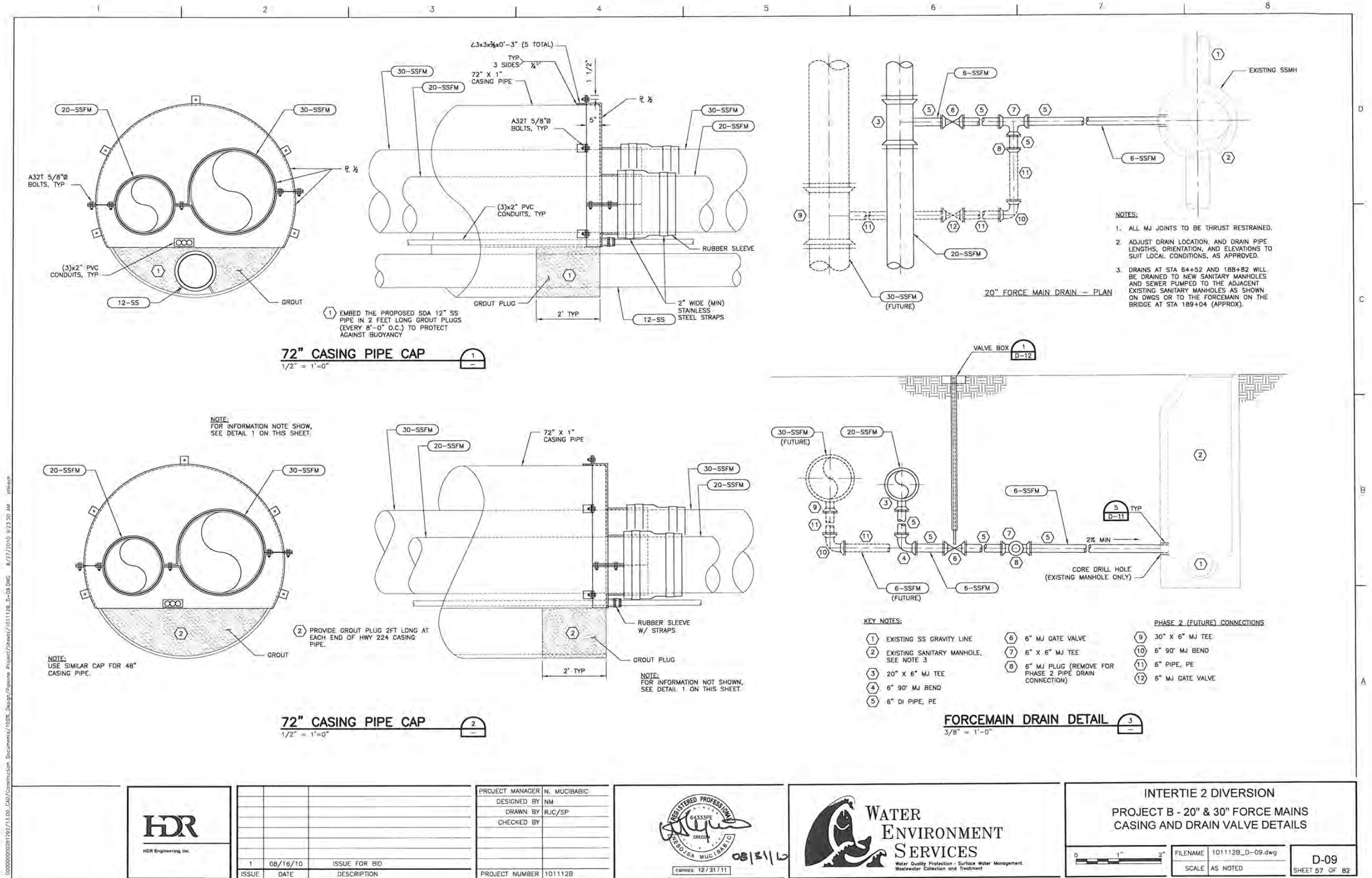


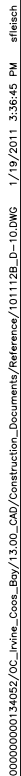
INTERTIE 2 DIVERSION  
PROJECT B - 20" & 30" FORCE MAINS  
ODOR CONTROL VALVE VAULT DETAILS 1

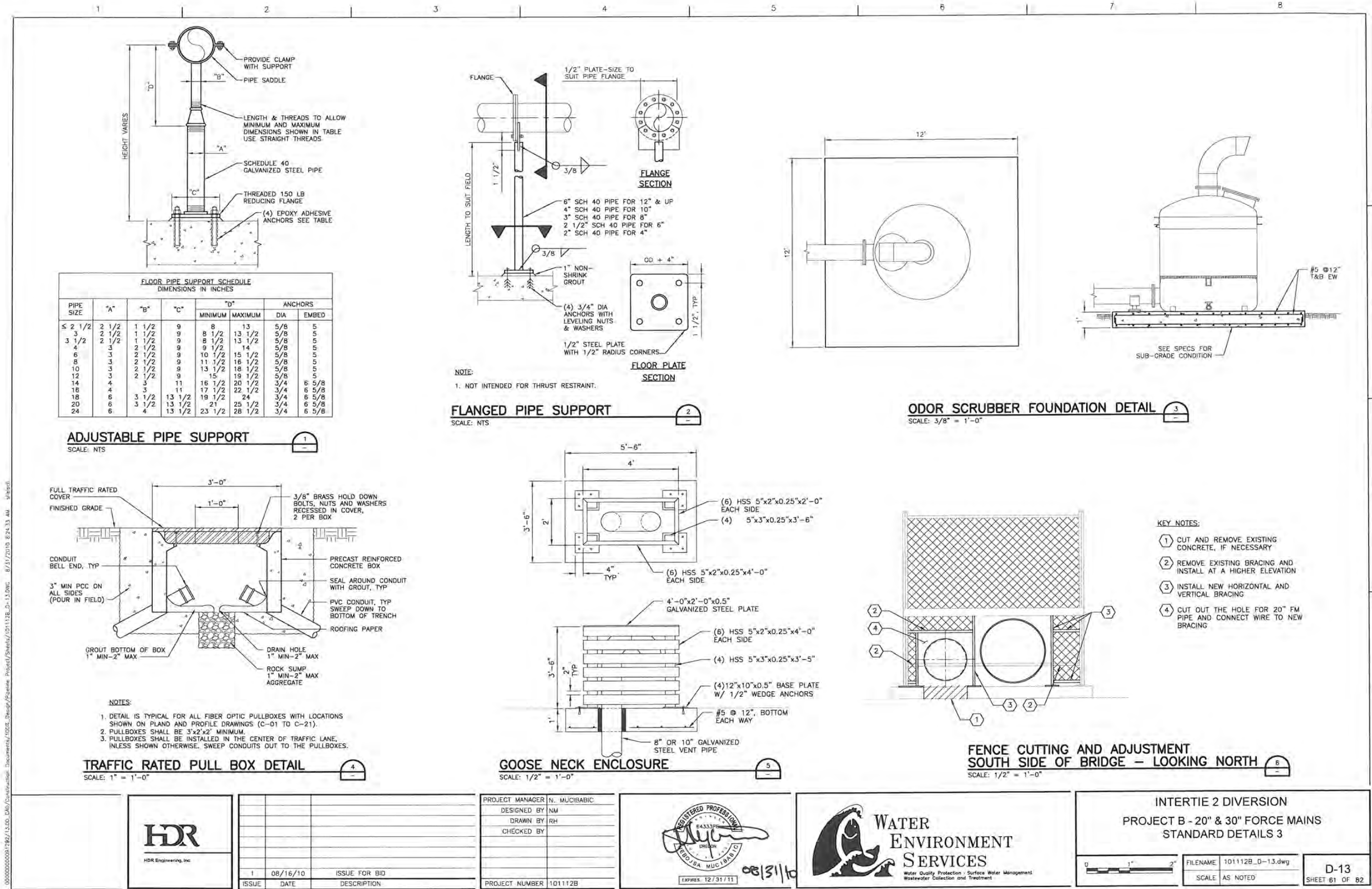


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SCALE	AS NOTED

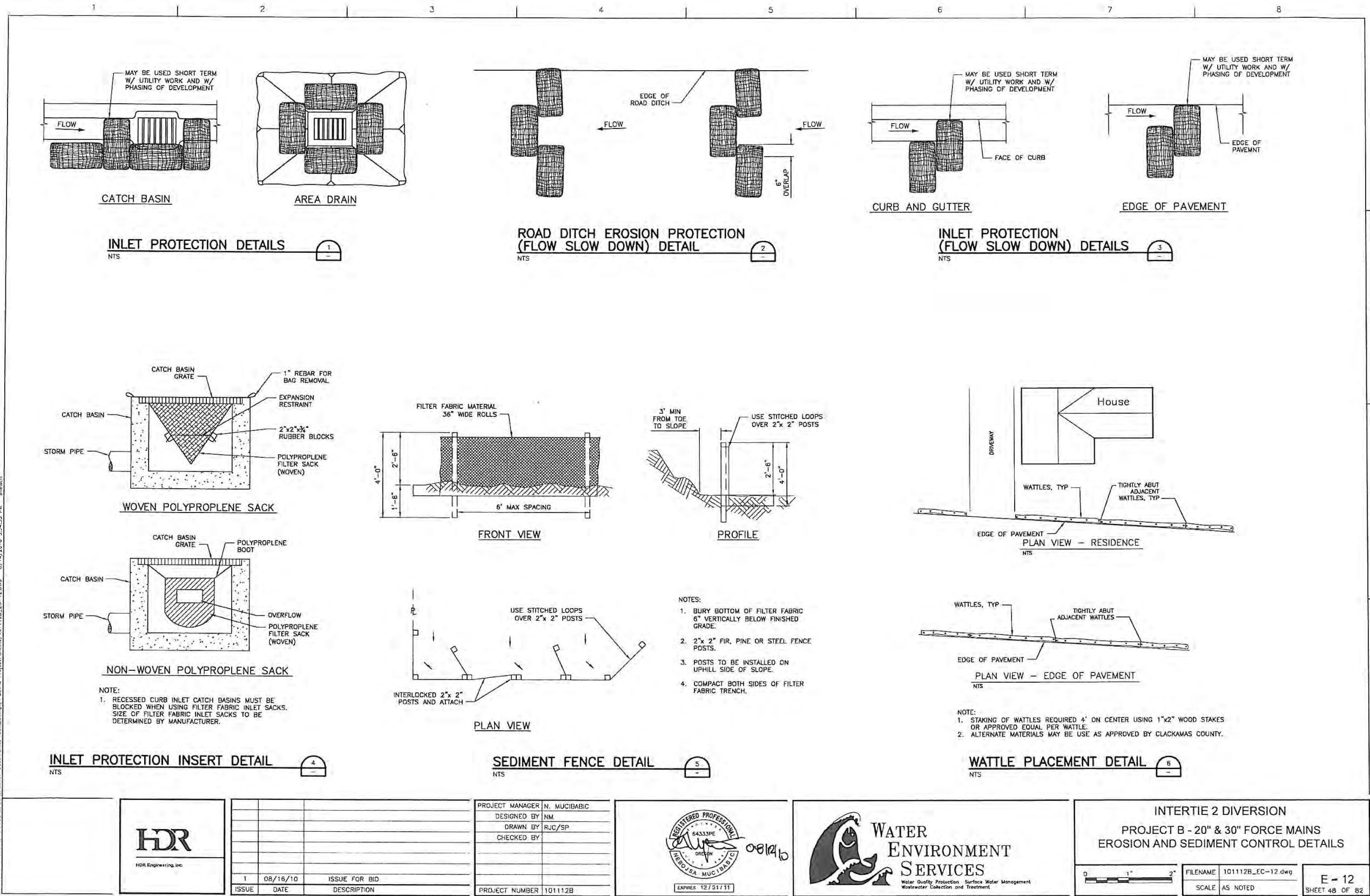
D-01  
SHEET 49 OF 82











## **Attachment E**

### **Pre-Application Meeting Summary**



## **WES Utility Project**

*PA 10-29, Updated December 20, 2010*

**Proposed Project:**

Installation of a sewage line approximately 1,725 feet long from Gladstone to the Tri-City Service District facility. This instruction is based on the following assumptions:

- The applicant is not proposed to alter the fencing on the bridge;
- The utility line will not be in the floodplain;
- The utility line will be within the right of way for its entire length;
- Other than the portion of the line on the side of the bridge, no other portion of the construction will be above ground; and
- Construction will include removal of a few street trees.

**General Information:**

- The City limit extends to the middle of the river.
- OCMC 17.29.020.U via 17.34.020 identifies utilities: basic and linear facilities, such as water, sewer, power, telephone, cable, electrical and natural gas lines, not including major facilities such as sewage and water treatment plants, pump stations, water tanks, telephone exchanges and cell towers as permitted in the “MUD” Mixed Use Downtown District.
- OCMC 17.32.020.L identifies utilities: basic and linear facilities, such as water, sewer, power, telephone, cable, electrical and natural gas lines, not including major facilities such as sewage and water treatment plants, pump stations, water tanks, telephone exchanges and cell towers as permitted in the “GI” General Industrial District.

**Natural Resource Overlay District (NROD):**

The new utility line is subject to approval of a Natural Resource Overlay District application per OCMC 17.49.090.H. As the project does not qualify for an exemption, review is required regardless of if the utility was located within the right-of-way or not. Disturbance within the natural resource Overlay District will require mitigation. An adjustment to the NROD will be required if a standard cannot be met, such as placing the utility lines outside of the public right-of-way.

**Minor Site Plan and Design Review:**

Minor Site Plan and Design Review is required to review the above ground facilities. The process will address compatibility, etc.

**Planning Commission Variance:**

A type III Planning Commission Variance will be required for each standard which cannot be met (other than the adjustments in the NROD process). Some anticipated adjustments include:

- OCMC 17.62.050.A.17 requires all utility lines to be placed underground. Because the utility lines will be on the bridge, a Planning Commission Variance is required.

**Geologic Hazards:**

Contact Nancy Kraushaar to determine if compliance with the Geologic Hazards chapter of the Oregon City Municipal Code, 17.44 is required.

**Floodplain**

The applicant indicated there would not be development within the floodplain. Please include a map of the 100-year floodplain and the 1996 flood area on your application to demonstrate if the construction will be within the floodplain. Floodplain review includes construction requirements as well as balanced cut and fill and all standards in chapter 17.42 of the Oregon City Municipal Code.

**Right-of-Way Permit**

Confirm if a right-of-way permit is required with Bob Cullison, Development Services Manager.

**Erosion Control Permit**

An erosion control permit is required per Bob Cullison, Development Services Manager.

**Grading Permit.**

Confirm if a grading permit is required with Bob Cullison, Development Services Manager.

**Amendment to the Tri-City Master Plan:**

If the additional capacity is not accounted for in the Tri-City master plan (Planning File CP 08-01), an amendment to the master plan would be required.

**Street Tree Removal:**

Street trees removal and mitigation shall be removed utilizing the process identified in OCMC Chapter 12.08 of the Oregon City Municipal Code.

**Neighborhood Meeting:**

Required with the Citizen Involvement Council prior to completeness.

Tom Geil, CIC, 16420 Trailview Drive, Oregon City, Oregon 97045  
503-722-0434  
trailview@comcast.net

**Oregon City Municipal Code Criteria:**

The following chapters of the Oregon City Municipal Code (OCMC) may be applicable to this proposal:

Streets, Sidewalks and Public Places in Chapter 12.04,  
Public and Street Trees in Chapter 12.08,  
“MUD” Mixed Use Downtown District in Chapter 17.34,  
Tree Protection Standards in Chapter 17.41,  
Flood Management Overlay District in Chapter 17.42,  
Geologic Hazards in Chapter 17.44  
Natural Resource Overlay District in Chapter 17.49,  
Administration and Procedures are set forth in Chapter 17.50,  
Off-Street Parking and Loading in Chapter 17.52,

Variance in Chapter 17.60,  
Site Plan and Design Review in Chapter 17.62, and  
Please note municipal code amendments became effective on August 6, 2010. Please contact me if  
you would like me to email you word versions of the new code.

**Applications Required:**

- Minor Site Plan and Design Review
- Planning Commission Variance
- Natural Resource Overlay District
- Street Tree Removal Application
- Erosion Control Permit

**Applications which May be Required:**

- Floodplain
- Geologic Hazards
- Grading Permit
- Right- of-Way Permit
- Amendment to the Tri-City Master Plan

**Planning Application Fees:**

- From the information provided by the applicant, the following fees (if submitted in 2010) are required for your development:
  - Natural Resource Overlay District (See fee sheet)
  - Minor Site Plan and Design Review (\$737)
  - Planning Commission Variance for above ground utility (\$2,224)
  - Floodplain Review (No fee)
  - Mailing Labels (\$15 - Optional)
  - Street Tree Removal Application (no fee)
  - Depending on the details of development, you may also need:
    - Master Plan Amendment (Type I - \$614, Type II - \$1,843, Type III - \$3,071)
    - Geologic Hazards Review (\$774)
- Please see Development Services for the following permit fees:
  - Grading Permit
  - Right- of-Way Permit
  - Erosion Control Permit

## **Attachment F**

### **Citizen Involvement Council Meeting Sign-in Sheet**

November 1, 2010

Citizen Involvement Council

Name	Address	Phone	Email (if we do not already have it)
CHRIS TAYLOR	CCPD-CIC LIAISON	503-496-1681	CTAYLOR@CITY.ORG
Stephen VanHauke	PO Box 2526 OC	503-806-6631	
Tom O'Brien	HAZEL GROVE W FARM	503-723-3334	
Dawn Mabel	MNA		
Betty Mumm	"		
William Gifford	1324 BEAVER LN	503-723-3456	William@smallflats.com
DON WRIGHT	18054 JASON LEE WAY OC	503-557-8141	OREGONOTIS@GMAIL.COM
Patty Brown	182 AV Davis Rd	(503) 655-0213	1222/2221 @ Comcast.Net
Larry Hanlon	19895 Sophia Ct.	503-657-6975	Larry Hanlon @ Hot Mail
Jeremy Holland			
Keith Spicer	18394 S Wanner	503-936-1165	SBPRODUCE@Hotmail.com
Doug Braddock	10724 S. Kulland Ct	503-312-2924	DBBar2N@aol.com
Wayne Krenner	1318 Duane St	503-619-7627	dwaynek@co.clackamas.or.us
David Rickenbach	131 Warner Parrott Rd	503-655-9451	
Ingra Rickenbach	131 Warner Parrott Rd	503-655-9451	
Kathy Hogan	19721 S Central Pkwy	503-657-9435	Hoganabluft@AOL.Com
Nancy Kraushaar	City Hall	503.496.1545	
Dan Kowalkowski	15757 S Washington St	503-319-5264	Kerine@live.com
Rue Gorokm			
Lynna Orzer	14943 Quina H Ct	503-313-0024	orzer@comcast.net

## **Attachment G**

### **Mailing Labels**

Robert and Dorthy Ashby  
15850 Pope Lane  
Oregon City, Oregon 97045  
TLID: 22E20DC01200

BJD Properties, LLC  
836 Nicole Court  
West Linn, Oregon 97068  
TLID: 22E20DC00200 (15840 Pope Lane, Oregon City,  
Oregon 97045)

Clear Channel Worldwide  
715 NE Everett Street  
Portland, Oregon 97232  
TLID: 22E20DC00500 (15815 Pope Lane, Oregon City,  
Oregon 97045)

Dark Horse Construction LLC  
15824 Pope Lane  
Oregon City, Oregon 97045  
TLID: 22E20DC00900

DB I LLC  
15741 Washington Street  
Oregon City, Oregon 97045  
TLID: 22E20DC00300

Gerald Skeels  
15721 Washington Street  
Oregon City, Oregon 97045  
TLID: 22E20DC00100

William Given  
15731 Washington Street  
Oregon City, Oregon 97045  
TLID: 22E20DC00200

Donald and Linda Kowalkowski  
15751 Washington Street  
Oregon City, Oregon 97045  
TLID: 22E20DC00400

Lewis and Clark Bank  
PO Box 1630  
Oregon City, Oregon 97045  
TLID: 22E20DC01600

Sunnybrook Properties, LLC  
14550 Ames Street  
Oregon City, Oregon 97045  
TLID: 22E20DC00700  
TLID: 22E20DC00600



Jane Vrillakas  
11811 SE 154th Avenue  
Happy Valley, Oregon 97086  
TLID: 22E20DA03500

## **Attachment H**

Written Documentation of Geologic Hazard Requirement  
(in progress)

## **Attachment I**

### **Additional Information Request**

March 22, 2011

Laura Terway, AICP  
Oregon City Planner  
Oregon City  
Planning Division  
PO Box 3040  
221 Molalla Avenue, Suite 200  
Oregon City, Oregon 97045

**Subject: WES Intertie 2 Diversion – Project B 20” and 30” Force Mains  
Response to Completeness Review  
Land Use Permits SP 11-01, WR 11-01, and VR 11-01  
T. 02S, R. 02E, Section 20, Oregon City, Clackamas County**

Dear Ms. Terway:

This letter provides a response for additional information needed for completeness of land use application SP 11-01, WR 11-01, and VR 11-01.

### **Additional Information Requested**

#### **Mapping**

A simple map showing the entire project area, the Natural Resource Overlay District, Floodplain and the Geologic Hazards area and the proposed lines (distinguishing when they are above ground).

#### **Response:**

*The map is provided as an attachment to this letter.*

### **Oregon City Municipal Codes**

#### **12.04 Street, Sidewalks, and Public Places**

##### **12.04.005 Jurisdiction and management of the public rights-of-way.**

- A. The city has jurisdiction and exercises regulatory management over all public rights-of-way within the city under authority of the City Charter and state law by issuing separate Public Works right-of-way permits or permits as part of issued public infrastructure construction plans. No work in the public right-of-way shall be done without the proper permit. Some public rights-of-way within the City are regulated by the State of Oregon Department of Transportation (ODOT) or Clackamas County and as such, any work in these streets shall conform to their respective permitting requirements.

#### **Response:**

*The project will be obtaining a right-of-way permit and site development review from the public works department. The currently proposed alignment was developed in coordination with Bob Cullison and John Lewis of Oregon City Public Works Department.*

HDR Engineering, Inc.

1001 SW 5th Avenue  
Suite 1800  
Portland, OR 97204-1134

Phone: (503) 423-3700  
Fax: (503) 423-3737  
www.hdrinc.com

- B. Public rights-of-way include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and air space over these areas.

**Response:**

*The proposed alignment is located within public right-of-way. All locations along the proposed alignment fall into the categories defined above for the types of areas included in public right-of-way.*

- C. The city has jurisdiction and exercises regulatory management over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory management of each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

**Response:**

*The proposed project will meet all required regulatory management of Oregon City's public right-of-way requirements and interest.*

- D. No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises and permits.

**Response:**

*The project will be obtaining a right-of-way permit prior to the start of construction.*

- E. The exercise of jurisdiction and regulatory management of a public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

**Response:**

*Not applicable. The project proponent is not the City of Oregon City.*

- F. No person shall perform work in the City's public rights-of-way without first obtaining a Public Works right-of-way permit or being issued an approved overall public infrastructure construction plan.

**Response:**

*The project will be obtaining a right-of-way permit and site development review from the public works department. The currently proposed alignment was developed in coordination with Bob Cullison and John Lewis of Oregon City Public Works Department.*

**12.04.015 170 Street design--Purpose and general provisions.**

All development shall be in conformance with the policies and design standards established by this chapter and with applicable standards in the city's public facility master plan and city design standards and specifications. In reviewing applications for development, the city engineer shall take into consideration any approved development and the remaining development potential of adjacent properties. All street, water, sanitary sewer, storm drainage and utility plans associated with any development must be reviewed and approved by the city engineer prior to construction. All streets, driveways or storm drainage connections to another jurisdiction's facility or right-of-way must be reviewed by the appropriate jurisdiction as a condition of the preliminary plat and when required by law or intergovernmental agreement shall be approved by the appropriate jurisdiction.

**Response:**

*The project will be obtaining a right-of-way permit and site development review from the public works department; therefore meeting applicable policies and standards outlined in OCMC 12.04. The currently proposed alignment was developed in coordination with Bob Cullison and John Lewis of Oregon City Public Works Department.*

**12.04.020 175 Street design--Generally.**

**12.04.025 180 Street design--Minimum right-of-way.**

**12.04.030 185 Street design--Access control.**

**12.04.035 190 Street design--Alignment.**

**12.04.040 195 Minimum street intersection spacing standards.**

**12.04.045 200 Street design--Constrained local streets and/or rights-of-way.**

**12.04.050 205 Intersection level of service standards.**

**12.04.055 210 Street design--Intersection angles.**

**12.04.060 215 Street design--Off-site street improvements.**

**12.04.065 220 Street design--Half street.**

**12.04.070 225 Street design--Cul-de-sacs and dead-end streets.**

**12.04.075 230 Street design--Street names.**

**12.04.080 235 Street design--Grades and curves.**

**12.04.085 240 Street design--Development abutting arterial or collector street.**

**12.04.090 245 Street design--Pedestrian and bicycle safety.**

**12.04.095 250 Street design--Curb cuts.**

**12.04.100 255 Street design--Alleys.**

**12.04.105 260 Street design--Transit.**

**12.04.110 265 Street design--Planter strips.**

**Response:**

*The project is the placement of a utility line in existing public right-of-way and streets. The above noted sections of OCMC 12.04 are not applicable to the project because the codes are related to street development, design, and spacing standards.*

**12.04.120270 Standard Construction Specifications.**

The workmanship and materials for any work performed under permits issued per this chapter shall be in accordance with the edition of the "Standard Specifications for Public Works Construction," as prepared by the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city, in effect at the time of application. The exception to this requirement is where this chapter and the Public Works Street Design Drawings provide other design details, in which case the requirements of this chapter and the Public Works Street Design Drawings shall be complied with. In the case of work within ODOT or Clackamas County rights-of-way, work shall be in conformance with their respective construction standards.

**Response:**

*The proposed project is part of a four mile pipeline within the jurisdictions of Clackamas County and the Cities of Gladstone and Oregon City. Design specifications for all jurisdictions and Oregon City Standards are provided in project specifications and on the Oregon City plan set that will be submitted with the site development and right-of-way permits for review by Oregon City Public Works Department.*

**12.08 Public and Street Trees**

**12.08.010 Purpose.**

The purpose of this chapter is to:

- A. Develop tree-lined streets to protect the living quality and beautify the city;
- B. Establish physical separation between pedestrians and vehicular traffic;
- C. Create opportunities for solar shading;
- D. Improve air quality; and
- E. Increase the community tree canopy and resource.

**Response:**

*The project proposes to remove 3 Douglas fir trees within the public right-of-way and will provide cash in lieu of planting pursuant to Section 17.41.130. A tree removal permit will be obtained prior to construction. The trees that are proposed for removal are not designated by the city for protection or conservation. All trees to be retained within the construction area will be protected using construction fencing and signage to establish an appropriate tree protection zone, in accordance with Section 17.41.130. By providing mitigation of cash-in-lieu this will allow for future plantings of trees to meet the purpose of OCMC 12.08.*

**12.08.015 Street Tree Planting and Maintenance Requirements.**

**12.08.020 Street Tree Species Selection.**

**12.08.025 General Tree Maintenance.**

**12.08.030 Public Property Tree Maintenance.**

**Response:**

*The project is the placement of a utility line in existing public right-of-way and streets. The above noted sections of OCMC 12.08 are not applicable to the project because the codes are related new construction and major redevelopment of sites.*



**12.08.035 Public Tree Removal.**

Existing street trees shall be retained and protected during construction unless removal is specified as part of a land use approval or in conjunction with a public facilities construction project, as approved by the community development director. A diseased or hazardous street tree, as determined by a registered arborist and verified by the City, may be removed if replaced. A non-diseased, non-hazardous street tree that is removed shall be replaced in accordance with the Table 12.08.035.

All new street trees will have a minimum two-inch caliper trunk measured six inches above the root crown. The community development director may approve off-site installation of replacement trees where necessary due to planting constraints. The community development director may additionally allow a fee in-lieu of planting the tree(s) to be placed into a city fund dedicated to planting trees in Oregon City in accordance with Oregon City Municipal Code 12.08.

**Response:**

*The project proposes to remove 3 Douglas fir trees within the public right-of-way and will provide cash in lieu of planting pursuant to Section 17.41.130. A tree removal permit will be obtained prior to construction. The trees that are proposed for removal are not designated by the city for protection or conservation. All trees to be retained within the construction area will be protected using construction fencing and signage to establish an appropriate tree protection zone, in accordance with Section 17.41.130. By providing mitigation of cash-in-lieu this will allow for future plantings of trees to meet the purpose of OCMC 12.08.*

**12.08.040 Heritage Trees and Groves.**

**12.08.045 Gifts and Funding.**

**Response:**

*The 3 Douglas fir trees proposed for removal are not designated for protection, conservation, heritage trees, or groves. The above noted sections of OCMC 12.08 are not applicable to the project because the codes are related designated trees and gifts/funding to Oregon City.*

**17.34 “MUD” – Mixed Use Downtown District**

**17.34.020 Permitted Uses**

Permitted uses in the MUD district are defined as:

- A. Any use permitted in the mixed-use corridor without a size limitation, unless otherwise restricted in Sections 17.34.020, 17.34.030 or 17.34.040;
- B. Hotel and motel, commercial lodging;
- C. Marinas;
- D. Religious institutions;
- E. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores provided the maximum footprint of a freestanding building with a single store does not exceed sixty thousand square feet (a freestanding building over sixty thousand square feet is allowed as long as the building contains multiple stores);
- F. Live/work units.

**Response:**

The project is located within the Mixed Use Downtown District and the General Industrial District, which permits linear facilities such as sewer lines according to OCMC 17.29.020.U via 17.34.020 and OCMC 17.32.020.L, respectively. The project would be a permitted use per OCMC 17.34.020(A) because placement of a utility line is not identified as a restricted use under OCMC 17.34.020, 17.34.030 or 17.34.040.

**17.42 Flood Management Overlay District**

**17.42.020 Applicability.**

- A. This chapter shall apply to development in the flood management overlay district, which may also be referred to as the "floodplain overlay district" in this code. The flood management overlay district includes all areas of special flood hazards and all flood management areas within the city. The overlay district restricts the uses that are allowed in the base zone by right, with limitations, or as provisional uses.
- B. The flood management areas which have been mapped include the following locations:
  - 1. Land contained within the one hundred-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency flood insurance maps dated June 17, 2008, including areas of special flood hazard pursuant to Section 17.42.040 and the area of inundation for the February 1996 flood; and
  - 2. Lands that have physical or documented evidence of flooding within recorded history based on aerial photographs of the 1996 flooding and/or the water quality and flood management areas maps.
- C. The standards that apply to the flood management areas apply in addition to state or federal restrictions governing floodplains or flood management areas.

**Response:**

*Not applicable. No development or construction will occur above the 100-year floodplain elevation, flood area and floodway as shown on FEMA June 17, 2008 map, or special flood hazard areas from February 1996 flood elevation per OCMC 17.42.040. The project crosses over the Clackamas River and associated riparian corridor via the pedestrian bridge between 82<sup>nd</sup> Drive in Gladstone and Washington Street in Oregon City. All construction across the river and riparian corridor will occur above the mapped flood hazard area, within the existing paved area, and will not disturb vegetation or alter soil contours.*

*The FEMA 2008 maps identify the 100-year elevation at 50.7 feet. The 1996 flood elevation was 49.5 feet. The low cord of the bridge deck is 57 feet.*

#### 17.41 Tree Protection Standards

##### 17.41.020 Tree Protection – Applicability.

1. Applications for development subject to Chapter 16.08 or 16.12 (Subdivision or Minor Partition) or Chapter 17.62 (Site Plan and Design Review) shall demonstrate compliance with these standards as part of the review proceedings for those developments.

**Response:**

The proposed project is subject to Minor Site Plan and Design Review under OCMC 17.62.035. Therefore, compliance with applicable standards is provided below. The project proposes to remove 3 Douglas fir trees within the public right-of-way and will provide cash in lieu of planting pursuant to Section 17.41.130. A tree removal permit will be obtained prior to construction. The trees that are proposed for removal are not designated by the city for protection or conservation. All trees to be retained within the construction area will be protected using construction fencing and signage to establish an appropriate tree protection zone, in accordance with Section 17.41.130.

##### 17.41.050 Tree Protection – Compliance Options.

Applicants for review shall comply with these requirements through one or a combination of the following procedures:

- D. Option 4 - Cash-in-lieu of planting pursuant to Section 17.41.130.

**Response:**

The project proposes to remove 3 Douglas fir trees within the public right-of-way and will provide cash-in-lieu of planting pursuant to Section 17.41.130.

##### 17.41.130 - Cash-in-lieu of Planting (Tree Bank/Fund) (Option 4)

The applicant may choose this option in-lieu-of or in addition to Compliance Options 1 through 3. In this case, the Community Development Director may approve the payment of cash-in-lieu into a dedicated fund for the remainder of trees that cannot be replanted in the manner described above.

- A. The cash-in-lieu payment per tree shall be as listed on the adopted fee schedule and shall be adjusted annually based on the Consumer Price Index (Index). The price shall include the cost of installation.

**Response:**

The project proposes to remove 3 Douglas fir trees within the public right-of-way and will provide cash-in-lieu of planting pursuant to Section 17.41.130 as part of the tree removal permit application submittal.

- B. The amount of the cash-in-lieu payment into the tree bank shall be calculated as the difference between the value of the total number of trees an applicant is required to plant, including cost of installation and adjusted for Consumer Price Index, minus the value of the trees actually planted. The value of the trees shall be based on the adopted fee schedule.

**Response:**

*Not applicable. Cash-in-lieu fees will be paid as part of the tree removal permit per OCMC 17.41.130(A).*

**17.41.130. Regulated Tree Protection Procedures During Construction.**

- A. No permit for any grading or construction of public or private improvements may be released prior to verification by the Community Development Director that regulated trees designated for protection or conservation have been protected according to the following standards. No trees designated for removal shall be removed without prior written approval from the Community Development Director.

**Response:**

*A tree removal permit will be obtained prior to construction. The trees that are proposed for removal are not designated by the city for protection or conservation. All trees to be retained within the construction area will be protected using construction fencing and signage to establish an appropriate tree protection zone, in accordance with OCMC 17.41.130.*

**17.49.40 NROD Permit**

An NROD permit is required for those uses regulated under Section 17.49.90, Uses Allowed under Prescribed Conditions. An NROD permit shall be processed under the Type II development permit procedure, unless an adjustment of standards pursuant to Section 17.49.200 is requested or the application is being processed in conjunction with a concurrent application or action requiring a Type III or Type IV development permit. Applications for development on properties affected by the NROD shall delineate or verify the exact location of the NROD as part of a Type I or II development review process unless exempted pursuant to section 17.40.080.

**Response:**

*According to Section 17.49.090(K), city, county, and state capital improvement projects, including sanitary sewer facilities, are allowed within the NROD under prescribed conditions. The project includes prescribed conditions outlined in utility lines under Section 17.49.140. The project has been designed to minimize the amount of disturbance to vegetation within the existing paved roadway wherever possible. Approximately 115 linear feet (2,360 square feet) of this non-paved section of the alignment are located within the NROD. All trees impacted trees are located outside of the NROD. Following construction, the area will be reseeded with a native grass mix and cash in lieu of planting pursuant to OCMC Section 17.41.130 will be used to mitigate for impacts to trees. Impacts within the Natural Resource Overlay District (NROD) would be mitigated in accordance with OCMC 17.49.180(E)(2). The Mitigation Plan has been provided in the land use permit application under Attachment C.*

**17.52 Off-Street Parking and Loading**

**Response:**

*Not applicable. No off-street parking or loading is proposed as part of this project.*

#### **More detailed written description of the utility line on the bridge.**

**Response:**

Potential impacts to aesthetics were considered during the design of the pipeline on the bridge to minimize views of the pipeline by users and adjacent property owners. The pipeline will be placed no higher than the top elevation grade of the pedestrian bridge deck or no higher than the concrete support for the existing fence on the north bridge side to limit the view of the pipeline from the bridge deck. The bottom of the pipeline will be slightly above the bottom of the bridge deck. The pipe material will be ductile cast iron. The color of the pipe would be black. Any noticeable markings or fixtures on the pipe will be painted to match the base color of the cast iron pipe.

No new fences will be installed as part of this project. The existing safety fencing on the bridge will be temporarily removed during construction and then immediately replaced, except for a 10 foot section on the Oregon City side of the bridge that will be removed permanently.

#### **Neighborhood Meeting Summary**

**Response:**

Meeting notes are provided as an attachment to this letter.

#### **4 additional copies of the application**

**Response:**

Additional copies have been provided.

#### **Design Modification**

A 4 inch emergency drain line has been added to the design plans and will be reviewed by Oregon City Public Works Department as part of site plan/ROW permit review. The 4-inch line would be located at the proposed vault, approximately station 205+50, and extend to the north for approximately 75 feet and connect to an existing Oregon City sanitary line. The 4-inch line is located in public right-of-way/easement, outside of the NROD and floodplain areas. Geologic hazards is mapped within the area proposed for the 4-inch emergency drain line; however, because the project is a utility line and located within public ROW/easements, the project has requested a waiver from geologic hazard requirements under OCMC 17.44.035(D):

*The installation, construction, reconstruction, or replacement of utility lines in city right-of-way, or public easement, not including electrical substations is EXEMPT from the provisions of Chapter 17.44.*

*Oregon City Response Letter for Completeness Review*  
*Ms. Laura Terway*  
*Page 10*

Please contact Mike Wallace or myself at 503.423.3700 if you have any questions regarding our response for additional information.

Sincerely,  
**HDR Engineering, Inc.**

**Andrea Heckman**

cc: Mr. Dewayne Kliewer, Clackamas County WES

**Attachments:**

Resource Map

Oregon City CIC Neighborhood Meeting Notes

4 Additional Copies of Land Use Application

**HDR Engineering, Inc.**





1 inch = 144 feet  
 Note: Clackamas River OHW Elevation: 27 feet; 1996 Flood Elevation: 49.5 feet; FEMA 2008 100 Year Flood Elevation: 50.7 feet; Low-cord 82nd Street Pedestrian Bridge Elevation: 57 feet

**Oregon City Resource Overlay Map**  
**FIGURE 1**

Intertie 2 Diversion Project | Clackamas County WES | Land Use Permit



Subject: Oregon City Citizen Involvement Council (CIC) Meeting

Client: WES

Project: Intertie 2 Diversion Project

Project No: 1011112

Meeting Date: 1 November 2010

Meeting Location: Oregon City Police Station, 320 Warner Milne Road, Oregon City, Oregon 97045

Notes by: Jeremy Holland, P.E.

## Attendees:

Please refer to sign-in sheet.

## Topics Discussed:

Mr. Nesh Mucibabic from HDR provided a presentation to the CIC to describe the overall project to install facilities and infrastructure to divert wastewater flows from Clackamas County Service District No. 1 (CCSD#1) to the Tri-City Water Pollution Control Plant in Oregon City. Only a small portion of the overall project is within the Oregon City city limits. The portion of the project is specifically the stretch of piping from the Tri-City plant to the northern end of the Clackamas River bridge, which presently supports an existing forcemain and natural gas line. The bridge was purchased by WES in order to support additional forcemain piping to deliver wastewater to the Tri-City plant for treatment. Mr. Mucibabic presented photographs of the alignment of the piping through Oregon City and drawings depicting where the piping would be positioned at the river crossing on the bridge.

## Action/Notes:

The following questions were recorded during the course of the presentation and during a brief follow up question and answer session.

### Q - Where will the pipeline go on the bridge?

A – It is presently shown to be located on the upstream side of the bridge deck. WES has erected some fencing along a portion of this part of the bridge in anticipation of using this as the pipe support.

### Q – Can the piping be stacked on the bridge in order to leave more bridge deck available?

A – Stacking the pipe may be possible, although it complicates the design by increasing the loading on a smaller footprint of the bridge, makes maintenance more difficult and construction more difficult.

### Q – Can it be located below the bridge deck? It is strongly suggested to not put the piping on the bridge deck.

A – It may be possible to locate the piping below the bridge deck. The challenge of this is that it requires new supports to hang the piping from the bridge and may be difficult to support a load on the bridge off the side of the bridge as opposed to on the deck itself.

It should be noted that the area that would remain open to the public for a walkway and a bike path exceeds the width of the paved path along I-205.

**Q – What are the benefits of this project to Oregon City?**

A – The expansion of the Tri-City plant is funded by the ratepayers of CCSD#1. The benefit is that the capital cost of the expansion is being done and paid for by CCSD#1 but will be available capacity for Oregon City ratepayers in the future. Additionally, the project reduces the risk of sewer overflows at the Kellogg Creek Water Pollution Control Plant, which improves the watershed health for the community as a whole.

**Q – Why are we being presented with this now when the major effort is already done?**

A – There were open houses offered to the general public early in the project which provided information. There has been information provided on the WES website about the project. Presentations have been made to other community groups and this presentation tonight is a continuation of that effort. Also a series of public board meetings have been occurred which discussed the project.

**Q – Is it possible to camouflage the piping on the deck?**

A – Yes, there are options to make it less noticeable. These could include additional fencing, or structures over the pipe to hide it from view.

**Q - Is this presentation available online?**

A – Yes, the presentation will be posted on the [www.RiverHealth.org](http://www.RiverHealth.org) website.

**Q – Who is paying for the project?**

A – Ratepayers from CCSD#1

**Q – Is there any more direct way to get to the plant?**

A – A variety of alignments were studied for possible routes to the plant. This route is the most direct and most affordable path to reach the plant. All of the alternatives considered would need to cross the Clackamas River from this location, so for any alignments that were considered there were no other options for the portion in Oregon City, primarily because it is a short stretch and close to the bridge.

**Q – I thought there wasn't going to be any additional treatment allowed at Tri-City. Why is this allowed?**

A – As our communities continue to grow, we must continue to provide treatment of wastewater in order to maintain watershed health. The Tri-City plant would be expanded for growth in the Tri-City service district. This capacity expansion that is happening now will provide for future capacity expansion in the Tri-City service district when it is needed and will help meet treatment permit requirements that are becoming more stringent all the time.

# Intertie 2 Diversion Project B – 20” & 30” Force Mains

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## Natural Resources Overlay District Mitigation Plan Report

March 2011



150 Beaver Creek Rd.,  
Oregon City, OR 97045



1001 SW 5<sup>th</sup> Avenue  
Suite 1800  
Portland, OR 97204

## Contents

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## Introduction

Clackamas County Water Environment Services (WES) operates and maintains two wastewater treatment plants in Clackamas County: the Kellogg Creek Water Pollution Control Plant (WPCP) located in the City of Milwaukie, and the Tri-City WPCP located in Oregon City. The Kellogg Creek WPCP is currently receiving wastewater flows from the Clackamas County Sewer District No. 1 (CCSD # 1) in excess of the treatment capacity and does not have room to expand its treatment processes. To reduce wastewater flows directed to the Kellogg Creek WPCP, an interim diversion is planned to increase the diversion of raw sewage generated within the District to the wastewater treatment and disposal facilities owned by the Tri-City Service District (TCSD). The project is being designed to allow for future consideration of the decommissioning of the Kellogg Plant and diversion of all flows generated within CCSD # 1 to the Tri-City WPCP.

The objective of this project is to divert raw sewage from the Mt. Scott interceptor (an interceptor in CCSD # 1 that flows to the Kellogg Creek WPCP) and send it to the Tri-City WPCP. A diversion structure will be placed on the existing interceptor, which will divert sewage via a gravity pipeline to a new pump station located on Johnson Road. The diversion structure and pipeline, pump station, and majority of the new force main (pipeline) alignment is located outside of Oregon City limits. Approximately 1,725 feet (0.33 miles) of the 22,000-foot (4.2 miles) pipeline is located within Oregon City. See sheet C-30 of the site plans provided in Attachment D for the jurisdictional boundary.

## Project Description

A 20-inch ductile iron pipeline will be constructed along the north side of the pedestrian bridge (Bridge No. 00604A), which crosses over Clackamas River between 82nd Drive in the City of Gladstone and Washington Street in the City of Oregon City. The pipeline will be placed no higher than two to three inches above the top elevation grade of the pedestrian bridge deck or no higher than the concrete support for the existing fence on the north bridge side to limit the view of the pipeline from the bridge deck. The bottom of the pipeline will be slightly above the bottom of the bridge deck. The pipeline will continue south within the Washington Street right-of-way to Agnes Avenue, where it will enter the Tri-City WPCP. The design includes a utility vault near the intersection of Washington Street and Agnes Avenue that will hold an air release and vacuum valve, along with an odor control structure. The utility vault will be connected to the nearest Oregon City sanitary manhole with a two-inch-diameter drain line. During maintenance or emergency situations, the section of pipeline from the north side of the bridge to the utility vault could be drained to the Oregon City sanitary manhole on Washington Street, as shown on the drawings.

## 17.49.230 Mitigation Plan Report

### A. Written Justification - Mitigation Standard 17.49.180

Written responses to each applicable Mitigation Standard 17.49.180 or 17.49.190 indicating how the proposed development complies with the mitigation standards;

#### 17.49.180 Mitigation Standards

The following standards (or the alternative standards of Section 17.49.190) apply to required mitigation:

- A. Mitigation shall occur at a 2:1 ratio of mitigation area to proposed NROD disturbance area. Mitigation of the removal or encroachment of a wetland or stream shall not be part of this chapter and will be reviewed by the Division of State Lands or the Army Corp of Engineers during a separate review process;

*The majority of the pipeline located within Oregon City would be constructed within the existing paved right-of-way. However, the pipeline leaves the paved roadway for approximately 200 feet along the south side of Washington Drive just before the intersection with S. Pope Lane, disturbing approximately 4,755 (ft<sup>2</sup>) of herbaceous vegetation and three Douglas fir (*Pseudotsuga menziesii*) trees within the city right-of-way. Approximately 2,360 ft<sup>2</sup> (115 linear feet) of this non-paved section of the alignment is located within the Oregon City Natural Resource Overlay District (NROD). The three Douglas fir trees that will be impacted are located outside of the NROD. The proposed mitigation replanting area is approximately 17,128 ft<sup>2</sup>, which is greater than 2:1 ratio for mitigation area.*

*Within Oregon City limits, no jurisdictional waters of the U.S./state or wetlands would be impacted by the proposed project. Therefore, no review is required by Oregon Department of State Lands (DSL) or the U.S. Army Corps of Engineers (USACE).*

- B. Mitigation shall occur on the site where the disturbance occurs, except as follows:
  - 1. The mitigation is required for disturbance associated with a right-of-way or utility in the right- of-way;

*The project is a sanitary sewer pipeline located within right-of-way, therefore offsite mitigation is allowed. The proposed mitigation area is located less than 200 feet to the northwest of the proposed disturbance area between Washington Drive and parking lot used for local park access along the Clackamas River.*

- 2. The mitigation shall occur first on the same stream tributary, secondly in the Abernethy, Newell or Livesay Creek or a tributary thereof, or thirdly as close to the impact area as possible within the NROD; and

*The proposed impact and mitigation area is located along the same waterway, the Clackamas River and will occur within the same NROD area.*

3. An easement that allows access to the mitigation site for monitoring and maintenance shall be provided as part of the mitigation plan.

*An easement is not required for access to the mitigation site for monitoring and maintenance because the mitigation site is located within Oregon City public right-of-way.*

- C. Mitigation shall occur within the NROD area of a site unless it is demonstrated that this is not feasible because of a lack of available and appropriate area. In such cases, the proposed mitigation area shall be contiguous to the existing NROD area so the NROD boundary can be easily extended in the future to include the new resource site.

*The proposed mitigation area is located to the northwest less than approximately 200 feet from the proposed disturbance area between Washington Drive and parking lot used for local park access along the Clackamas River. This area is known as River Access Trail. The mitigation proposed would occur within the NROD area of site disturbances.*

- D. Invasive and nuisance vegetation shall be removed within the mitigation area;

*The proposed mitigation area is a planted grass landscaped area. No invasive or nuisance vegetation is currently present onsite. Weed removal is proposed as part of maintenance activities of the mitigation site.*

- E. Required Mitigation Planting. An applicant shall meet Mitigation Planting Option 1 or 2 below, whichever option results in more tree plantings, except that where the disturbance area is one acre or more, Mitigation Option 2 shall be required. All trees, shrubs and ground cover shall be selected from the Oregon City Native Plant List.

NOTE: Applications on sites where no trees are present or which are predominantly covered with invasive species shall be required to mitigate the site, remove the invasive species and plant trees and native plants pursuant to Option 2.

*Approximately 2,360 ft<sup>2</sup> (115 linear feet) of herbaceous vegetation located within NROD would be disturbed during construction of the pipeline. The mitigation option proposed will be Option 2 because no trees within the NROD area would be impacted as part of this project.*

*The proposed mitigation site is located within an area managed by the Oregon City Parks Department. Selected tree and shrub species were developed and chosen with coordination through the Oregon City Parks Department and Pacific Gas and Electric (PG&E)<sup>1</sup>. Native trees will include: big leaf maple (*Acer macrophyllum*), western flowering dogwood (*Cornus nuttallii*), red alder (*Alnus rubra*), and Douglas fir. Native shrubs will include: Indian plum (*Oemleria cerasiformis*), common snowberry (*Symphoricarpos albus*), red elderberry (*Sambucus racemosa*), and hazelnut (*Corylus corruta*).*

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<sup>1</sup> Coordination was conducted with PG&E because of existing overhead distribution lines within the proposed planting areas.



## 2. Mitigation Planting Option 2

- a. Option 2 - Planting Quantity. In this option, the mitigation requirement is calculated based on the size of the disturbance area within the NROD. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bareground must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

*Approximately 2,360 ft<sup>2</sup> of disturbance is proposed. To calculate required tree and shrub plantings, 2,360 ft<sup>2</sup> was divided by 500 which equals 4.72. To determine required tree plantings, 4.72 was multiplied by five which equals 23.6, rounding to the nearest whole number a total of 24 trees are proposed for planting. To determine required shrub plantings, 4.72 was multiplied by 25 which equals 118, the total number of shrubs proposed for replanting. No grading or removal of the herbaceous layer removal would occur within the proposed mitigation area; therefore no bareground replanting is proposed or required.*

- b. Option 2 - Plant Size. Plantings may vary in size dependent on whether they are live cuttings, bare root stock or container stock, however, no initial plantings may be shorter than 12 inches in height.

*Trees planted will be a minimum size of three-gallon containers or greater. Shrubs planted will be a minimum size from one-gallon containers. All container plant species purchased from a nursery will have the requirement of greater than 12 inches in height.*

- c. Option 2 - Plant Spacing. Trees shall be planted at average intervals of seven (7) feet on center. Shrubs may be planted in single-species groups of no more than four (4) plants, with clusters planted on average between 8 and 10 feet on center.

*Trees and shrubs will be planted at required spacing intervals. Please refer to sheets L-1 and L-2 for detailed planting plan of the proposed mitigation area.*

- d. Option 2 – Mulching and Irrigation shall be applied in the amounts necessary to ensure 80% survival at the end of the required 5-year monitoring period.

*Trees and shrubs planting will be scheduled to allow for proper root establishment over the summer or winter months. If needed water gel packs would be included in the plantings to provide necessary hydrology for root systems to become established. Replanting and maintenance activities, as needed, will continue during the required five year monitoring period to ensure 80% survival of tree and shrub species. Please refer to sheets L-1 and L-2 for detailed planting plan of the proposed mitigation area.*

- e. Option 2 – Plant Diversity. Shrubs shall consist of at least three (3) different species. If 20 trees or more are planted, no more than one-third of the trees may be of the same genus.

*Twenty-four trees will be replanted using four different species, six of each proposed species, or one-fourth of the total for each proposed species. Four types of shrub species are proposed for planting within the mitigation area. This meets the plant diversity requirements. Please refer to sheets L-1 and L-2 for detailed planting plan of the proposed mitigation area.*

## B. Function and Values

Within the NROD overlay area, the function of the planted grass area (herbaceous vegetation) provides a low level of water infiltration during precipitation events. This planted grass area is located adjacent to the existing roadway and does not provide high quality or functional habitat for species. No federal or state-listed threatened or endangered species are known to occur within the project area. Construction and operation of the project is expected to have no impact on federal and state listed species in Oregon City.

The proposed mitigation of planting 24 trees and 118 shrubs will help to create additional areas near the Clackamas River increasing available habitat for nesting birds, allowing for increased infiltration and uptake of precipitation during rain events, and decreasing potential runoff into the Clackamas River. Additionally, the planted vegetation will increase the tree and shrub canopy cover along the Clackamas River helping to provide additional shade in the higher reaches of the riparian corridor along the Clackamas River.

### **C. Regulatory/Resource Agency Coordination**

In addition to the Oregon City approvals, the following permits and approvals have been received or will be obtained prior to construction:

- Clackamas County Building Permits (electrical, mechanical, and plumbing)
- Clackamas County Design Review
- Clackamas County/City of Gladstone Site Development (grading and erosion control)
- Clackamas County Habitat Conservation Area (HCA) Permit
- Clackamas County WES/CCSD # 1 Wetland Buffer Variance Approval
- Clackamas County Floodplain Development Permit
- Clackamas County Utility Placement Application Permit
- City of Gladstone Conditional Use Approval
- USACE Section 404 Permit
- DSL Removal-Fill Permit
- Oregon Department of Environmental Quality (DEQ) 401 Water Quality Certification
- Oregon Department of Transportation (ODOT) State Highway Approach Permit
- ODOT Permit to Occupy or Perform Operations Upon a State Highway
- DEQ NPDES 1200-C Construction Stormwater Discharge Permit
- Union Pacific Railroad (UPRR) ROW Permit
- Blasting Permits (City of Gladstone/Clackamas County)

## D. Construction Timetables

Implementation of the NROD plantings will be performed within the same construction year as the pipeline construction. It is expected construction of the pipeline and replanting activities will take approximately three months. The project schedule is as follows:

**Table 7. Proposed Project Construction Schedule**

<b>Construction Task</b>	<b>Estimated Date</b>
Pipeline Construction Begins	Summer 2011
Pipeline Construction Ends	Fall 2011
Replanting and Seeding Activities Begins	Fall 2011
Mitigation Plantings	Fall/Winter 2011
<b>Five Year Monitoring Begins</b>	<b>Spring/Summer 2012</b>

## E. Monitoring and Maintenance

### Purpose and Goals

The goal of this mitigation plan is to meet the City of Oregon City NROD requirements. CCSD # 1/WES proposes:

- A minimum of 80% survival of trees and shrubs of those species planted is required at the end of the five year maintenance and monitoring period.
- Any invasive species shall be removed and all trees and shrubs that die shall be replaced in kind after the first year.
- Bare spots and areas of invasive vegetation larger than 10 square feet that remain at the end the five year monitoring period shall be replanted or reseeded with native grasses and ground cover species.

### Monitoring Methods and Schedule

The site will be monitored annually for five-years, beginning in the spring after installation of the plantings. Site visits should be scheduled, if possible, in the early growing season (March to May). Annual mitigation monitoring reports will be submitted to Oregon City by December 31st every year for five-years after installation of the plantings.

A general observation and assessment will be recorded for the planted trees and shrubs. All trees and shrubs will be assessed for survivability each year. Photo documentation locations will be identified and used as a standard every year. The following information shall be collected during installation and monitoring:

- Stem count and general condition (vigorous, healthy, not-healthy, or dead) for trees and shrubs
- Percent cover of non-native/invasive species made by visual assessment
- Photographs at designated photographic points
- Other site conditions (i.e., pests and/or debris)

### Maintenance

CCSD # 1/WES shall be responsible only for the plantings associated with the NROD mitigation site for the duration of the five year monitoring period. Contingencies will be necessary to provide a means for corrective action, should the mitigation plantings fail to meet all the necessary performance criteria. Objective specific contingencies are listed above and include some of the listed items. Coordination shall occur between the applicant and Oregon City to determine the appropriate corrective measures for failures to meet established performance standards. Contingency measures for the NROD mitigation area may include, but are not limited to the following:

- Supplemental planting

- Reseeding
- Exotic species control

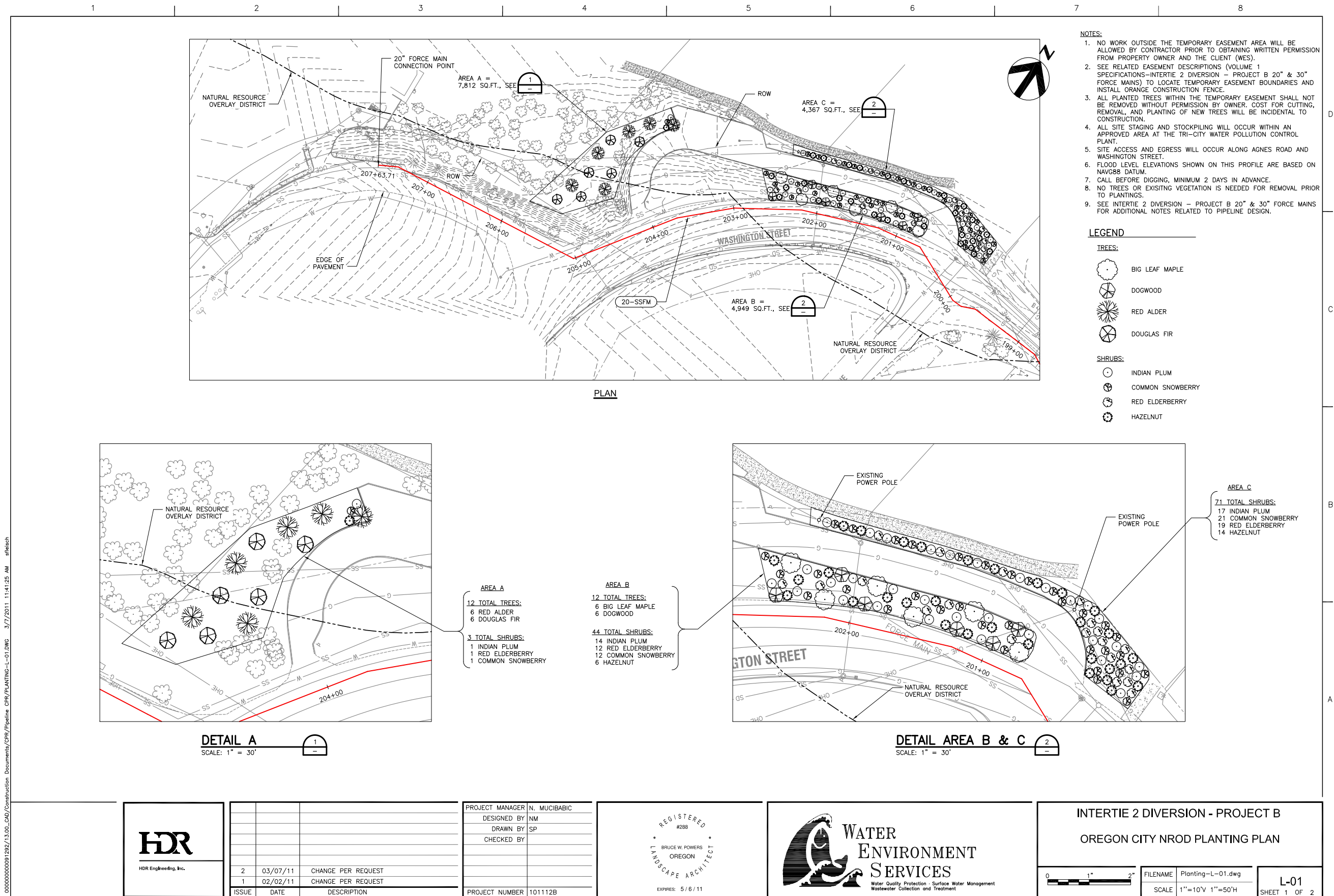
### Contingency Measures

If 80 percent survivorship of all trees and shrubs is not occurring after the five year monitoring period, CCSD # 1/WES will replant any dead plants up to the 80 percent success. CCSD # 1/WES will meet with Oregon City to determine necessary remedial actions, if applicable. However, it should be noted that the proposed plantings are located within Oregon City public right-of-way, and CCSD # 1/WES will not be able to keep the land owner or public from unforeseen impacts or destruction of planted vegetation. Therefore, WES will only replace or restore the site that has not survived due to plant material type, installation methods, or poor site preparation (i.e., soil compaction). CCSD # 1/WES will not replace plant materials that have been removed by the land owner, public, or address site failure due to other human caused modification (i.e., subsequent draining or development).



## Attachment A

### NROD Mitigation Planting Plan







**WATER ENVIRONMENT SERVICES**

*Beyond clean water.* [www.clackamas.us/wes](http://www.clackamas.us/wes)

October 14, 2010

Robert and Dorthy Ashby  
15850 Pope Lane  
Oregon City, Oregon 97045  
TLID: 22E20DC01200

**RE: Water Environment Services (WES)  
Intertie 2 Diversion Project  
Citizen Involvement Committee Meeting Notice**

Dear Mr. and Mrs. Ashby:

We would like to inform you of an upcoming project presentation to the Oregon City Citizen Involvement Committee (CIC) for the proposed Intertie 2 Diversion Project.

The Kellogg Water Pollution Control Plant (WPCP) is currently receiving wastewater flows from the Clackamas County Sewer District (CCSD) # 1. During heavy rain events the wastewater flow volume is occasionally in excess of the treatment capacity at this Kellogg WPCP treatment plant and this treatment facility does not have room to expand the treatment processes. As a result partially treated sanitary waste is occasionally discharged to the Willamette River during these excessively wet weather periods. Based on an agreement with the Oregon Department of Environmental Quality (DEQ), the CCSD # 1 must reduce such risk by diverting excess flows to the Tri-City WPCP. To reduce wastewater flows directed to the Kellogg WPCP, a plan has been developed to increase the diversion of raw sewage generated within the CCSD # 1 to the Tri-City WPCP through a project known as the Intertie 2 Diversion Project. In order to facilitate this new diversion, the proposed Intertie 2 Diversion Project involves three major components:

- A diversion structure and pipeline to the new pump station,
- The Intertie #2 pump station, and
- A new 20 and 30-inch force main (pipelines)

WES will be presenting the proposed project to the CIC at the next monthly meeting, on Monday, November 1, 2010. As a property owner located within 300 feet of the proposed project, we would like you to join us at the meeting to hear about and discuss the project. The WES Project Manager is Dewayne Klierwer.

**CIC Meeting Information:**

**Meeting Date:** Monday, November 1, 2010  
**Meeting Time:** 7:00 pm  
**Meeting Location:** Oregon City Police Station  
320 Warner Milne Road  
Oregon City, Oregon 97045

150 Beaver Creek Road Oregon City, Oregon 97045 Tel 503.742.4567



**WATER ENVIRONMENT SERVICES**

*Beyond clean water.* [www.clackamas.us/wes](http://www.clackamas.us/wes)

October 14, 2010

BJD Properties, LLC  
836 Nicole Court  
West Linn, Oregon 97068  
TLID: 22E20DC00200 (15840 Pope Lane, Oregon City, Oregon 97045)

**RE: Water Environment Services (WES)  
Intertie 2 Diversion Project  
Citizen Involvement Committee Meeting Notice**

To Whom It May Concern:

We would like to inform you of an upcoming project presentation to the Oregon City Citizen Involvement Committee (CIC) for the proposed Intertie 2 Diversion Project.

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**Meeting Location:** Oregon City Police Station  
320 Warner Milne Road  
Oregon City, Oregon 97045

150 Beaver Creek Road Oregon City, Oregon 97045 Tel 503.742.4567



**WATER ENVIRONMENT SERVICES**

*Beyond clean water.* [www.clackamas.us/wes](http://www.clackamas.us/wes)

October 14, 2010

Clear Channel Worldwide  
715 NE Everett Street  
Portland, Oregon 97232  
TLID: 22E20DC00500 (15815 Pope Lane, Oregon City, Oregon 97045)

**RE: Water Environment Services (WES)  
Intertie 2 Diversion Project  
Citizen Involvement Committee Meeting Notice**

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October 14, 2010

Dark Horse Construction LLC  
15824 Pope Lane  
Oregon City, Oregon 97045  
TLID: 22E20DC00900

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October 14, 2010

DB I LLC

15741 Washington Street  
Oregon City, Oregon 97045  
TLID: 22E20DC00300

**RE: Water Environment Services (WES)  
Intertie 2 Diversion Project  
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October 14, 2010

William Given  
15731 Washington Street  
Oregon City, Oregon 97045  
TLID: 22E20DC00200

**RE: Water Environment Services (WES)  
Intertie 2 Diversion Project  
Citizen Involvement Committee Meeting Notice**

Dear Mr. Given:

We would like to inform you of an upcoming project presentation to the Oregon City Citizen Involvement Committee (CIC) for the proposed Intertie 2 Diversion Project.

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October 14, 2010

Donald and Linda Kowalkowski  
15751 Washington Street  
Oregon City, Oregon 97045  
TLID: 22E20DC00400

**RE: Water Environment Services (WES)  
Intertie 2 Diversion Project  
Citizen Involvement Committee Meeting Notice**

Dear Mr. and Mrs. Kowalkowski:

We would like to inform you of an upcoming project presentation to the Oregon City Citizen Involvement Committee (CIC) for the proposed Intertie 2 Diversion Project.

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October 14, 2010

Lewis and Clark Bank  
PO Box 1630  
Oregon City, Oregon 97045  
TLID: 22E20DC01600

**RE: Water Environment Services (WES)  
Intertie 2 Diversion Project  
Citizen Involvement Committee Meeting Notice**

Dear Mr. and Mrs. Ashby:

We would like to inform you of an upcoming project presentation to the Oregon City Citizen Involvement Committee (CIC) for the proposed Intertie 2 Diversion Project.

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October 14, 2010

Gerald Skeels  
15721 Washington Street  
Oregon City, Oregon 97045  
TLID: 22E20DC00100

**RE: Water Environment Services (WES)  
Intertie 2 Diversion Project  
Citizen Involvement Committee Meeting Notice**

Dear Mr. Skeels:

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October 14, 2010

Sunnybrook Properties, LLC  
14550 Ames Street  
Oregon City, Oregon 97045  
TLID: 22E20DC00700  
TLID: 22E20DC00600

**RE: Water Environment Services (WES)  
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150 Beaver Creek Road Oregon City, Oregon 97045 Tel 503.742.4567





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October 14, 2010

Jane Vrilakas  
11811 SE 154<sup>th</sup> Avenue  
Happy Valley, Oregon 97086  
TLID: 22E20DA03500

**RE: Water Environment Services (WES)  
Intertie 2 Diversion Project  
Citizen Involvement Committee Meeting Notice**

Dear Ms. Vrilakas:

We would like to inform you of an upcoming project presentation to the Oregon City Citizen Involvement Committee (CIC) for the proposed Intertie 2 Diversion Project.

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150 Beaver Creek Road Oregon City, Oregon 97045 Tel 503.742.4567

**From:** [Wallace, Michael](#)  
**To:** [Laura Terway](#)  
**Cc:** [Kliwer, Dewayne](#); [Kliwers](#)  
**Subject:** Oregon City  
**Date:** Friday, April 08, 2011 8:36:06 AM  
**Attachments:** [Sheet C-21 Oregon City Design Review.pdf](#)  
[OregonCityOverlayMap \(2\).pdf](#)  
[FW WES Intertie 2 Diversion Project - Erosion Control and ROW Permit Questions-2.pdf](#)  
[RE Approval of the Utility Line Extension .pdf](#)

---

Laura,

It is WES's intent to build a short segment of the pipeline on plan sheet C-21 (attached, Sheet C-21\_Oregon\_City\_Design\_Review.pdf) from station 205+00 to 207+60 prior to land use approval (permit #SP11-01, WR11-01, VR11-01). On the land use map (attached, OregonCityOverlayMap (2).pdf) the segment includes the western terminus of the pipeline to the horizontal bend of Washington Street.

This section of the pipeline is entirely within the alignment of Agnes Street. It was our understanding based on the attached email (FW\_ WES Intertie 2 Diversion Project - Erosion Control and ROW Permit Questions-2.pdf) and Oregon City's approval (attached, RE\_ Approval of the Utility Line Extension .pdf) it was to be included in the Land Use application and documented during the land use approval process and that Oregon City had approved WES to build this short pipeline segment.

The work will include construction of the pipeline between the stations identified above (indicated in red on plan sheet C-21), the vault (at station 205+46), and the 4-inch emergency overflow pipe within Oregon City ROW. A short section of the 4-inch line is outside of Oregon City ROW, within Tri-City Service District property. This short section of the 4-inch line on Tri-City Service District property will not be built until after receipt of Oregon City Land Use approval.

Thanks Laura.

**Michael R. Wallace**  
Biologist | Environmental Specialist

**HDR | One Company | Many Solutions**  
1001 SW 5th Avenue, Suite 1800 | Portland, OR | 97204  
Phone: 503.423.3700 | Direct: 503.423.3844 | Cell: 503.569.9961 | Fax: 503.423.3737  
Email: [mwallace@hdrinc.com](mailto:mwallace@hdrinc.com)

 *Before printing, please think about the environment*





1 inch = 144 feet  
 Note: Clackamas River OHW Elevation: 27 feet; 1996 Flood Elevation: 49.5 feet; FEMA 2008 100 Year Flood Elevation: 50.7 feet; Low-cord 82nd Street Pedestrian Bridge Elevation: 57 feet

**Oregon City Resource Overlay Map**  
**FIGURE 1**

Intertie 2 Diversion Project | Clackamas County WES | Land Use Permit

Gerald Skeels  
15721 Washington Street  
Oregon City, Oregon 97045  
TLID: 22E20DC00100

Jane Vrilakas  
11811 SE 154<sup>th</sup> Avenue  
Happy Valley, Oregon 97086  
TLID: 22E20DA03500

William Given  
15731 Washington Street  
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DB I LLC  
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Donald and Linda Kowalkowski  
15751 Washington Street  
Oregon City, Oregon 97045  
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Sunnybrook Properties, LLC  
14550 Ames Street  
Oregon City, Oregon 97045  
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Clear Channel Worldwide  
715 NE Everett Street  
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Oregon City, Oregon 97045

Dark Horse Construction LLC  
15824 Pope Lane  
Oregon City, Oregon 97045  
TLID: 22E20DC00900

BJD Properties, LLC  
836 Nicole Court  
West Linn, Oregon 97068  
TLID: 22E20DC00200  
15840 Pope Lane

Oregon City, Oregon 97045

Robert and Dorthy Ashby  
15850 Pope Lane  
Oregon City, Oregon 97045  
TLID: 22E20DC01200

Lewis and Clark Bank  
PO Box 1630  
Oregon City, Oregon 97045  
TLID: 22E20DC01600







February 22, 2011

Laura Terway, Planner  
Oregon City, Planning Division  
PO Box 3040  
221 Molalla Avenue, Suite 200  
Oregon City, Oregon 97045  
Phone: 503.496.1553

**Subject: Oregon City Land Use Permit Submittal, WES Intertie #2 Diversion - Project B 20" & 30" Force Mains**

Dear Ms. Terway,

Clackamas County Water Environment Services (WES) is proposing to construct a 20-inch ductile iron sanitary sewer force main (pipeline) within the City of Oregon City as part of the Intertie #2 Diversion, Project B. The pipeline will be constructed along the east side of the pipe/pedestrian bridge that crosses over the Clackamas River and then continue south within the Washington Street right-of-way to Agnes Avenue, where it will enter the Tri-City Water Pollution Control Plan (WPCP).

Because approximately 200 feet of the proposed pipeline will be located above-ground on the pipeline/pedestrian bridge and will be within the Oregon City designated Natural Resource Overlay District (NROD) for approximately 115 feet, approval of a Planning Commission Variance and NROD Development Permit in addition to Minor Site Plan and Design Review are required. Five copies of each of the following documents are provided to support our application for the three permits mentioned above:

- City of Oregon City Land Use Application Form (5 copies)
- Legal Description and Project Location Maps (5 copies)
- Written Justification (5 copies)
- Site Plans (5 copies)
- Pre-application Meeting Summary (5 copies)
- Citizen Involvement Council Meeting Sign-in Sheet (5 copies)
- Mailing Labels (5 copies)

The Mitigation Plan that is required as part of the NROD permit application is currently being developed. HDR is in the process of working with the Parks Department to select an appropriate mitigation site location and a meeting has been scheduled on site for Tuesday, February 22<sup>nd</sup> with Mr. Larry Potter to discuss the mitigation plan and potential sites. The Mitigation Plan will be submitted prior to the end of the 30 day completeness review.

HDR Engineering, Inc.

1001 SW 5th Avenue  
Suite 1800  
Portland, OR 97204-1134

Phone: (503) 423-3700  
Fax: (503) 423-3737  
www.hdrinc.com

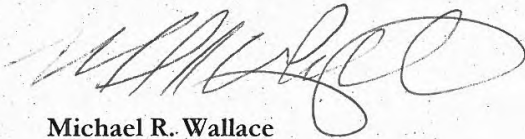


*Oregon City Land Use Permit Submittal*  
*Ms. Laura Terway*  
*Page 2*

A response to each of the applicable elements of OCMC 17.44, US Geological Hazards, will be developed following feedback from Oregon City regarding which sections of the code are applicable to the project. In a phone conversation on February 17, 2011, Ms. Nancy Kraushaar, Oregon City's Public Works Director, suggested that the Land Use Application be submitted with a placeholder for Geologic Hazard Requirements so that review could begin while she developed recommendations based on a more thorough review of the project. A response to the applicable sections of OCMC 17.44 will be submitted as soon as the information is made available.

We would like to thank Oregon City for your cooperation and support of permitting efforts during the development of final design. If you have any further questions, please contact me at 503.423.3844 or via email at michael.wallace@hdrinc.com.

Sincerely,  
**HDR Engineering, Inc.**



**Michael R. Wallace**

cc: Mr. Dewayne Kliewer, Clackamas County WES

HDR Engineering, Inc.

17.49.140 Standards for Utility Lines

The following standards apply to new utilities, private connections to existing utility lines, and upgrades of existing utility lines within the NROD.

- A. The disturbance area for private connections to utility lines shall be no greater than 10 feet wide;

**Response:**

*Not applicable. The proposed project is a public sanitary sewer project.*

- B. The disturbance area for the upgrade of existing utility lines shall be no greater than 15 feet wide;

**Response:**

*Not applicable. The proposed project is development of a new utility line.*

- C. New utility lines shall be within the right-of-way, unless reviewed under D.

**Response:**

*According to Section 17.49.090(K), city, county, and state capital improvement projects, including sanitary sewer facilities, are allowed within the NROD under prescribed conditions. The project includes prescribed conditions outlined in utility lines under Section 17.49.140. The proposed alignment was developed in coordination and direction from the Oregon City Public Works Department staff. The chosen alignment allows for available spacing within public right-of-way for future utility line placements and avoidance of existing utility lines. The project has been designed to minimize the amount of disturbance to vegetation within the existing paved roadway wherever possible. Because there will be Approximately 2,360 ft<sup>2</sup> (115 linear feet) of herbaceous vegetation located within NROD, the proposed project has applied for Type III review.*

## Laura Terway

---

**From:** Heckman, Andrea [Andrea.Heckman@hdrinc.com]  
**Sent:** Tuesday, March 22, 2011 5:22 PM  
**To:** Laura Terway  
**Subject:** RE: WES Intertie 2 Diversion Project - Erosion Control and ROW Permit Questions  
**Attachments:** FW\_ Approval of the Utility Line Extension .pdf

Hi Laura,

Thank you for the phone call earlier. Below is our response to 17.49.140. Let me know if you need any more information. When you get a moment can you confirm May 9<sup>th</sup> for the hearing date? Is there any way to get on the calendar for April?

To answer your other question... The application includes the Agnes to Washington segment. However, after submittal of the application, the repaving schedule for Agnes was revised and WES will construction placement of the pipeline within Agnes to Washington based on approval from Tony Konkol, Community Development Director whom in an email dated from you on October 5, 2010 you stated, Tony agreed to allow the utility line in Agnes (which is outside of all overlays) to be extended to Washington prior to approval of the remainder of the utility line to the utility/pedestrian bridge. The alignment on Agnes is located within a mapped geohazard area, however this is consider exempt because the project is a utility line and located within public ROW/easements under OCMC 17.44.035(D):

*The installation, construction, reconstruction, or replacement of utility lines in city right-of-way, or public easement, not including electrical substations is EXEMPT from the provisions of Chapter 17.44.*

### 17.49.140 Standards for Utility Lines

The following standards apply to new utilities, private connections to existing or new utility lines, and upgrades of existing utility lines within the NROD:

- A. The disturbance area for private connections to utility lines shall be no greater than 10 feet wide;

**Response:**

*Not applicable. The proposed project is a public sanitary sewer project.*

- B. The disturbance area for the upgrade of existing utility lines shall be no greater than 15 feet wide;

**Response:**

*Not applicable. The proposed project is development of a new utility line.*

- C. New utility lines shall be within the right-of-way, unless reviewed under D.

**Response:**

*According to Section 17.49.090(K), city, county, and state capital improvement projects, including sanitary sewer facilities, are allowed within the NROD under prescribed conditions. The project includes prescribed conditions outlined in utility lines under Section 17.49.140. The proposed alignment was developed in coordination and direction from the Oregon City Public Works Department staff. The chosen alignment allows for available spacing within public right-of-way for future utility line placements and avoidance of existing utility lines. The project has been designed to minimize the amount of disturbance to vegetation within the existing paved roadway wherever possible. Because there will be Approximately 2,360 ft<sup>2</sup> (115 linear feet) of herbaceous vegetation located within NROD, the proposed project has applied for Type III review.*

- D. New utility lines that cross above or underneath a drainage way, wetland, stream, or ravine within the NROD but outside of a right-of-way shall be processed as a Type III permit pursuant to Section 17.49.200, Adjustment from Standards.

**Response:**

The proposed project meets the NROD standards for Utility Lines. The proposed project has applied for Type III review. Approximately 2,360 ft<sup>2</sup> (115 linear feet) of herbaceous vegetation located within NROD would be disturbed during construction of the pipeline. The mitigation option proposed will be Option 2 because no trees within the NROD area would be impacted as part of this project. The proposed mitigation site is located within an area managed by the Oregon City Parks Department. Selected tree and shrub species were developed and chosen with coordination through the Oregon City Parks Department and Pacific Gas and Electric (PG&E)<sup>[1]</sup>. Native trees will include: big leaf maple (*Acer macrophyllum*), western flowering dogwood (*Cornus nuttallii*), red alder (*Alnus rubra*), and Douglas fir. Native shrubs will include: Indian plum (*Oemleria cerasiformis*), common snowberry (*Symphoricarpos albus*), red elderberry (*Sambucus racemosa*), and hazelnut (*Corylus corruta*).

The project includes prescribed conditions outlined in utility lines under Section 17.49.140. The project has been designed to minimize the amount of disturbance to vegetation within the existing paved roadway wherever possible. Following construction, the area will be reseeded with a native grass mix and cash in lieu of planting pursuant to OCMC Section 17.41.130 will be used to mitigate for impacts to trees. Impacts within the Natural Resource Overlay District (NROD) would be mitigated in accordance with OCMC 17.49.180(E)(2). The Mitigation Plan has been provided in the land use permit application under Attachment C.

- E. No fill or excavation is allowed within the ordinary high water mark of a stream without the approval of the Division of State Lands and/or the U.S. Army Corps of Engineers;

**Response:**

No jurisdictional waters of the U.S./state would be impacted from the portion of the pipeline alignment located within Oregon City limits. Therefore, no review is required by Oregon Department of State Lands (DSL) or the U.S. Army Corps of Engineers (USACE) for areas within Oregon City is required.

- F. The Division of State Lands must approve any work that requires excavation or fill in a wetland;

**Response:**

No jurisdictional wetlands would be impacted from the portion of the pipeline alignment located within Oregon City limits. Therefore, no review is required by DSL or the USACE for areas within Oregon City is required.

- G. Native trees more than 10 inches in diameter shall not be removed unless it is shown that there are no feasible alternatives; and

**Response:**

The proposed alignment was developed in coordination and direction from the Oregon City Public Works Department staff. The chosen alignment allows for available spacing within public right-of-way for future utility line placements and avoidance of existing utility lines. The Oregon City coordinated alignment will removed two native trees greater than 10 inches in diameter. Trees will be mitigated through obtainment of a tree removal permit and providing cash in-lieu of planting pursuant to Section 17.41.130.

- H. Each 6 to 10-inch diameter native tree cut shall be replaced at a ratio of three trees for each one removed. Each 11-inch or greater diameter native tree shall be replaced at a ratio of five trees for each removed. The replacement trees shall be a minimum one-half inch diameter and selected from the Oregon City Native Plant List. All trees shall

be planted on the applicant's site. Where a utility line is approximately parallel with the stream channel, at least half of the replacement trees shall be planted between the utility line and the stream channel.

**Response:**

*The proposed alignment was developed in coordination and direction from the Oregon City Public Works Department staff. The alignment will remove 3 Douglas fir trees (6", 14", and 28" diameter) within the public right-of-way and will provide cash in lieu of planting pursuant to Section 17.41.130. A tree removal permit will be obtained prior to construction. The trees that are proposed for removal are not designated by the city for protection or conservation. All trees to be retained within the construction area will be protected using construction fencing and signage to establish an appropriate tree protection zone, in accordance with Section 17.41.130.*

- I. Mitigation is required, subject to Section 17.49.180 or 17.49.190.

**Response:**

*Approximately 115 linear feet (2,360 square feet) of this non-paved section of the alignment are located within the NROD. All trees impacted are located outside of the NROD. Following construction, the area will be reseeded with a native grass mix and cash in lieu of planting pursuant to OCMC Section 17.41.130 will be used to mitigate for impacts to trees. Impacts within the Natural Resource Overlay District (NROD) would be mitigated in accordance with OCMC 17.49.180(E)(2). The Mitigation Plan has been provided in the land use permit application under Attachment C.*

Thank you,  
Andrea

## Laura Terway

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**From:** Wallace, Michael [Michael.Wallace@hdrinc.com]  
**Sent:** Tuesday, February 22, 2011 4:53 PM  
**To:** Laura Terway  
**Subject:** WES intertie #2 - Application numbers SP 11-01, WR 11-01, VR 11-01

Ms. Terway,

We are requesting a waiver from the requirements set forth in Oregon City Municipal Code (OCMC) 17.44 – US Geologic Hazards for the WES Intertie 2 Diversion Project B based on the following:

- OCMC 17.44.035(D) – states that the installation, construction, reconstruction, or replacement of utility lines in city right-of-way, or public easement, not including electrical substations is EXEMPT from the provisions of Chapter 17.44.
  - The project is considered a Utility facility as defined by OCMC 17.01.1450 in that it is a constructed portion of a system which provides for the conveyance of sanitary sewer.
  - The project is located entirely within Oregon City right-of-way.


Because the project is exempt from Chapter 17.44, compliance with this chapter should not be required as part of the Minor Site Plan and Design Review process. Additionally, the project area has been reviewed using online maps available from the Oregon Department of Geology and Mineral Industries for any geologic hazard areas such as landslide, liquefaction, and earthquake hazard areas. No geologic hazards are mapped within the vicinity of the project.

Please let us know if you concur with our finding that the WES Intertie 2 Diversion Project B is exempt from the provisions in Chapter 17.44 of the OCMC and let us know what further actions are required to be in compliance with all applicable Oregon City codes. If you have any questions, please contact me at the phone number below.

Thank you,

**Michael R. Wallace**  
Biologist | Environmental Specialist

**HDR | One Company | Many Solutions**  
1001 SW 5th Avenue, Suite 1800 | Portland, OR | 97204  
Phone: 503.423.3700 | Direct: 503.423.3844 | Cell: 503.569.9961 | Fax: 503.423.3737  
Email: [mwallace@hdrinc.com](mailto:mwallace@hdrinc.com)

 Before printing, please think about the environment





# CITY OF OREGON CITY LAND USE APPLICATION



City of Oregon City, Community Development Department, 221 Molalla Ave., Ste. 200, P.O. Box 3040, Oregon City, OR 97045, (503) 722-3789

## Type I (OCMC 17.50.030.A)

- ☐ Compatibility Review
- ☐ Nonconforming Use review
- ☐ Water Resources Exemption

## Type II (OCMC 17.50.030.B)

- ☐ Extension
- ☐ Detailed Development Review
- ☐ Geotechnical Hazards
- ☐ Minor Partition
- ☒ Minor Site Plan & Design Review
- ☐ Nonconforming Use Review
- ☐ Site Plan and Design Review
- ☐ Subdivision
- ☐ Minor Variance
- ☒ Water Resource Review

## Type III / IV (OCMC 17.50.030.C)

- ☐ Annexation
- ☐ Code Interpretation / Similar Use
- ☐ Concept Development Plan
- ☐ Conditional Use
- ☐ Comprehensive Plan Amendment (Text/Map)
- ☐ Detailed Development Plan
- ☐ Historic Review
- ☐ Oregon City Municipal Code Amendment
- ☒ Variance
- ☐ Zone Change

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2011 FEB 22 AM 11:09

Application Number: SP 11-01, WR 11-01, VR 11-01

Proposed Land Use or Activity: Construct 0.33 miles of a 4.2 mile, 20-inch ductile iron sanitary sewer forcemain to divert raw sewage from the Mt. Scott interceptor and send it to the Tri-City Water Pollution Control Plant (WPCP).

Project Name: Inertie 2 Diversion - Project B 20" & 30" Force Mains Number of Lots Proposed (If Applicable): N/A

Physical Address of Site: See Project Location Maps in Attachment A.

Clackamas County Map and Tax Lot Number(s): N/A. All work will be within public right-of-way.

## Applicant(s):

Applicant(s) Signature: [Signature]

Applicant(s) Name Printed: Clackamas County Water Environment Services, Attn: Dewayne Kliever Date: 2/11/11

Mailing Address: 150 Beaver Creek Rd., Oregon City, OR 97045

Phone: (503) 742-4572 Fax: (503) 742-4565 Email: dewaynekli@co.clackamas.or.us

## Property Owner(s):

Property Owner(s) Signature: [Signature] / [Signature]

Property Owner(s) Name Printed: A. Konkol / DAVID F. FRASHER - CITY MANAGER Date: 3/23/11

Mailing Address: City of Oregon City PO Box 3040 Oregon City, OR 97045

Phone: 503.496.1562 Fax: 503.657.7026 Email: tkonkol@city.org

## Representative(s):

Representative(s) Signature: \_\_\_\_\_

Representative (s) Name Printed: \_\_\_\_\_ Date: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

*All signatures represented must have the full legal capacity and hereby authorize the filing of this application and certify that the information and exhibits herewith are correct and indicate the parties willingness to comply with all code requirements.*

[www.oregoncity.org](http://www.oregoncity.org)



JANE VRILAKAS  
11811 SE 154TH AVE  
HAPPY VALLEY OR 97086

MICHAEL L FINGERUT  
3535 LANEWOOD ST  
LAKE OSWEGO OR 97035

UNION PACIFIC RAILROAD CORP  
1400 DOUGLAS STOP 1640  
OMAHA NE 68179

JONNY B WATSON  
38533 JASPER LOWELL RD  
FALL CREEK OR 97438

TRI-CITY SERVICE DIST  
150 BEAVERCREEK RD  
OREGON CITY OR 97045

BJD PROPERTIES LLC  
836 NICOLE CT  
WEST LINN OR 97068

TRI-CITY SERVICES DISTRICT  
150 BEAVERCREEK RD  
OREGON CITY OR 97045

LEWIS & CLARK BANK  
PO BOX 1630  
OREGON CITY OR 97045

GERALD SKEELS  
15721 WASHINGTON ST  
OREGON CITY OR 97045

DARK HORSE CONSTRUCTION LLC  
PO BOX 2015  
OREGON CITY OR 97045

WILLIAM ELLSWORTH GIVEN  
15731 WASHINGTON ST  
OREGON CITY OR 97045

CITY OF OREGON CITY  
PO BOX 3040  
OREGON CITY OR 97045

DB I LLC  
15741 WASHINGTON ST  
OREGON CITY OR 97045

URBAN RENEWAL AGENCY OF OREGON  
PO BOX 351  
OREGON CITY OR 97045

DONALD & LINDA A KOWALKOWSKI  
15751 WASHINGTON ST  
OREGON CITY OR 97045

LEROY & PHYLLIS JAEGER  
15796 BOARDWALK AVE  
OREGON CITY OR 97045

*Clear Channel Worldwide  
715 NE Everett St  
Portland, OR 97232*

ROBERT & DOROTHY ASHBY  
15850 POPE LN  
OREGON CITY OR 97045



# OREGON CITY

Community

221 Molai

Laura

The associated application materials have been previously transmitted to you for completeness purposes. If you would like an additional copy, please contact the Planning Department at 503-727-2780.

## LAND USE APPLICATION TRANSMITTAL

March 23, 2011

### IN-HOUSE DISTRIBUTION OF APPLICATION

- ☒ Building Official
- ☒ Development Services Manager
- ☒ Public Works Operations
- ☒ City Engineer / Public Works Director
- ☐ GIS
- ☐ Parks Manager
- ☐ Addressing
- ☐ Police
- ☐ Traffic Engineer
- ☐ City Attorney

### NOTICE OF THE APPLICATION MAILED TO

- ☐ All Properties within 300 feet
- ☐ Hamlet of Beavercreek
- ☐ Holcomb Outlook CPO
- ☐ Central Point / Leland Road / New Era CPO

### MAIL-OUT DISTRIBUTION OF APPLICATION

#### OREGON CITY NEIGHBORHOOD ASSOCIATIONS

- ☒ CIC Chair \_\_\_\_\_
- ☐ N.A. Chair \_\_\_\_\_
- ☐ N.A. Land Use Chair \_\_\_\_\_
- ☒ Clackamas County Transportation and Planning
- ☒ Clackamas Fire District #1
- ☐ ODOT - Division Review
- ☐ School District# 62
- ☐ Tri-Met
- ☐ Metro
- ☐ Oregon City Postmaster
- ☐ DLCD / DEQ / DSL / USACE (circle)
- ☐ Other \_\_\_\_\_

COMMENTS DUE BY: **April 25, 2011**

HEARING DATE: **May 9, 2011**

HEARING BODY: Staff Review; XX PC; HRB; CC

FILE # & TYPE: SP 11-01: Site Plan and Design Review  
WR 11-01: Natural Resource Overlay District  
VR 11-01: Variance

PLANNER: Laura Terway, AICP, Planner (503) 496-1553

APPLICANT: Dewayne Kliewer, Clackamas County Water Environment Services (WES)

REQUEST: The applicant submitted the aforementioned applications in order to install a new utility line and an associated drain line.

ZONING: "MUD" Mixed Use Downtown District

LOCATION: The project would be located within the public right-of-way along Washington Street from the Pedestrian Bridge over the Clackamas River to Agnes Avenue and at 15941 Agnes Avenue, Oregon City (Clackamas County Map 2-2E-20, Tax Lot 503).

This application material is referred to you for your information, study and official comments. If extra copies are required, please contact the Planning Department. Your recommendations and suggestions will be used to guide the Planning staff when reviewing this proposal. If you wish to have your comments considered and incorporated into the staff report, please return the attached copy of this form to facilitate the processing of this application and will insure prompt consideration of your recommendations. Please check the appropriate spaces below.

- ☒ The proposal does not conflict with our interests.
- ☐ The proposal conflicts with our interests for the reasons attached.
- ☐ The proposal would not conflict our interests if the changes noted below are included.

Signed

PLEASE RETURN YOUR COPY OF THE APPLICATION AND MATERIAL WITH

Exhibit 3

# ROUTE SLIP

- ☒ Street
- ☒ Water
- ☒ Water Quality
- ☒ Sewer
- ☒ Storm
- ☒ Engineer
- ☐ Other:

Date In	Date Out	Initials
4/1/11	Not enough information to determine if this is OK (per City standard details)	Site map (Attachment D) not attached
3/28	No Comment	3/28/2011
3/28/11	3/28/11	OK
4/13/11	No Comment	4/13/11
4/13/11	No Comment	4/13/11
4/19/11	4/19/11	OK

DATE DUE BACK TO OFFICE: 4-22-11

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_