CORVALLIS
ENHANCING COMMUNITY LIVABILITY

CORVALLIS
CITY COUNCIL AGENDA

February 17, 2009
12:00 pm and 7:00 pm

Downtown Fire Station
400 NW Harrison Boulevard

COUNCIL ACTION

PLEDGE OF ALLEGIANCE

I. ROLL CALL

II. CONSENT AGENDA

The following items are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member (or a citizen through a Council member) so requests, in which case the item will be removed from the Consent Agenda and considered separately. If any item involves a potential conflict of interest, Council members should so note before adoption of the Consent Agenda.

A. Reading of Minutes
   1. City Council Meeting – February 2, 2009
   2. City Council Work Sessions – January 29 and February 4, 2009
   3. For Information and Filing (Draft minutes may return if changes are made by the Board or Commission)
      a. Airport Commission – January 6, 2009
      b. Budget Commission – January 22, 2009
      c. Citizens Advisory Commission on Transit – January 14, 2009
      d. Commission for Martin Luther King, Jr. – December 16, 2009
      e. Committee for Citizen Involvement – January 8, 2009
      f. Corvallis-Benton County Public Library Board – December 3, 2008
      g. Downtown Commission – January 14, 2009
      h. Downtown Parking Committee – January 6, 2009
      i. Historic Resources Commission – January 13, 2009
      j. Housing and Community Development Commission – January 21, 2009
      k. Planning Commission – January 7, 2009
      l. Watershed Management Advisory Commission – November 19, 2008, and January 21, 2009

B. Confirmation of Appointment to Watershed Management Advisory Commission (Bruce)

C. Schedule a public hearing for March 2, 2009 to consider an appeal of a Planning Commission decision (PLD08-00012, SUB08-00006 – First Presbyterian Church)

D. Acknowledgment of receipt of Zoning District map correction in South Corvallis

E. Authorization to enter into and for the City Manager to sign an Intergovernmental Agreement with Corvallis Area Metropolitan Organization to develop conceptual plans for NW Ninth Street study

F. Schedule an Executive Session following the regular noon meeting under ORS 192.660(2)(h) (status of pending litigation or litigation likely to be filed)

III. ITEMS REMOVED FROM CONSENT AGENDA

IV. UNFINISHED BUSINESS

A. Deliberations of an appeal of a Planning Commission decision (PLD08-00013, SUB08-00007 – Deer Run Park Subdivision)

B. City Legislative Committee – February 11, 2009

C. Staff review of Community Sustainability Action Plan (evening meeting)

V. MAYOR, COUNCIL, AND STAFF REPORTS

A. Mayor's Reports

B. Council Reports

C. Staff Reports

1. City Manager's Report – January 2009
2. Council Request Follow-up Report – February 12, 2009

VI. VISITORS' PROPOSITIONS – 7:00 pm *(Note that Visitors' Propositions will continue following any scheduled public hearings, if necessary and if any are scheduled)*

A. Community Outreach, Inc.

VII. PUBLIC HEARINGS – None.

VIII. & IX. STANDING COMMITTEE REPORTS, ORDINANCES, RESOLUTIONS, AND MOTIONS

A. Human Services Committee – February 3, 2009
   1. Project Action Request – Barbara Ross

B. Administrative Services Committee – February 4, 2009
   1. Urban Renewal Plan Voters' Pamphlet Review
   2. Council Policy Review: CP 91-2.01, "Meeting Procedures"

C. Urban Services Committee – February 5, 2009
   1. Council Policy Review: CP 91-7.04, "Building Permits"
   2. Council Policy Review: CP 91-9.05, "Street Naming and Addressing Policies and Procedures"
   3. Sidewalk Café Regulations Review

D. Other Related Matters

   1. *Second reading of an ordinance amending Corvallis Municipal Code Chapter 1.25, "Living Wage," as amended,* **to be read by the City Attorney**

X. NEW BUSINESS

A. Seavey Meadows easement – Northwest Natural

XI. ADJOURNMENT

For the hearing impaired, a sign language interpreter can be provided with 48 hours' notice prior to the meeting. Please call 766-6901 or TTY/TDD telephone 766-6477 to arrange for such service.

A LARGE PRINT AGENDA CAN BE AVAILABLE BY CALLING 766-6901

A Community That Honors Diversity

CITY OF CORVALLIS

ACTIVITY CALENDAR

FEBRUARY 16 - 28, 2009

MONDAY, FEBRUARY 16

- City Holiday - all offices closed

TUESDAY, FEBRUARY 17

- City Council - 12:00 pm and 7:00 pm - Downtown Fire Station, 400 NW Harrison Boulevard
- Housing and Community Development Commission - 5:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue

WEDNESDAY, FEBRUARY 18

- Human Services Committee - 12:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue
- Administrative Services Committee - 3:30 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue
- Housing and Community Development Commission - 5:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue
- Watershed Management Advisory Commission - 5:30 pm - Library Board Room, 645 NW Monroe Avenue

THURSDAY, FEBRUARY 19

- Urban Services Committee - 4:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue
- Parks, Natural Areas, and Recreation Board - 6:30 pm - Downtown Fire Station, 400 NW Harrison Boulevard (budget overview)

SATURDAY, FEBRUARY 21

- Government Comment Corner (Councilor Richard Hervey) - 10:00 am - Library Lobby, 645 NW Monroe Avenue

WEDNESDAY, FEBRUARY 25

- City Legislative Committee - 9:00 am - City Hall Meeting Room A, 501 SW Madison Avenue
- Commission for Martin Luther King, Jr. - 12:00 pm - City Hall Meeting Room A, 501 SW Madison Avenue
- Urban Forestry Strategic Plan Stakeholders Committee - 4:00 pm - Osborn Aquatic Center, 1940 NW Highland Drive

THURSDAY, FEBRUARY 26

- Boards/Commissions/Committees Chairs with Mayor - 4:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue (training)

SATURDAY, FEBRUARY 28

- Government Comment Corner (Councilor Mike Beilstein) - 10:00 am - Library Lobby, 645 NW Monroe Avenue

CITY OF CORVALLIS
COUNCIL ACTION MINUTES

February 2, 2009

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Decisions/Recommendations
Consent Agenda Pages 80-81			
New Business 1. American Public Works Association Julian Prize for Sustainability Page 81	Yes		
Unfinished Business 1. Brooklane Heights LUBA Appeal – Deliberations 2. City Legislative Committee – January 28, 2009 3. Labor Negotiations Briefing Pages 81-88	 Yes Yes		• Upheld original City Council decision, with revised and new Conditions of Approval passed 7-1
Mayor's Report 1. Infrastructure Investment Bills Briefing 2. Renewable Energy Purchase Recognition 3. "State of the City" Address Page 88	Yes Yes Yes		
Council Reports 1. MPO Issues (Brauner) 2. NAACP 100th Birthday Party (Beilstein) 3. Airport Tour (Hervey) 4. Fund-Raising Events (Raymond) 5. Woodland Meadow Park (Raymond) 6. Urban Forestry Strategic Plan Stakeholders Committee Meetings (Hirsch, Daniels) Pages 88-89	Yes Yes Yes Yes Yes Yes		
Staff Reports 1. Scott Zimbrick Memorial Fire Station No. 5 Dedication 2. Planning Commission Vacancies 3. Federal Appropriation Request Ideas 4. Economic Development Contracts 5. SW D Avenue Closure Appeal 6. Council Request Follow-up Report – January 29, 2009 7. FEMA Grant Award Withdrawal 8. Taxi Driver Permit Provisions Pages 89-91	Yes Yes Yes Yes Yes Yes Yes	Referred to HSC February 18, 2009	

Agenda Item	Information Only	Held for Further Review	Decisions/Recommendations
Items of ASC Meeting of January 22, 2009 1. Urban Renewal Plan Ballot Title Review Page 91			• RESOLUTION 2009-04 passed U
Items of USC Meeting of January 22, 2009 1. Bicycle Lanes – NW Garfield Avenue from NW Highland Drive to NW Ninth Street Pages 91-92	Yes	February 19, 2009	
Other Related Matters 1. Corvallis Municipal Code Chapter 1.25, "Living Wage" 2. Grant – Oregon Commission for Voluntary Action 3. Grant – Oregon Water Resources Department 4. Corvallis Municipal Code Chapter 4.03, "Industrial Wastewater Pretreatment Program" Pages 92-93		Second reading February 17, 2009	• RESOLUTION 2009-05 passed U • RESOLUTION 2009-06 passed U • ORDINANCE 2009-02 passed U
Executive Session 1. Labor Negotiations – IAFF, CRCCA, and CPOA. 2. Litigation – Noakes vs. City of Corvallis Page 94	Yes Yes		
Visitors' Propositions 1. Business Enterprise Center Update (Ford, Hutchinson) 2. Bicycle Lanes – NW Garfield Avenue (Jensen) 3. Willamette Angel Conference (Edewards) Pages 94-96	Yes Yes Yes		
Public Hearing 1. Deer Run Park Subdivision Pages 96-115		Deliberations February 17, 2009	

Glossary of Terms

ASC	Administrative Services Committee
CPOA	Corvallis Police Officers Association
CRCCA	Corvallis Regional Communications Center Association
FEMA	Federal Emergency Management Agency
HSC	Human Services Committee
IAFF	International Association of Firefighters
LUBA	Land Use Board of Appeals
MPO	Metropolitan Planning Organization
NAACP	National Association for the Advancement of Colored People
U	Unanimous
USC	Urban Services Committee

CITY OF CORVALLIS
COUNCIL ACTION MINUTES

February 2, 2009

The regular meeting of the City Council of the City of Corvallis, Oregon, was called to order at 12:00 pm on February 2, 2009, in the Downtown Fire Station, 400 NW Harrison Boulevard, Corvallis, Oregon, with Mayor Tomlinson presiding.

PLEDGE OF ALLEGIANCE

I. ROLL CALL

PRESENT: Mayor Tomlinson, Councilors Brauner, Brown, Hirsch, Beilstein, Daniels, O'Brien, Hervey, Raymond

ABSENT: Councilor Hamby (excused)

Mayor Tomlinson directed Councilors' attention to items at their places, including City Manager Nelson's January 29th letter to Isaiah Williams regarding taxi driver permit provisions (Attachment A), Mr. Nelson's February 2nd memorandum regarding the City's appeal of a Federal Emergency Management Agency (FEMA) grant cancellation for purchase of a fire truck (Attachment B), and Community Development Director Gibb's January 29th memorandum detailing staff's responses to the Council's questions regarding the Brooklane Heights development application (Attachment C).

II. CONSENT AGENDA

Mayor Tomlinson announced that today's Council executive session would include discussion of pending litigation or litigation likely to be filed. The discussion issue was not included on the agenda but was noticed.

Mayor Tomlinson noted that staff made some minor corrections to the January 20th Council minutes, per Councilor Daniels' request.

Councilors Daniels and Brauner, respectively, moved and seconded to adopt the Consent Agenda as follows:

A. Reading of Minutes
   1. City Council Meeting – January 20, 2009
   2. For Information and Filing (Draft minutes may return if changes are made by the Board or Commission)
      a. Planning Commission – October 8, 15, and 29, November 5 and 19, and December 3, 2008

B. Announcement of Vacancy on Planning Commission (Saunders)

C. Announcement of Appointment to Watershed Management Advisory Commission (Bruce)

D. Schedule an Executive Session following the regular noon meeting under ORS 192.660(2)(d) (h) (status of labor negotiations, status of pending litigation or litigation likely to be filed)

The motion passed unanimously.

III. ITEMS REMOVED FROM CONSENT AGENDA – None.

X. NEW BUSINESS

A. American Public Works Association Julian Prize for Sustainability presentation

Jeanne Nyquist and Ron Polvi are members of the American Public Works Association and its Futures Committee. In 2004, the Association began a sustainability award named for Committee chair Julian "Ned" Dempsey. The award was initiated to recognize sustainability practices within government agencies and share information to continue sustainability practices and encourage systems to consider sustainability. Annual awards recognize policies, practices, projects, and individuals who made outstanding community contributions regarding environment, economy, and social or cultural issues.

Ms. Nyquist presented the 2008 Julian Prize for Policy to the City in recognition of its sustainability management system policy. The Committee was impressed with the City's application. She explained that it was unusual for an agency to establish a long-term view of the entire organization, establish agency-wide goals, involve all departments in setting goals and developing department and agency-wide teams, and establish a long-term commitment to sustainability, which will be required for success. The Committee would like to use Corvallis' policy as an example to other agencies.

Mr. Polvi noted that he and Ms. Nyquist would participate in discussion this afternoon of a sustainability scholarship at Oregon State University (OSU).

Mayor Tomlinson noted that the City received an award from League of Oregon Cities (LOC) for the City's sustainability system plan. He thanked the Association for its recognition and noted the extensive work by staff.

Public Works Director Rogers introduced Public Works Administration Division Manager Steckel and Sustainability Supervisor Lovett and acknowledged their efforts on the City's sustainability program.

IV. UNFINISHED BUSINESS

A. Deliberations relating to a Land Use Board of Appeals remand order (PLD06-00018, SUB06-00006 – Brooklane Heights)

Mr. Gibb noted that, because of the application submission date, the application was subject to the 1993 Land Development Code (LDC) provisions and the 2000 Comprehensive Plan policies, specifically regarding the four issues remanded by the Land Use Board of Appeals

(LUBA). He explained that the Council must use discretion in evaluating the application with respect to policies and review criteria, which sometimes conflict.

Questions of Staff

Councilor Beilstein referenced testimony regarding a wetland along a drainageway. He surmised that a drainageway would be classified as a wetland because of its function. A citizen contended that the proposed detention facilities would be constructed within the drainageway/wetland. Councilor Beilstein opined that the detention facility location seemed appropriate, rather than re-routing storm water from the drainageway to a detention facility. He requested analysis of construction of a detention facility within a drainageway/wetland and whether the drainageway should be considered a wetland.

Engineer Reese responded that the subject wetland was not mapped by the State or protected by the City. The applicant would need permits from the United States Army Corps of Engineers, the Oregon Department of State Lands, or any other applicable agency. He confirmed that the applicant proposed using the drainageway as part of its public drainageway, with easements over the property and storm water directed to the drainageway. The storm water would be collected in one of two proposed detention ponds. He concurred that it seemed reasonable to construct the detention facilities in the drainageway, where storm water already collected. He did not believe the City would require additional protections for the wetland.

Planning Division Manager Towne added that Mr. Gibb's memorandum included Condition of Approval 6 regarding wetland determinations and permitting through State and Federal agencies for activity within the wetlands. He confirmed that State and Federal permits and wetland impact mitigations would be required, if the application was approved.

Mr. Towne confirmed for Councilor Daniels that the 1993 LDC governed the application. The Natural Features Inventory was implemented December 31, 2006.

Councilor Daniels noted that the geotechnical report provided by the applicant indicated that work in three test pits was stopped because of the discovery of archeological remains. She inquired whether the applicant would be required to complete work on the test pits to assess geological issues, including drainage and landslides.

Mr. Reese explained that the applicant submitted two previous geotechnical reports, which were stamped as final reports. The second report was submitted in response to staff's request for additional information and clarification and fulfilled staff's requirements for the geotechnical report for the application. The recently submitted draft report provided more information for future site design and additional evidence. The report must be stamped as a final report before the City can accept it and issue building permits.

Councilor Daniels noted from Mr. Gibb's memorandum that the Council could approve a Condition of Approval requiring the applicant to submit a final geotechnical report.

Councilor Daniels commented that the geotechnical report extensively addressed the engineering and technical requirements for individual sites. She inquired whether the

existing Conditions of Approval would ensure implementation of the engineering recommendations for each site when permits are requested.

Mr. Towne explained that the City's building official could require any geotechnical reports necessary to verify that building foundations could be adequately constructed; this would not require a Condition of Approval. Development Services Division staff would have the Conditions of Approval and the appropriate portions of the staff report for reference when issuing permits.

Councilor Daniels inquired whether a Condition of Approval was needed for monitoring wetland water quality for toxins.

Mr. Reese explained that the existing Conditions of Approval conform with the City's Storm Water Master Plan (SWMP) requirements regarding water quality and quantity. The applicant's proposal would meet the existing performance standards, so staff did not recommend future water quality monitoring; however, the Council could approve this requirement.

In response to Councilor Daniel's further inquiry, Mr. Reese said staff applied the LDC provisions regarding storm water quantity in relation to the Brooklane Park Estates (BPE) properties. The applicant indicated that it could meet the SWMP requirements by detaining two- through ten-year storm water volumes, which should not affect the flow rate at the outlet pipe at the wetlands behind the BPE houses. Staff visited the site and spoke with BPE property owners. It appeared that the property owners modified the edge of the drainage channel, allowing storm water to enter the properties sooner. It further appeared that the property owners installed a pipe to drain some of the wetland areas during dry weather. Conversely, storm water collections in the channel during wet weather would overflow the channel sooner. Staff believed this scenario was the issue and would be considered an existing condition, rather than a condition the applicant would potentially exacerbate.

Councilor Daniels inquired whether the BPE property owners would have any recourse regarding storm water drainage on their properties, regardless of the application.

Mr. Reese responded that the 2006 LDC includes wetland protection provisions that allow construction or modification for flooding issues. If the situation was considered a flooding issue, necessary permits would be required before any activity in the wetland.

Mr. Gibb added that staff revised some Conditions of Approval to reflect the Council's previous discussions, which would be incorporated into the original Conditions of Approval regarding the remanded issues.

In response to Councilor Raymond's inquiry, Mr. Towne explained that the 1993 LDC did not include cut-and-fill standards; the standards were outlined in a supplement to the Building Code. During the past several years, the Council established cut-and-fill standards for hillside developments. The standards established that a maximum hillside steepness of 21 percent could accommodate eight-foot cut-and-fill activity. This standard recognized that slopes steeper than 21 percent would probably require cuts and fills greater than eight feet. Some developments in the community necessitated deeper cuts and fills, which was

approved through a discretionary process, based upon an assessment of whether the application met the criteria of minimizing cut-and-fill activity. In the subject case, some sites would have cuts or fills of approximately 20 feet. A 20-foot cut would be needed to maintain a maximum 15-percent slope on the local street of the proposed development. A steeper street slope would result in less cut of the street curve. Staff considered the 15-percent street slope an important standard for pedestrian orientation. Staff evaluated the application by balancing increased cut-and-fill activity on the site and maintaining the maximum 15-percent slope of the street.

Councilor Raymond questioned how the greater cut-and-fill activity would appear and affect the adjacent property to the north.

Mr. Towne responded that the geotechnical report stated that cuts and fills could be engineered so they remained stable for the subject site. The report indicated that the proposed cuts and fills would be safe and effective. He explained that the greater cuts and fills would not encroach onto neighboring properties but might relate to compatibility issues.

Councilor Raymond opined that developers tried to fit as many lots as possible onto a property for the sake of efficiency. Rather than constructing on the lot at the steep curve of the street a house that might not be compatible, she suggested that the lot could be left as an open space.

Mr. Towne responded that the Council could adopt a Condition of Approval to maintain the subject lot as open space. The cut would still be necessary but could be planted with vegetation that would enhance stability of the site.

Mr. Gibb added that development applications must meet minimum density standards. In addition, developments must balance protecting resources and meeting density, efficiency, and compact urban form goals of the Comprehensive Plan. He noted that the density designation for the site did not change in the 2006 LDC update.

City Manager Nelson observed that the development community presents applications that meet the City's density, lot, and other development requirements. Staff does not have the flexibility to recommend that a lot be maintained as an open space because of a cut or fill necessary to achieve development.

Councilor Hervey asked whether Councilor Daniels' concerns regarding the archeological/ geological test pits would be addressed by Condition of Approval 7.

Mr. Towne responded that work on some geotechnical test pits was stopped when archeological resources were found. He explained that additional test pits were not needed to ensure that required assessment work was done.

Councilor Daniels said the Foundation Engineering report suggested construction of retaining walls, yet staff recommended not having retaining walls.

Mr. Reese explained that the retaining wall exclusion resulted from the original Planning Commission public hearing, but he was not sure of the reason for the decision. He surmised

that the Condition of Approval might have been written to avoid retaining walls and might have involved site compatibility concerns regarding views to and from the hill. He believed the geotechnical report outlined the various design possibilities, such as cuts, fills, cuts with retaining walls, and fills with retaining walls. He did not believe the report implied that retaining walls must be constructed, as the report included specific recommendations for cuts and fills without retaining walls for the site.

Deliberations and Final Decision

Mayor Tomlinson referenced Mr. Gibb's January 29th memorandum, which included revised Conditions of Approval 1, 5, 22, and 27 and a new Condition of Approval 28.

Councilors Brauner and Daniels, respectively, moved and seconded to uphold the original City Council decision, with revised Conditions of Approval 1, 5, 22, and 27 and new Condition of Approval 28, as outlined in Community Development Director Gibb's January 29, 2009, memorandum.

Councilor Brauner recalled that the application prompted extensive discussion during the Council's original public hearing and generated more concerns through the LUBA remand. He believed the Council's original decision was correct and that the remand issues were addressed through the revised Conditions of Approval.

Councilor Brauner acknowledged that the proposed development within the Urban Growth Boundary (UGB) was difficult because there were no clear answers. Evaluation of the application involved trade-offs between development and landowner rights versus protecting resources and the community. The Council must ensure that the community and natural resources are protected to the greatest extent while allowing development. He said the State's original land use laws and subsequent amendments attempted to protect natural resources while assuring reasonable development. Establishing UGBs was one means of achieving this objective to consolidate developmental growth within the UGBs while protecting resources for the majority of the state outside the UGBs. Trade-offs exist. For development outside UGBs, he believes protecting natural resources has primary importance. For development inside UGBs, development should be allowed and resources should be protected as best as possible.

Councilor Brauner opined that the opponents to the subject application provided extensive information regarding resource protection. However, if the opponents' resource protection suggestions were applied in their strictest extents without trade-offs, no development would occur anywhere. He believed the revised application, with the Conditions of Approval, provides the best resource protections for the site. The revised application would protect open space while allowing development, protect the majority of the White Oak, and protect adjacent wetlands. He encouraged the Council to support the motion.

Councilor Daniels referenced citizens' concerns that the City was not enforcing LDC requirements. She said the LDC allows variances but limits staff approvals without Planning Commission or Council public hearings and approvals. The subject application involved several conflicting issues and values. Staff offers professional opinions, but the Council may decide differently after balancing values, policies, and LDC requirements. She

noted that permitted variances were not illegal or violations of the LDC. Since the LDC implements the Comprehensive Plan, any decisions regarding variances must attain Plan policy goals in another way, with documented evidence to that effect, if the LDC is not explicitly followed.

Councilor Daniels said LUBA remanded the application to the Council, based upon the determination that the Council's original decision did not adequately demonstrate the belief that the application would comply with City policies. She thanked citizens for their input and suggestions, which she believed resulted in a better application. She noted that the property was zoned for residential development for many years, and there were many opportunities during those years to re-zone the property. She expressed support for the application, believing the Conditions of Approval would enable the application to meet the applicable Comprehensive Plan policies and LDC requirements.

Councilor Beilstein concurred with Councilors Brauner and Daniels and said he would support the motion. He noted that the application met the LDC requirements, which did not ensure achievement of the Comprehensive Plan goals. Therefore, meeting LDC requirements did not equate to following the Plan. The City does not have standards for dissolved solids in storm water and has regulations only regarding suspended particulates. The LDC required removal of 70 percent of suspended solids. The Plan encourages that the community do its best to maintain hydric systems. By not regulating dissolved solids, the City is not doing its best to meet the Plan guidelines. He acknowledged that LDC requirements are based upon available technology. Current LDC requirements are the City's best directives for meeting Plan goals. The Plan may establish greater goals than can currently be met. The City can only meet the LDC requirements and consider enhancing hydric resource protections in the future, as technologies improve. He expressed support for the motion before the Council and thanked citizens for their involvement in the application review process.

Councilor Raymond thanked citizens for their concern in the subject property, noting that some wanted to purchase and preserve the property. She opined that the application was improved with the revised Conditions of Approval. She remained concerned about storm water runoff and how it would affect properties surrounding and below the subject site and the Marys River Natural Area. The application indicated that on-site public drainageways would be maintained and warranted for two years by the developer after being accepted by the City. Since the lots would be developed over time, she opined that it would be better to have the warranty extend for two years after all construction was completed. She questioned who would be responsible for drainageway problems after the warranty expires. She thanked staff for the Condition of Approval suggestions and indicated that she would support the motion.

Councilor Hirsch said he realized that there might be a development option for the site that would be acceptable for the general public; however, too many issues regarding the site remained unresolved. He thanked staff for its thorough review of the application and responses to questions. He said the decision to approve or disapprove the application was close for him; however, he could not, in good conscience, approve the application, so he would oppose the motion.

Mayor Tomlinson referenced Condition of Approval 22 regarding deed restrictions and noted that Lots 19 through 29 would surround SW Buckeye Place with dwelling units of not more than 1,200 square feet. He questioned whether the measurement referenced building footprint or total building envelope.

Mr. Towne responded that 1,200 square feet would be the total square footage of the house available as living space. The building could have a 600-square-foot footprint and two stories, comprising 1,200 square feet of potential living space.

Mr. Gibb commented that the square-footage restriction responded to the mix of housing types encouraged in the Comprehensive Plan.

In response to Councilor Brown's inquiry, Mr. Towne confirmed that Condition of Approval 22 could restrict a property owner from enlarging the house, as the Condition would be incorporated into the deed for the property.

The motion passed seven to one on the following roll call vote:

Ayes: Brauner, Brown, Beilstein, Daniels, O'Brien, Hervey, Raymond
Nayes: Hirsch

Mayor Tomlinson announced that the Council will adopt findings of fact March 2nd, at which time the appeal period will begin.

B. City Legislative Committee – January 28, 2009

Mr. Nelson reviewed the working notes from the Committee's January 28th meeting, noting that no Council action was needed. The next two Committee meetings will involve presentations by department representatives regarding pending legislative issues.

C. Labor negotiations briefing

Assistant City Manager Volmert reviewed her presentation, which was included in the meeting packet.

In response to Councilor Beilstein's inquiry, Ms. Volmert explained that pension obligation bonds allowed the City to fund a portion of its unfunded liability to the Oregon Public Employee Retirement System (PERS). The rate PERS estimates the City must contribute to pay pension obligations fluctuates. The bond proceeds allow the City to pay more into PERS and reduce the unfunded liability, resulting in a lower PERS contribution rate.

Councilor Hervey asked whether quality of life in Corvallis could be compared with that of other communities as part of the compensation comparisons.

Ms. Volmert responded that the value to an employee of living and working in Corvallis could be indirectly considered by an arbitrator in relation to costs of living and working in another community.

Mr. Nelson commented that staff surveyed City employees to determine how many organization members live in Corvallis. Ms. Volmert added that staff is considering this information in relation to the City's sustainability program and providing information regarding total monthly housing costs versus commuting costs from another community.

In response to Councilor Beilstein's inquiry, Ms. Volmert confirmed that the Corvallis Regional Communication Center Association could negotiate staffing levels, if it met the same standard as the Corvallis Police Officers Association. The public safety bargaining units can now negotiate staffing levels, if the staffing levels reach a specific threshold that prompts mandatory bargaining. Otherwise the Association and management could agree to voluntarily negotiate the issue. The City has not undergone binding arbitration during the past 15 years.

V. MAYOR, COUNCIL, AND STAFF REPORTS

A. Mayor's Reports

Mayor Tomlinson reported that he and Councilors Daniels and Hirsch attended a briefing in Salem regarding United States House Resolution 1 (House Infrastructure Investment Bill). The briefing addressed the funding in the Bill and how it would be apportioned to states, counties, and cities. Staff will review the information to determine potential impacts to Corvallis. United States Senate Resolution 1 will be voted on this week. If the Senate does not approve its version of the Bill, a House/Senate committee will determine what will be presented to President Obama.

Mayor Tomlinson announced that Corvallis was recognized as the American city that purchases the most renewable energy at more than 100 million kilowatt hours, including 67 million kilowatt hours purchased by OSU through student incidental fees approved by OSU students three years ago.

Mayor Tomlinson reported that he presented the "State of the City" address to the Rotary Club of Greater Corvallis January 30th; a video presentation will be posted to the City's Web site.

B. Council Reports

Councilor Brauner reported that he attended a meeting of Oregon metropolitan planning organization representatives. The group discussed the pending Federal infrastructure investment bill and transportation funding preauthorization bills and their potential impacts on local governments. The status of the bills remain unresolved. The group will coordinate with the LOC and the Association of Oregon Counties regarding presenting transportation and funding issues to the State Legislature and maintaining or improving existing formulas for local governments.

Councilor Beilstein distributed to Council members an invitation to the 100th birthday party of the National Association for the Advancement of Colored People (NAACP), which was founded February 12, 1909. The Corvallis Chapter will host a birthday party, open to the public, on February 12th. (Attachment D)

Councilor Hervey reported that he and Mayor Tomlinson and Councilors Daniels, Hirsch, and Hamby participated in a tour of Corvallis Municipal Airport. Approximately 300 people work at the Airport in a diverse variety of businesses.

Councilor Raymond thanked citizens involved in recent fund-raising events she attended, including one for Corvallis Youth Symphony.

Councilor Raymond announced that Community Outreach, Inc., will host a fund-raising event February 8th.

Councilor Raymond announced that the March Ward 7 meeting will include discussion of use and maintenance of Woodland Meadow Park.

Councilor Hirsch reported that the Urban Forestry Strategic Plan Stakeholders Committee met to discuss the 20-year forest management plan. Councilors Raymond and Beilstein attended the meeting. He encouraged Council members and citizens to attend and participate in the Committee's meetings.

Councilor Daniels concurred with Councilor Hirsch's comments, adding that the "urban forest" was comprised of public trees planted in public land in the community and was valued at more than $1 million. She opined that it was in the City's best interests environmentally and financially to have a long-range plan for management of the "urban forest."

C. Staff Reports

Mr. Nelson thanked everyone involved in the Scott Zimbrick Memorial Fire Station No. 5 dedication January 24th, including Mayor Tomlinson, Councilor Hamby, Fire Chief Emery, and Kathy Zimbrick. He thanked Councilors for supporting the naming of the station and attending the event.

1. Planning Commission vacancies

Mr. Nelson referenced current and anticipated vacancies on the Commission and noted the need to begin recruiting and selecting Commissioners. The Commission has six, rather than the authorized nine, members.

Mr. Nelson explained that appropriation requests can be special requests of Federal legislators for funding for the City. Staff has been able to gain almost $1 million in Federal appropriations over the years for various projects, including the Riverfront Commemorative Park path and pending road work at the Airport. The meeting packet included appropriation request ideas, which staff will present to legislators. Parks and Recreation Department staff submitted an additional suggestion of $1.8 and $2.2 million for Willamette Park Master Plan improvements related to access. Barring Council direction otherwise, staff will present the appropriation request ideas.

Mr. Nelson referenced the Council's recent goal-setting discussions regarding economic development and his memorandum outlining the City's existing economic development

contracts. Aside from the City's economic development allocation program, the City has contracts with Corvallis-Benton Chamber Coalition for administration of the Prosperity That Fits Plan and the Enterprise Zone program and for marketing Airport Industrial Park. If the Council pursues contract services through another administrative agency, staff might be soliciting requests for proposals (RFPs) from agencies inconsistent with the Council's awards. Therefore, staff suggested that it share with economic development allocation agencies applying for transient occupancy tax revenue the other three contract opportunities. The Council can determine contract awards, and staff will pursue contracts. If the Council agrees with staff's suggestion, no Council action would be needed.

Mr. Nelson referenced from the meeting packet a notice that the LUBA appeal of the Council's decision to close SW D Avenue was appealed to the Oregon Court of Appeals. Construction related to the street closure was suspended until the Court of Appeals renders a decision. Staff is speaking with the Seventh Street Station project property owner and applicant to refine the disputed issues.

2. Council Request Follow-up Report – January 29, 2009

Mr. Nelson reviewed the issues addressed in the Report.

- Future programs of delivery services holding packages in neighborhood collection boxes for delivery by foot or bicycle will include advance notification to potentially affected neighbors and a specified duration for how long the boxes would remain in the neighborhood.
- The sweeping turn lane from northbound SW 14th Street to eastbound SW Monroe Avenue was intended for use only by transit buses and delivery vehicles. The design did not work as intended. City staff and OSU representatives agreed that the turn lane should be usable by any driver.
- Staff and representatives of Corvallis School District 509J, including Crescent Valley High School, met regarding public transit service to the Crescent Valley area. Four daily trips were suggested, and the proposal will be presented to the Council and the District Board during February or March. The City and the District would each need to make some financial investments in the program. The concept has been under discussion for several years.

Mr. Nelson referenced his memorandum announcing that the Federal Emergency Management Agency withdrew its grant award of $347,000 for purchase of a ladder truck (Attachment B). The City initiated a request for proposals procedure before FEMA issued its grant award decision. Fire Chief Emery's response indicated that agencies could not meet the grant timeline requirements. Chief Emery appealed the grant cancellation. Senator Wyden and Congressman DeFazio were notified of the situation and are contacting FEMA on the City's behalf. The grant program has a 60-day appeal process.

Councilor Brauner commented that grant withdrawals may occur again as projects are proposed through the economic stimulus package and the transportation funding renewals. Many of the funding proposals before the United States Congress and Senate require that funds be committed or spent within a short time period, but approval times may be much longer. The City Legislative Committee and other groups are informing legislators of the timing conflicts.

Mr. Nelson explained that, like many communities, Corvallis requires taxi drivers to obtain annual permits. A local taxi driver applied for a permit, which was denied, based upon Municipal Code provisions stating that anyone convicted of an Oregon Revised Statutes (ORS) Chapter 163 crime is ineligible for a taxi driver permit in Corvallis. The Police Department's denial of the permit application was appealed. Mr. Nelson met with the applicant to discuss appeal issues. The Municipal Code does not grant the City Manager flexibility in the denial. He told the permit applicant that the denial could be appealed to the Council; the appeal is indicated on the letter distributed today (Attachment A). Mr. Nelson suggested that the Council consider the issue through a Human Services Committee review February 18th. The Council concurred.

VIII. & IX. STANDING COMMITTEE REPORTS AND ORDINANCES, RESOLUTIONS, AND MOTIONS

A. Human Services Committee – None.

B. Administrative Services Committee – January 22, 2009

1. Urban Renewal Plan Ballot Title Review

Councilor Brauner reported that the Committee reviewed a proposed resolution to refer to voters the Downtown Urban Renewal Plan and establish the ballot title for the election. The Committee recommended amending the resolution to indicate the debt service estimate. An amended resolution was included with the Committee's meeting minutes. The Committee unanimously recommended adoption of the amended resolution.

City Attorney Fewel read a resolution renewing Council's direction to refer the Downtown Corvallis Urban Renewal Plan to the voters at the May 19, 2009, special election. He noted that the resolution included the amendment described by Councilor Brauner.

Councilors Daniels and Brauner, respectively, moved and seconded to adopt the resolution.

RESOLUTION 2009-04 passed unanimously.

Councilor Brauner reported that the Committee will meet the Wednesdays following Council meetings at 3:30 pm.

C. Urban Services Committee – January 22, 2009

1. Bicycle Lanes – NW Garfield Avenue from NW Highland Drive to NW Ninth Street

Councilor Daniels reported that the Committee discussed removing on-street parking on the north side of NW Garfield Avenue (Garfield) between NW Ninth Street (Ninth) and NW Highland Drive (Highland) to accommodate bicycle lanes

on both sides of Garfield. The bicycle lanes would complete the bicycle linkage along Garfield between Ninth and NW 29th Street. Staff advised the Committee that the original notice to neighboring property owners and residents stated an incorrect meeting date. Therefore, the Committee decided that staff should send another notice to property owners and residents, indicating that the Committee will discuss the issue again February 19th.

This issue was presented for information only.

D. Other Related Matters

1. An ordinance amending Corvallis Municipal Code Chapter 1.25, "Living Wage," as amended

Mr. Fewel read an ordinance amending Corvallis Municipal Code Chapter 1.25, "Living Wage," as amended.

Councilor Beilstein encouraged Councilors to join him in opposing the proposed ordinance. He considered it inappropriate to allow a contracted agency to be exempt from the City's living wage requirement. He would prefer that the City increase its funding allocation to Heartland Humane Society from $50,000 to $60,000 or $65,000, so the agency can pay its employees in compliance with the living wage legislation. He would prefer spending more City funds to maintain the concept of living wages for all employees of contracted agencies and businesses.

The ordinance passed five to three, with Councilors Hervey, Beilstein, and Daniels opposing, and will be read a second time February 17th.

2. A resolution accepting an Oregon Commission for Voluntary Action grant ($3,750) for service learning projects and authorizing the City Manager to sign grant documents

Mayor Tomlinson noted that Parks and Recreation staff obtained grant funding from the Oregon Commission for Voluntary Action.

Mr. Fewel read a resolution accepting an Oregon Commission for Voluntary Action grant in the amount of $3,750 for service learning projects and authorizing the City Manager to sign grant documents.

Councilors Daniels and Beilstein, respectively, moved and seconded to adopt the resolution.

RESOLUTION 2009-05 passed unanimously.

3. A resolution accepting an Oregon Water Resources Department grant ($23,738) for a water recycling feasibility study and authorizing the City Manager to sign grant documents

Mayor Tomlinson noted that Public Works staff applied for a grant for a water recycling feasibility study. Staff will conduct a water re-use citizen survey.

Mr. Fewel read a resolution accepting an Oregon Water Resources Department grant in the amount of $23,738 for a water recycling feasibility study and authorizing the City Manager to sign grant documents.

Councilors Beilstein and Brauner, respectively, moved and seconded to adopt the resolution.

Mr. Nelson clarified that the citizen survey would include information regarding the intent of the project. After survey results are compiled, staff will have more public information and input regarding the Council's choices about the project and future activities.

Councilor Hervey said he supported the water recycling project. He expressed concern that the grant included phrasing regarding citizens' views of the project, which he considered "out of order" in terms of implying that Council action should stop if citizens did not support the project. He would not want this decision prior to the survey. He opined that some project tasks should be completed before the survey is conducted. He cautioned that the survey results may not be the basis for the Council's decision regarding whether to proceed with the study. He would not want citizens surveyed before they knew the substance, advantages, and disadvantages of the water recycling project.

RESOLUTION 2009-06 passed unanimously.

4. An ordinance amending Corvallis Municipal Code Chapter 4.03, "Industrial Wastewater Pretreatment Program," as amended

Mayor Tomlinson explained that the Council needed to approve an ordinance to correct the title of Municipal Code Chapter 4.03 to read, "Sewer Regulations."

Mr. Fewel read an ordinance amending Corvallis Municipal Code Chapter 4.03, "Industrial Wastewater Pretreatment Program," as amended.

ORDINANCE 2009-02 passed unanimously.

Mayor Tomlinson read a statement, based upon changes in Oregon laws regarding executive sessions. The statement indicated that only representatives of the news media, designated staff, and other Council-designated persons were allowed to attend the executive session. News media representatives were directed not to report on any executive session discussions, except to state the general subject of the discussion, as previously announced. No decisions would be made during the executive session. He reminded Council members and staff that the confidential executive session discussions belong to the Council as a body and

should only be disclosed if the Council, as a body, approves disclosure. He suggested that any Council or staff member who may not be able to maintain the Council's confidences should leave the meeting room.

The Council entered executive session at 1:48 pm.

Ms. Volmert briefed the Council regarding the status of labor negotiations with International Association of Firefighters, Corvallis Regional Communications Center Association, and Corvallis Police Officers Association.

Ms. Volmert briefed the Council regarding a settlement in the pending lawsuit of Noakes vs. City of Corvallis.

Mayor Tomlinson recessed the Council at 2:12 pm and reconvened the Council at 7:00 pm in the Downtown Fire Station, 400 NW Harrison Boulevard, Corvallis, Oregon.

I. ROLL CALL

PRESENT: Mayor Tomlinson, Councilors Brauner (7:02), Brown, Hirsch, Beilstein, O'Brien, Hervey, Raymond

ABSENT: Councilors Hamby, Daniels (both excused)

Mayor Tomlinson directed Councilors' attention to items at their places, including a letter from John Price regarding the Deer Run Park Subdivision application (Attachment E), a poster for the Willamette Angel Conference (Attachment F), and the Business Enterprise Center's 2008 annual marketing report (Attachment G).

(Councilor Brauner arrived at this time.)

VI. VISITORS' PROPOSITIONS

A. Business Enterprise Center update by Executive Director Kathleen Hutchinson

John Ford reported that he retired as the Business Enterprise Center's volunteer Executive Director. With financial assistance from the Benton County Board of Commissioners, the Center was able to hire an Executive Director. He will remain with the Center as Marketing Manager until those services are no longer needed. His marketing report was included in the Annual Report (Attachment G).

Kathleen Hutchinson, the Center's Executive Director since October 1st, assumed some of Mr. Ford's previous responsibilities, allowing him to focus on increasing the number of businesses and clients at the Center. The Center has 14 businesses and ten affiliates, which reflects a steady increase. Recent Center "graduates" include View Plus and Perpetua Power, which were recognized as Business of the Year and Entrepreneur of the Year, respectively, at the 2009 Celebrate Corvallis event. Four additional companies "graduated" during the past four months and hired more employees. She noted that money and resources invested in the Center have long-term community benefits, as the companies succeed, thrive, and hire employees who invest in the community's economy.

Ms. Hutchinson said the Center serves as an advisory team, matching each client with a mentor and two advisors; at least one of the advisory team members is a Center Board member. The advisory team assists the client through the start-up process of planning and marketing and offers warnings. The clients benefit from the advice of experienced business owners. The Center's success rate is 70 percent, compared with a national average of ten percent of businesses succeeding five years after inception. She anticipated a good year at the Center. The current economic environment provides a good opportunity for people to pursue business ideas, and she expects the Center to accelerate and incubate more businesses in the future.

Councilor Beilstein expressed appreciation for the Center's work in the community, especially for economic development. He believes it is best to develop local businesses, rather than recruit new businesses to Corvallis. He inquired whether the Center coordinates with the Willamette Neighborhood Housing Services (WNHS) microenterprise program, which serves a similar purpose for different clients.

Ms. Hutchinson responded that she had not had contact with WNHS, which knows it can refer clients to the Center. She understood that the WNHS program focused more on retail businesses. The programs are similar but provide different services and cross-refer clients.

Councilor Brauner inquired as to interactions between the Center and the OSU entrepreneurial start-up program.

Ms. Hutchinson responded that she has been speaking with OSU representatives regarding cooperation opportunities between the two programs for the next year.

Councilor Brauner encouraged cooperation between the programs to avoid duplication of efforts.

Ms. Hutchinson said she and Mr. Ford, combined, will be able to invest more time in the Center's programs.

Councilor Raymond thanked Mr. Ford and Ms. Hutchinson for their work at the Center, noting that business incubation services are important to the community.

Mayor Tomlinson opined that the Center represents the primary regional economic development engine. The recent and anticipated unemployment rates for the area indicate the need for job creation. The Center was established to serve Benton and Linn Counties. He opined that the linkage between the counties should be re-established. A regional economic engine is consistent with the Prosperity That Fits Plan and the Community Sustainability Plan; the latter includes a goal of creating 1,000 jobs in locally grown companies, which is the Center's area of expertise. He added that the Center serves as the fiscal agent for the Business is Good Here program.

Tom Jensen said the issue of extending bicycle lanes on Garfield between Ninth and Highland was reviewed by the Bicycle and Pedestrian Advisory Commission (BPAC) and Urban Services Committee. The issue will be reviewed again at the Committee's February 19th meeting. A proposal was presented last March to remove on-street parking from the north side of Garfield to

accommodate the bicycle lanes. When Corvallis Market Center was constructed at Ninth and Garfield, on-street parking on the south side of Garfield was removed from Ninth to the Vina Moses Center. He opined that it would be easier, and result in fewer lost parking spaces, to remove the remaining on-street parking from the south side of Garfield. He supports extending the bicycle lanes. He said semi-trucks, delivery trucks, and catering vehicles are often parked along the north side of Garfield near Ninth; employees of nearby businesses also park in that area.

Mr. Jensen noted that, west of Highland, Garfield "jogs" ten feet to the south from the eastern section of Garfield. Removing the on-street parking from the south side of Garfield would create a straight bicycle lane along the southern curb. If the on-street parking on the north side of Garfield was retained, the bicycle lanes east and west of Highland would be in a straight line.

Mr. Jensen acknowledged the need for another bicycle access point for Ninth in the vicinity of Garfield.

Councilor Brown asked why parking was removed from the south side of Garfield when Corvallis Market Center was constructed and why the BPAC recommended removing on-street parking from the north side of Garfield.

Mr. Jensen said he did not have answers to Councilor Brown's questions. He noted that a bus stop was created on the south side of Garfield west of the Vina Moses Center. He did not know why the other parking spaces were removed; however, he guessed that it might have been because of anticipated traffic leaving the retail center eastbound on Garfield, creating the need for more turning lanes on Garfield at Ninth. He did not know the reason for proposing removal of on-street parking from the north side of Garfield. He did not find justification for removing all on-street parking from the north side of Garfield.

Aaron Edewards is a member of the Corvallis-Benton Chamber Coalition staff, working in the areas of marketing tools, recruitment, and retention services through the City's economic development allocations process. He referenced the upcoming Willamette Angel Conference, which will unite investors and entrepreneurs, so funded businesses can become established and develop at facilities such as the Business Enterprise Center.

Because there were no other citizens in attendance desiring to speak to the Council under Visitors' Propositions, and the public hearing was advertised to begin at 7:30 pm, Mayor Tomlinson recessed the meeting from 7:20 pm until 7:30 pm.

VII. PUBLIC HEARINGS

A. Continuation of a public hearing to consider an appeal of a Planning Commission decision (PLD08-00013, SUB08-00007 – Deer Run Park Subdivision)

Mayor Tomlinson explained that the public hearing was opened January 20th late in the evening after another public hearing ended. The applicant and appellants agreed to continue the public hearing until tonight's meeting.

Mayor Tomlinson opened the continued public hearing.

Mayor Tomlinson directed Councilors' attention to items at their places, including written testimony from the Marys Peak Group of the Oregon Chapter of the Sierra Club (Attachment H).

Mayor Tomlinson reviewed the order of proceedings of the public hearing.

Declaration of Conflicts of Interest – None.

Declaration of Ex Parte Contacts – None.

Declaration of Site Visits – None.

Objections on Jurisdictional Grounds – None.

Staff Overview

Mr. Towne explained that the Council was considering an appeal of a Planning Commission decision to approve the application for a Conceptual and Detailed Development Plan and a tentative subdivision plat.

Mr. Towne presented diagrams of the subject site, indicating its location and Comprehensive Plan Map and Zoning District designations. The site is west of NW Walnut Boulevard and along the sounthern edge of NW Ponderosa Avenue (Ponderosa). The site has a Plan designation of Low-Density Residential. The property north of Ponderosa is outside the City Limits but within the UGB. The site is zoned Low-Density Residential with a Planned Development Overlay (PD[RS-6]); surrounding properties are zoned Low-Density Residential (RS-3.5). A drainageway follows the southern boundary of the site. Trees in the southwest corner of the site are proposed for preservation. Developed housing exists to the south, east, and north of the site.

The natural hazards and hillsides map encompassing the site indicates a landslide debris run-out area (LDRA) through the drainageway along the southern boundary of the site. Two potential slide areas are north of the site and are classified as moderate or high risk. The slides are speculated to be existing and very small. The LDRA was developed based upon Department of Geology and Mineral Industries (DOGAMI) mapping for Oregon. Topographic maps were used to determine where landslide debris might flow. No slide was identified in the area. LDC provisions allow geotechnical reports to analyze potential for landslides. The natural hazards and hillsides map also indicates slopes ranging from ten to 25 percent and a few between 25 and 35 percent. Much of the sloping on the site was associated with construction of Ponderosa or fill placed on the site during the past few years.

A riparian corridor follows the drainageway along the southern boundary of the site and is subject to protection under the LDC.

The applicant proposed nine lots along the northern boundary of the site and a protected riparian corridor tract along the southern boundary.

Mayor Tomlinson announced that failure to raise an issue, accompanied by statements or evidence sufficient to afford the City or other parties the opportunity to respond to the issue, precludes appeals to the State Land Use Board of Appeals based upon that issue. He also announced that failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government to respond to the issue precludes an action for damages in Circuit Court.

Applicant Presentation

Creed Eckert spoke on behalf of the applicant, who proposed a consolidated Conceptual and Detailed Development Plan and subdivision plat. The applicant submitted several iterations of the application during the past two years. The final application minimizes to the greatest extent feasible the number of requested variances and ensures LDC compliance to the greatest extent feasible.

Mr. Eckert reviewed the size of the property, the required dedications and easements, and the resulting allowable development area:

Total property size	2.55 acres
Less: Ponderosa right-of-way improvement dedication	.11 acre
Less: Riparian zone protection dedication	1.4 acres
Net developable land	1.04 acres
Less: Additional natural resource preservation easement	.22 acre
Remaining developable land	.82 acre

Mr. Eckert presented a diagram of the site, indicating the required riparian protection areas. The combined riparian protection corridor and easement extends from the top of the drainageway bank 75 feet northward and would be separated from residential unit backyards by a wooden fence. The natural features protections would encompass approximately 66 percent of the entire site.

Mr. Eckert said the Zoning District designation requires a minimum density of four units per net acre, and the Comprehensive Plan designation limits density at six units per gross acre. This results in a density range of four to 15 units for 1.04 net acres and 2.55 gross acres. The proposed development would create approximately 60 percent of the maximum density allowed on the site.

Mr. Eckert said the applicant tried to minimize the number and extent of LDC variances for its application. Previous applications proposed single-family detached units, requiring more variances of greater substance. The current application requested eight LDC variances that are considered moderate in scale. The request to exceed the eight-foot cut-and-fill standard applies to 1.75 percent of the gross land area, and 1.5 percent of the gross land area would be filled by up to ten feet. The applicant proposed reducing to two feet wide the landscaping strip adjacent to the private driveway, based upon constraints, size, configuration, shape, and slope of the developable area of the site. A two-foot-wide landscaping strip would meet the intent of the LDC requirement.

Eight of the nine proposed lots would exceed the minimum green-area requirement by an average of 13 percent. Lot 6 would have slightly less than the standard 40-percent green area, due to the location of the driveway.

The more-substantive LDC variance requests were prompted by the applicant's natural resource preservation plan, which would maintain an average of 25 to 40 feet of separation between the riparian boundary and significant earth work. The plan would allow the structures to serve as retaining walls, separating the significant cuts and fills from the boundary of the natural resource. The LDC would allow placement of structural foundations on piers in proximity to the riparian zone, reducing cut-and-fill impacts upon the riparian zone resources. The application design considered impacts from typical residential activities, such as potential for pollution of the riparian resources from vehicle parking and circulation. The application would allow greater protection of existing sub-surface drainage in the riparian area by minimizing ground disturbances and topography near the riparian zone. Excavation for the proposed development would end 30 feet from the riparian zone boundary. If the development adhered to the maximum 25-foot front setback standard, the development would also be required to comply with the LDC requirements regarding vehicle parking and circulation between structures and streets. This would result in a significant disruption of the existing land configuration and would risk increased impacts of construction, based upon the requirement for a retaining wall adjacent to the riparian zone. A development that would meet the LDC requirements would necessitate significant fill materials immediately abutting the riparian protection zone and would increase the risk of untreated storm water and pollutants associated with motor vehicles reaching the creek and/or groundwater. Mr. Eckert displayed a diagram, indicating that locating vehicle parking behind the residential units would require greater cut-and-fill activity than if parking were allowed in front of the units. Placing vehicles behind the units would also increase the risk of vehicle pollution reaching the riparian area.

Mr. Eckert said the applicant believed the additional precautions to protect the riparian zone were advisable and necessary. A four-foot-high retaining wall adjacent to the riparian zone would be needed to meet LDC standards, particularly a 25-foot front setback and rear parking. The impacts of construction and typical residential activity seemed too great under a scenario that complied with the LDC requirements.

Mr. Eckert said the applicant's significant modifications were prompted by three desires:

1. Maximize separation between vehicle parking and circulation areas and the highly protected riparian zone.
2. Decrease the extent of deviation from the existing contours and building with the site's topography.
3. Maximize the separation between significant ground-disturbing work and the highly protected riparian corridor.

Mr. Eckert responded to the appeal issues:

1. Site Assessment and Geotechnical Report Requirements – The applicant had a geotechnical report and site assessment prepared, as required by the LDC. The engineer who prepared the report determined that site conditions did not represent a slope stability hazard and that the risk of slope instability would be low, provided that fill was

properly integrated into the native slope and compacted as recommended. DOGAMI produced the natural hazards maps during 2002, based upon 1999 ORS amendments. The amendments, prompted by five fatalities the previous year as a result of landslide hazards, mandated that local jurisdictions require professional assessments of the risk of landslides in the further review areas before development is permitted. City staff provided information indicating further review areas, as identified by DOGAMI, to serve as a screening tool to identify areas that may be at high risk. According to the ORS, a property included in the further review area may still be suitable for development if mitigation measures are incorporated into the project, and local government shall regulate through mitigation measure and site development standards the siting of dwellings and other structures designed for human occupancy in further review areas where there is evidence of substantial risk for rapidly moving landslides. He said DOGAMI's mapping information states that further review areas should be evaluated on a site-specific basis. The geotechnical report indicated no substantial risk for rapidly moving landslides existed in the area of the proposed development site. The application team believed the application complied with the LDC's intent and specifics regarding the required geotechnical report and site assessment.

2. Grading Standards – The applicant recognized significant environmental challenges associated with developing on slopes. No significant risk of landslide was identified on the subject site, but the applicant's proposal incorporated the safeguard protections and engineering practices previously referenced to minimize ground disturbance and further reduce the risk of slope failure.

3. Pedestrian Standards – The applicant did not seek a waiver to the pedestrian standard. The applicant sought to reduce the planting strip from five feet to two feet along the private sidewalk, which would permit planting shrubs. Staff asked that shrubs not be planted in the strips because of vision clearance requirements for the driveway. The two-foot planting strip would meet the intent of the LDC standard.

4. Usable Yard – The Planning Commission approved the development request but did not specify whether it supported interpretation to permit the 25-foot rear yards, which are subject to riparian easement to serve as 15-foot usable yards, or a modification of this standard for Lots 2 through 8.

Mr. Eckert said the Planning Commission determined that implementation of the applicant's natural resource preservation plan would provide benefits to compensate for the requested variances.

Mr. Eckert summarized that the applicant appreciated neighbors' concerns but believed questions were answered during the Planning Commission's public hearing, and any remaining questions should be answered during the Council's public hearing.

Questions of Applicant

In response to Councilor Beilstein's inquiry, Mr. Eckert explained that his cut-and-fill diagram pertained to the middle building of the proposed development, which would require the greatest amount of cut-and-fill activity. The degree of cut-and-fill activity would vary

through the development area. Fill activity would be continuous throughout the development area.

In response to Councilor Hervey's inquiries, Mr. Eckert provided the following information:

- The site must be developed with at least four units, based upon the zoning designation.
- The diagram of cut-and-fill activity for parking behind the buildings indicated the average amount of fill required. The applicant previously proposed single-family, detached houses, which would require significant fill activity for foundations and an alley to private street standards in front of the buildings with two connections to Ponderosa. That scenario would require cut-and-fill activity greater than eight feet and several additional deviations beyond those requested in the current proposal.

  Peter Seaders provided civil engineering services on the application. He opined that the number of dwelling units would not significantly impact the amount of fill required behind the units. He explained that the site topography drops steeply behind the proposed development area. The farther toward the riparian area that vehicle parking is proposed, the greater the amount of fill that would be required. This is based in part upon the theory that vehicles can travel grades of 12 to 15 percent. A 25-percent grade would require more fill to allow vehicle travel. Creating driveable access behind dwelling units would require the same fill activity, regardless the number of units. It would be impossible to minimize the driveway. To reduce the amount of fill activity required for the development, the applicant proposed locating vehicle parking in front of the units and reducing the grade separation between the existing and required finished grades.

- The applicant proposed planting trees or small shrubs in the two-foot-wide landscape strip. City staff and arborists determined that the space would be wide enough for planting, but City staff said only ground cover or maybe very low shrubs would be desirable in the landscape strip. Staff later indicated a preference for no shrubs or trees in the landscape strip because of the need for vision clearance for drivers exiting driveways. Staff asked that trees proposed for the landscape strips be, instead, planted in the yards on the other side of the sidewalks.

  Mr. Seaders added that Beaverton, Oregon, has many developments on steep terrain with layouts similar to the proposed development and two-foot-wide planter strips planted with small street trees and grass.

In response to Councilor Raymond's inquiries, Mr. Eckert provided the following information:

- The applicant must allow a 75-foot-wide swath for natural resource preservation. Of that width, 50 feet must be in a separate tract dedicated to the City. An additional 25 feet must be in an easement. All 75 feet must be allocated for the same level of protection but by different means.
- A deed restriction would prevent the property owners from using the 75-foot-wide protection area as an extension of their back yards. The specific restriction is stated on the development plan and the plat and is detailed in the application narrative and the applicant's written testimony to the Planning Commission.

- The back yards would be five to 12 feet deep. Lot 1 would have a 15-foot side yard. Lot 4 may be 12 feet deep. "Usable yard" is not defined in the LDC. The applicant believed "usable" did not mean "wholly unrestricted" but implied "usable within some limits." Property owners may access the protected riparian area beyond the proposed rear fence for such activities as nature observation but may not disturb the ground or vegetation or place furniture or play equipment in the area. The applicant asked the Planning Commission to consider the riparian protection area as usable yard or acknowledge that Lots 2 through 8 did not appear to meet the standard but that the applicant provided compensating benefits.

Councilor Raymond opined that the applicant seemed to be trying to "squeeze" too many units onto one property. She suggested that Lot 1 be dedicated as a community green space or usable yard.

Mr. Eckert responded that the applicant did not believe that the requested variances were prompted by the need for a specific number of lots. The proposed development would require $500,000 in improvements to Ponderosa. The proposed development would provide 60 percent of the allowable density on the site. It would be impossible to put an additional lot on the site. A proposal for seven or eight single-family, detached houses resulted in a less-compliant plan that would probably not be approved by the Planning Commission because of the number and extent of necessary variances. The applicant proposed some common space, a diversity of housing, and compensation for not meeting the 15-foot usable yard requirement.

In response to Councilor Hirsch's inquiry, Mr. Eckert said the rear fence would be the height allowed by City codes without a building permit.

Councilor Hirsch commented that a fence that was tall enough would separate the dwelling units from the riparian corridor and buffer area and prompt property owners to consider the areas between the units and the fence as their yards and not consider using the buffer area as an extension of the yards.

Mr. Eckert said the applicant did not specify a fence height but would consider suggestions. The Planning Commission suggested that the fence be wildlife friendly in terms of ground clearance.

Staff Report

Mr. Towne clarified that the landslide hazard map was not developed by DOGAMI; the information regarding the LDRA was developed by a contractor hired by the City solely by considering modeling information that included the topographic condition of the UGB and identified areas with certain types of slopes and ravines. The map indicates that, if a landslide occurred in the area, the debris would likely follow the drainageway. The map was not intended to indicate precisely where landslide debris would be. There are significant slopes in the vicinity of the subject site. The only actual landslide hazards are a significant distance northeast of the site. The applicant submitted a geotechnical report to address this issue.

Mr. Towne reviewed that the subject site was annexed into the City in 1984. A Detailed Development Plan for a single-family house was submitted during 1993 but expired. The applicant submitted the proposed development plan during 2007.

The annexation included several conditions, which are standard in nature for development, such as improvement of Ponderosa when the site is developed, dedication of the drainageway, and extension of water and sewer lines.

The applicant proposed development of nine residential lots in three, three-unit buildings with common parking, access, utilities, and pedestrian landscaping improvements. The proposal includes improvements to Ponderosa and dedication of 1.4 acres for the riparian area. Mr. Towne highlighted the applicable review criteria, which were the basis of staff's evaluation of the application.

The site is a long, triangular shape with a riparian corridor along its longest side and approximately one-half of the street frontage of the property. The riparian area, which cannot be developed, encompasses much of the site. The City's "to and through" provisions require that the applicant improve the full property frontage along Ponderosa, including the undevelopable riparian area. The applicant seeks to develop nine units on the developable portion of the property in order to recover the costs of all improvement requirements associated with the property.

The applicant proposed dedicating more than the required amount of land for the riparian zone because the adjacent land is too narrow to be usable for development. Within the developable area, the 25-foot-wide easement area would be restricted in terms of use but would not be dedicated to the City. The applicant proposed vehicle parking in front of and between the buildings.

The applicant proposed protecting a significant Oak tree and will add landscaping. A section of setback sidewalk would not be constructed to the City's standard, but the applicant proposed trees along the back of the sidewalk. The curbside sidewalk is required along Ponderosa in the area of the riparian zone – construction is to be limited within riparian zones or significant vegetation areas.

A small area of fill was placed on the site along Ponderosa but was not placed in an engineered manner and will be removed and reconstructed. The fill is along the edge of a steep slope on the site.

Mr. Towne reviewed the calculation of the developable portion of the site. According to density requirements, the applicant can construct 4.6 to 15 dwelling units; the applicant proposed nine units.

Mr. Towne presented a diagram of the existing slopes on the site – some are significant, some are the result of grading, and some are the result of construction of Ponderosa. The applicant must address these issues in order to develop the site; some of the issues involve construction of Ponderosa but not development of the site. Some of the steeper slopes in the mid-section of the property would require fills of more than eight feet.

Mr. Towne noted the need for a retaining wall along the riparian corridor boundary to allow vehicle parking behind the units. The proposed development – with parking in front of the units – would move excavation and grading away from the riparian corridor, which staff considered a reason to support the application and the primary compensating benefit. Vehicle parking behind the units could create situations of vehicle fluids leaking into the riparian area. The most significant fill would be approximately 10.5 feet. Another fill would be made along the western boundary of the development area, near parking spaces.

The application can meet all requirements of the City's utility plan in terms of sewer and water extensions.

Some of the existing trees extend into the proposed development area. The applicant submitted an arborist's report indicating that the minor encroachments could be accommodated through specific efforts. The landscaping plan includes shrubs along property edges and trees along the edges of the riparian corridor.

The significant amount of land that must be dedicated to protecting the riparian area makes the property eligible for a minimum assured development area (MADA), which would allow development encroachment into the resource area. The applicant chose not to pursue the MADA eligibility, which could be considered a compensating benefit.

The current application originally included nine variance requests, one of which (side yard setback) was not needed, as the applicant could meet the requirement. Mr. Towne reviewed the remaining variance requests.

- Green area – One lot would be four percent short of the required amount of green area; the remaining lots would have more than the required amount of green area. The increased rear yard setback served as a compensating benefit. Increasing the green area in front of the buildings would move the buildings closer to the riparian area.
- Usable yard – The applicant was required to provide 15 feet of usable yard along the side or in back of each unit. The Council could consider the 25-foot-wide riparian easement as a modified usable yard that would accommodate limited uses, provisions for which are included in the LDC. The Council could, alternatively, waive the requirement for a 15-foot usable yard. The LDC does not define "usable yard," but staff will propose a definition in the next LDC update package.
- Parking and vehicle circulation between Ponderosa and units – Parking behind the units would result in more cut-and-fill activity than allowing parking in front of the units. Staff identified compensating benefits in moving vehicles farther from the riparian corridor.
- Sign – The Planning Commission denied the applicant's request for a variance from the City's sign standard to have a sign larger than 16 square feet.
- Landscape buffer – It may be necessary to move the buildings, possibly closer to the riparian corridor, to achieve a five-foot-wide landscape buffer along the sides of the buildings.
- Cut-and-fill – The eight-foot standard was previously explained.
- Ponderosa street standard – The applicant proposed dedicating less than the full width of required right-of-way because a separated sidewalk would not be constructed. A separated sidewalk would require moving the development closer to the riparian corridor.

- Tree protections – The circle of protection would not be protected, but an arborist's report indicated how the trees could be protected during construction.

Mr. Towne observed that the requested variances would keep development away from the riparian corridor.

Mr. Towne summarized that the applicant proposed a nine-lot tentative subdivision plat, right-of-way dedication, and 1.4-acre natural resource tract. The planned development meets all City requirements. Lot 6 would be four percent short of the required green area because of a driveway area.

Mr. Towne said staff concluded that the compensating benefits, particularly associated with keeping fill and vehicle activity away from the riparian corridor, warranted a recommendation for approval of the Conceptual and Detailed Development Plans and the subdivision. The Planning Commission approved the applications with amended conditions of approval, included in the staff report. The Planning Commission noted the differing requested variances but believed the purposes of the planned development provisions were suited to the complexities of the site; therefore, the application complied with the LDC criteria.

Mr. Towne noted that the Council was conducting a *de novo* public hearing and could consider all aspects of the application.

Public Testimony – Support of Application

Eric Bracht opined that the proposed development plan was thoroughly reviewed over time. He considered the plan good and observed the applicant's willingness to preserve natural resources and not develop the entire site. He believes the City would benefit from the tax base increase that the development would provide.

Appellant Presentation

Mike Papadopoulos lives one-quarter mile from the proposed development site, passes it daily, and would be influenced by its presence or absence. He requested that the record remain open seven additional days, as he forgot the written testimony he intended to submit tonight.

Mr. Papadopoulos opined that the applicant's presentation and the staff report "skirted" the issue of landslides, which became an issue during 1999, when the Oregon Legislature was prompted to revise the ORS. Specifically, ORS 195.250 through 195.260 were restricted to landslide issues. The Legislature's findings and conclusions were broad enough to instruct local governments to create their own comprehensive plan findings and policies and land use policies to address landslide hazards as a generic class. The Legislature determined that landslide hazards were not restricted to a development site, but it did not specify the distance from that site to a landslide hazard before a hazard could affect development planning on the site. The Corvallis Comprehensive Plan specifies the UGB as the limit for landslide hazards to impact development plans and defines a landslide buffer zone as the total area within 500 feet of all landslide hazards that might affect a particular property.

Two designated landslide hazards are northeast of the site within the UGB, and another is the LDRA in the riparian corridor on the site. He submitted a diagram denoting the 500-foot landslide buffer zones from each landslide hazard area – the buffer zones extend outside the UGB to the north, west, and east, and below the LDRA to the south. He said staff's landslide hazard map did not indicate landslide hazards north of the UGB. He explained that the landslide buffer zone allowed the City to require an assessment and geotechnical report from anyone planning to excavate, fill, or construct a building for which a permit was needed or to construct or expand utilities, streets, driveways, and accessways, many of which the applicant proposed to construct. The applicant filed an assessment pertaining only to the proposed development site. He contended that, to properly protect against landslides, the geotechnical assessments, measurements, and inspections should extend to all locations within the landslide buffer zone where possibility exists for land to be below or downstream from a landslide hazard are as mapped by the City. He opined that the geotechnical report indicates that no inspection was conducted outside the proposed development site or regarding Ponderosa. He opined that the applicant should have conducted assessments of other properties. The State and the Comprehensive Plan require additional review when land is below and downstream from landslide hazards as indicated on the map; he believes this requirement extends to all downstream property.

Liz Frenkel read a portion of her written testimony (Attachment I).

Questions of Appellant

In response to Councilor Beilstein's inquiries, Mr. Papadopoulos said he lives outside the 500-foot landslide buffer zone. He confirmed that any property within 500 feet of a designated landslide hazard must undergo a geotechnical assessment to determine whether a proposed development would be safe from a potential landslide from the hazard site. In addition, safety is paramount; and all surrounding properties must be assessed for landslide and debris flow hazards. The State's legislation addresses rapidly moving landslides. Corvallis identified three types of landslide hazards as important to Corvallis: moderate hazards, existing landslides, and LDRA. The three types of hazards are considered one issue without reference to property or jurisdictional boundaries. The City's provision states that applications shall not be approved within 500 feet of landslide buffer zones without site assessment and geotechnical reports. He is not concerned with whether a proposed development site has an identified landslide hazard or is within a landslide hazard zone. He confirmed his contention that the application would have been complete if the applicant had submitted a geotechnical assessment that addressed potential hazards on the subject site due to off-site hazards and involved drilling and borings to determine the underlying soil composition.

Mayor Tomlinson recessed the meeting from 9:03 pm until 9:10 pm.

Public Testimony – Opposition to Application

John Price lives across Ponderosa from the subject site and would be impacted by traffic generated by the proposed development. He said all traffic to and from residences west of the subject site pass his house. He will hear all the dump trucks used to remove fill from the site. He expressed concern that residents of the Skyline West subdivision have no other

access route but Ponderosa. The approximately 169 houses along and off of Ponderosa do not have water mains or fire hydrants, causing him to question why the City continues to allow development in the area. He opined that all development along Ponderosa should be stopped until water mains are installed and the Fire Department has another access route to the area.

Councilor Brauner noted that water and sewer lines would be extended to the subject site.

Mr. Price confirmed. He said the last fire in the area required fire tankers to get water from his neighborhood. He considers that scenario a bad situation and suggested that Fire Department staff be asked for input regarding additional development in the area. He did not know whether the proposed development would have fire hydrants or only water lines.

In response to Councilor Beilstein's inquiries, Mr. Price said traffic speed and volume create problems on Ponderosa. He estimated that hundreds of vehicles travel the street each day. Heavy trucks associated with housing construction use the street, as there is no other access. He did not know the classification of Ponderosa but contended that every development off the street created more traffic. He expressed concern that the Fire Department did not have another access to the area.

Pat Humphreys owns property directly north of the subject site on Ponderosa and believes the proposed development will affect her. She observed that traffic on Ponderosa increased "dramatically" during the past four years.

Ms. Humphreys asked the Council to conduct an on-site inspection before approving the proposed development because the site is more complex than appears on a plan. She believes the site would be difficult to develop and acknowledged that the applicant made good proposals for riparian protection. She expressed concern that the applicant did not sufficiently address the northern edge of the property. She said the increasing traffic creates a hazard at what would be the access to the development, which is at the crest of a blind rise of Ponderosa.

Ms. Humphreys said the number of proposed units exceeds the standards and speculated that an on-site inspection would indicate that fewer units would be appropriate. She opined that a 15-foot setback from Ponderosa was a very short distance, and she suggested that the setback proposal be reconsidered.

Ms. Humphreys said an on-site inspection would indicate that the proposed development does not blend with the existing neighborhood of single-family detached residences on reasonably sized lots. The proposed development has a very high density that exceeds the City's LDC allowances. She urged the Council to consider a modification of the number of units and some re-organization of setbacks and include an on-site inspection before approving the application.

Barry Wulff, representing the Marys Peak Group of the Oregon Chapter of the Sierra Club, read a statement from the Group (Attachment H). He noted that the proposed natural resources protection plan would protect what is already protected. The proposed

development provides a buffer on only one side of the sidewalk and two feet on the other along a street traveled at 50 miles per hour.

Councilor Beilstein requested additional information regarding the Sierra Club's concern about protection from natural hazards and the Club's contention that the existing condition is better than any protections the applicant might provide through development.

Mr. Wulff confirmed, noting that the wetland area on the subject site is already protected, and the applicant proposed protecting the same area.

Councilor Beilstein summarized that dangers to the riparian area would be increased by development, relative to no development, and the Planning Commission's Conditions of Approval would minimize the potential dangers.

Marilyn Koenitzer said she visited the subject site, viewing it from the north and south. She was surprised that the proposed development would fit on the site. She said Ponderosa extends eastward toward the site in a straight, downhill manner, which may prompt neighbors' concerns about traffic speed.

Ms. Koenitzer said she was surprised by the depth of the ravine. The level area of the site is very small, compared with the entire length of the property. She encouraged Council members to visit the site.

Ms. Koenitzer expressed opposition to the proposed development and concurred with testimony by Ms. Frenkel and Mr. Wulff.

Ms. Koenitzer read written testimony from Annette Mills, President of the Corvallis League of Women Voters (Attachment J).

Councilor Beilstein noted that there would be no separation between Ponderosa and the sidewalk where the riparian zone crosses the street, per LDC requirements. This would minimize the amount development encroaches into a riparian zone. Within the site, the applicant proposed an area where the street and sidewalk would be adjacent. Outside the riparian area, the applicant proposed a two-foot-wide strip between the street and sidewalk. He opined that the LDC requirement to minimize impact to the riparian zone would justify eliminating a buffer between the sidewalk and the street.

Ms. Koenitzer responded that the League discussed aspects of the application and determined that the development could have fewer buildings and better protect the riparian area and believed the general area should not be developed extensively if development required so many variances from riparian protections.

Alan Robinson submitted an aerial photograph of the subject site (Attachment K), on which he drew the approximate footprints of the proposed buildings and adjacent sidewalks. He believes the proposed development is incompatible with the surrounding neighborhood, where houses are sited on approximately 1.8 acres each, and the nine proposed units would be developed on approximately one acre.

Mr. Robinson cited requested variances 4 (parking) and 10 (trees) and opined that the proposed development is a nine-plex, for which tandem parking would not be allowed. Many of the Oak and Douglas Fir trees lining the eastern boundary of the site must be removed to accommodate the development. He opined that the trees provide a nice buffer that should not be removed.

Mr. Robinson said the LDC was developed to prevent inappropriate developments. He noted that proposed development involved nine LDC variance requests, each of which has a cited compensating benefit. The Council must determine whether the compensating benefits would provide enough benefit to allow the variances; he does not believe the benefits are sufficient. He urged the Council to deny the application.

Mr. Robinson explained for Councilor Hervey that his property is in a neighborhood zoned RS-3.5, and the proposed development site is zoned RS-6. He confirmed that he would like the applicant to propose a development more compatible with the surrounding neighborhoods, such as four units, which would also resolve the parking issue of the proposal. He believes tandem parking for the development would be insufficient, prompting residents to park along nearby streets.

Mark Knapp stated that he did not have any conflicts of interest regarding the proposed development and that he visited the site. He recommended that Council members visit the site from the south to view the riparian zone. He concurred with Mr. Papadopoulos and Ms. Frenkel.

Mr. Knapp opined that the proposed development of nine units on one acre along Ponderosa is not suitable, not compliant, and not in the public interest. He said compliance with LDC requirements for protection of the riparian corridor are not a compensating benefit for loss of pedestrian safety. He said the application attempted to balance compliance of multiple LDC requirements. He believes it is unacceptable to require compliance with riparian corridor protections in an attempt to obtain variances from other LDC requirements.

Mr. Knapp described a possible scenario of an eastbound, speeding driver on Ponderosa, blinded by the morning sun and distracted from their driving responsibilities, hitting a pedestrian on the sidewalk adjacent to the street. He opined that the City could have required pedestrian buffering along the entire length of the subject site. He questioned the compensating benefits that would be offered to the injured pedestrian.

Councilor Beilstein referenced the logistics of NW Rosemarie Place north of Ponderosa near the subject site and the park strip between the street and the sidewalk. He questioned whether a sidewalk or park strip abutted the south side of Ponderosa near NW Cassia Place (Cassia), just east of the site.

Mr. Knapp said he was not familiar with the cited section of Ponderosa; however, the proposed development site is at the lower end of a long, downhill stretch of Ponderosa. He suggested that more sections of Ponderosa out of compliance with LDC requirements would not justify the subject site also being out of compliance in terms of pedestrian safety.

Councilor Beilstein commented that a sidewalk, even with a two-foot-wide buffer, would be safer for pedestrians than no sidewalk; and no sidewalk would exist until the subject site is developed.

Mr. Knapp countered that a sidewalk would encourage people to walk along Ponderosa.

Councilor Brauner noted that Mr. Knapp asked the Council to consider a pedestrian safety benefit because of drivers exceeding the posted speed limit on the adjacent street.

Mr. Knapp responded that the LDC requires a 12-foot-wide separation between a sidewalk and a street. The speeding traffic exacerbates the risk, which would have been mitigated by the 12-foot-wide buffer. He does not consider the proposed development to have compensating benefits for the requested variance.

Public Testimony – Neutral

Robert Parsons noted that the City zoned the subject site RS-6. He said the applicant presented a plan to develop the site according to the restrictions and setback requirements. He opined that the proposed development would exceed the requirements. Those opposed to the application seem to prefer that the site remain a natural park. He suggested that the opponents pay the property owner a fair market value for the land and leave it as a natural park.

Rebuttal

Mr. Eckert said he understood that the landslide hazard information and map were provided by DOGAMI and apologized if his understanding was incorrect.

Mr. Eckert and Dave Running of Foundation Engineering responded to testimony from the appellants and citizens.

- Planting strip along Ponderosa – The applicant originally proposed a six-foot-wide planting strip between Ponderosa and a sidewalk. City staff appeared to agree with the proposal through three development reviews. In a later review, City staff indicated that a specific right-of-way improvement plan would be required if the development application was approved. City staff provided a specific profile of the required right-of-way improvement, which would eliminate the planting strip to permit reducing the height of the retaining walls and increasing their distance from the right-of-way. These requirements would increase pedestrian safety.
- Geotechnical report and assessment – The LDC does not require that a geotechnical report and assessment involve off-site inspections, so it is not reasonable to require such inspections. Adjacent property owners may not consent to inspections of their properties. The proposed application meets the LDC's specific requirements. The geotechnical assessment considered the Ponderosa right-of-way and adjacent properties and not just risk on the subject site.
- Landslide hazards – The site has a 32-foot elevation change between Ponderosa and the flat zone. The site is flat with gentle slopes. The applicant dug seven test pits within the area, and the soil profile was typically stiff to very stiff soils with bedrock at four to seven feet. The conditions would not warrant concern of a major landslide hazard.

The LDRA is basically a box drawn on a map; steeper terrain is north of the site, drainageways were located, and any landslide debris is expected to follow the drainageways. The proposed development would not affect the drainageway, which is a riparian area, so earth work is prohibited. Debris from any landslide to the north would flow along the drainageway but would not impact the proposed development units, which would be outside the drainageway. The site conditions are typical for the area. Inspection of the northern end of the riparian area did not disclose indications of landslide hazards.

- Traffic – Ponderosa is classified as a collector street and is expected to have a certain volume of traffic, which is not exceeded in the subject case. The applicant's traffic impact study demonstrated that the proposed development would not adversely impact the expected traffic volumes.
- Number of units – Arguments regarding the number of units exceeding the standards are not supported in the record, the LDC, or the proposed development plan. Fewer units have not been demonstrated to be beneficial in terms of the appellant's concerns. Eliminating one or two units might have minor impacts on traffic; however, peak-hour trips were estimated to be ten, which is below the limit for requiring additional traffic analysis and adverse impacts.
- Compatibility – Compatibility does not require "carbon copying" existing neighborhood developments and implies consistency with the LDC and zoning designations identified by the City. The proposed units are permitted in and appropriate for the zoning designation, even though they may not exist in the immediate vicinity. The proposed density is within the zoning district standards.
- Density – The subject site is constrained. The portion that is deemed buildable is zoned for low-density residential development. The plan was presented, consistent with LDC standards.
- Access – The property is served by a collector street, and City staff deemed access to be safe.
- Site complexity – The complexity of the site cannot be appreciated from a site visit. He believes the proposed plan best meets LDC requirements and the challenges of the site.
- Curbside sidewalk – City staff required the curbside sidewalk along Ponderosa, countering the applicant's original six-foot-wide planting strip proposal.
- Developability – The property owner has the right and prerogative to develop the remaining developable portion of the subject site, according to LDC requirements. It is inappropriate for someone to say the site is unbuildable or unsuitable for residential development.
- Number of variance requests – The applicant believes the requested LDC variances are not extraordinary in number or nature for a subdivision and Conceptual and Detailed Development Plan. Many of the requirements for which the applicant requested variances apply to any subdivision or planned development, and few of the requirements mandate significant exceptions by applicants.
- Natural resource preservation – The applicant's natural resource preservation plan exceeds LDC requirements and provides protections beyond those required by the LDC. The protection plan involves trees, ground water, soils, and surface water resources inside and outside the riparian zone.
- Visual impacts – Placing buildings on lower elevations reduces visual impacts for residents on Cassia and people traveling Ponderosa. The Planning Commission required

that the applicant retain the maximum number of trees along the eastern boundary of the site to further mitigate visual impacts for neighbors.

- Pedestrian safety – City staff and the City's pedestrian-oriented design standards require curbside sidewalks.

Questions of Applicant

Councilor Beilstein said the Council cannot re-engineer the proposed development design. An earlier application included a six-foot-wide buffer between Ponderosa and the sidewalk, but such a configuration would not be possible along Lot 1.

Mr. Eckert confirmed, suggesting that City staff address this issue.

Councilor Beilstein referenced the issue of buffering for residents of Cassia, noting that trees at the northeastern corner of the subject site would be retained and provide some buffering. Three parking spaces are proposed for the east end of the site, which would require removing some vegetation. He inquired about the landscaping proposed for the eastern edge of the site.

Mr. Eckert stated that no existing, large trees at the eastern edge of the site, by the referenced parking spaces, would be retained. Fencing and small shrubs would be installed. The Planning Commission adopted a Condition of Approval requiring City staff to configure the sanitary sewer along the eastern property boundary in a manner to preserve the maximum number of existing trees. Some trees will be planted.

In response to Councilor Beilstein's inquiry, Mr. Running explained that the LDRA indicates potential landslide flow areas where steep slopes exist near the site. The LDRA is a drainageway from hilly terrain. The drainageway is fairly flat. The existing fill on the site is only a potential on-site hazard, but it has not shifted and will be removed from the site.

Councilor Beilstein noted that staff accepted the geotechnical report, but he still has concerns. He questioned why LDRAs were not identified for the two landslide areas north of the subject site.

Mr. Running suspected that the northern landslide areas have steeper terrain. He looked at a slight debris flow in a plugged culvert farther north.

Councilor Beilstein surmised that, if the two northern landslides were a hazard to the subject site, their debris would damage properties north of Ponderosa before reaching the subject site.

In response to Councilor Raymond's inquiry, Mr. Seaders said the proposed buildings would be used as retaining structures, with terraced retaining walls between the buildings. The greatest amount of required fill would be 10.5 feet at the western end of the dwelling units. The area for extra parking at the western edge of the development area would require 12 feet of fill. The applicant would develop a gravity-type retaining wall of large blocks.

Councilor Raymond asked how the 75-foot-wide riparian corridor is a compensating factor for reducing the sidewalk setback.

Mr. Eckert explained that the riparian corridor protection was not presented as a compensating benefit. The applicant proposed additional measures to protect the riparian corridor, in addition to the 75-foot-wide protection area, such as keeping excavation activity 25 to 40 feet from the riparian corridor boundary and locating vehicle activity away from the boundary. These protective measures would reduce changes to the topography and hydrology of the site. He believes these additional measures exceed LDC requirements, as the applicant is allowed to build up to the 75-foot-wide corridor. The applicant proposed working with the existing topography of the site for the first 25 to 40 feet from the riparian corridor boundary, extending the protection of the riparian area to at least 100 feet from the top of the creek.

Mr. Eckert said he was involved with property annexations and developments in the immediate vicinity of the subject site and developed on hillsides, citing the Brookside Meadows development. He noted that no landslides or geotechnical hazards occurred with that development.

Councilor Hirsch inquired whether eliminating Lot 1 would result in a profitable development for the property owner and whether the sidewalk and safety issue could be resolved with one less unit.

Mr. Eckert responded that reducing the number of units may not be feasible for the property owner. Additionally, reducing the number of units would not allow a planting strip along Ponderosa because of the type and location of a retaining wall in relation to the right-of-way and pedestrian safety.

Sur-Rebuttal

Mr. Papadopoulos asserted that the applicant did not provide information to explain why no geotechnical tests were conducted on lands outside the subject property, other than to say their team did not consider such testing necessary. The LDC requires filing of geotechnical assessments to meet the LDC criteria.

Ms. Frenkel questioned how much of the 600-foot-long northern property boundary is within the natural resources area. She understood that the area would encompass the drainageway and the 75-foot-wide protection corridor. The applicant indicated that approximately two thirds of the 600-foot-long section would be required to have no sidewalk separation.

Questions of Staff

Council members posed questions and information requests of staff.

- Councilor Hervey –
  - Explanation of the concept of compensating benefits.
- Councilor Brown –
  - Information regarding the type of rear fence proposed (height, construction type, sight-obscuring, etc.).

    - Information regarding how the easement area beyond the rear fence is intended to be used (possible use by property owners or no access), and whether gates could be included in the fence to allow access to the easement area.
    - Information regarding whether the landslide hazards northeast of the proposed development site must be investigated for potential danger to the subject site.
- Councilor Raymond –
    - Information regarding what is considered acceptable activity in the riparian area, by residents of the proposed development and the public.
    - Information regarding the proportion of the 600-foot-long western property boundary along Ponderosa that is within the riparian zone and potential compensating benefits related to the riparian zone and a sidewalk.
    - Information regarding what information provided by staff might have influenced the current application. The applicant testified that reducing the number of dwelling units in the proposed development would not result in a financially feasible project for the applicant. Two earlier applications for the property were denied. *(Mr. Gibb said staff reviewed various proposals over a two-year period and provided professional planning and engineering judgment to give the applicant direction regarding the best proposal to meet City standards, consistent with the Comprehensive Plan and the LDC, knowing that the property is a challenging site to develop. The Council must determine whether the proposed development meets the City's requirements.)*
- Councilor Hirsch –
    - Information regarding options to increase pedestrian safety on the sidewalk along Ponderosa while meeting LDC requirements.
    - Clarification whether the property between the dwelling units and the fence constitute usable yard, without considering the riparian corridor easement area. Typical yard activities should not be conducted in the riparian corridor easement area, so gates in the fence may not be appropriate.
- Councilor Beilstein –
    - Information regarding a potential definition of "usable yard." The proposed rear fence to separate the riparian protection area would need gates for the easement area to be considered usable.
    - Information regarding staff's request that shrubs not be planted in the two-foot-wide park strip for vision clearance. More of the street frontage seems amenable to shrubs.
    - Information responding to Mr. Papadopoulos' concerns regarding any area within 500 feet of a landslide hazard having a geotechnical assessment and whether the existing assessment complies with the LDC requirement.
- Councilor O'Brien –
    - Information regarding whether visible enjoyment of the 25-foot-wide easement would constitute a use under the LDC.

Councilor Beilstein expressed regret that Councilors Hamby and Daniels, who have Planning Commission experience, are not present and that no other Council members have such experience.

Request for Continuance – None.

Request to Hold Record Open

Mayor Tomlinson announced that additional written testimony must be submitted by 5:00 pm, Monday, February 9th.

Right to Submit Additional Written Argument

Mr. Eckert waived a seven-day period to submit additional written arguments and will submit any additional written material by February 9th.

Mayor Tomlinson announced that the Council will deliberate the appeal February 17th.

Mayor Tomlinson closed the public hearing.

XI. ADJOURNMENT

The meeting was adjourned at 10:34 pm.

APPROVED:

_____

MAYOR

ATTEST:

_____

CITY RECORDER

City Manager's Office
501 SW Madison Avenue
P.O. Box 1083
Corvallis, OR 97339-1083
(541) 766-6901
FAX: (541) 766-6780
e-mail: city.manager@ci.corvallis.or.us

CORVALLIS
ENHANCING COMMUNITY LIVABILITY

January 29, 2009

Isaiah H. Williams

Corvallis, OR

Dear Mr. Williams:

Thank you for meeting with me on January 27, 2009 concerning the City not re-newing your taxi drivers permit.

I have reviewed your appeal points and the pertinent Corvallis Municipal Code sections. I have also had follow-up conversations with Police Chief Gary Boldizsar and City Attorney Scott Fewel.

As written and adopted, Section 8.07.120 "Eligibility for Permit," does not provide me the flexibility to grant your appeal. I understand the offense occurred in 1999 and I have no reason to doubt your assertions regarding the ORS 163.190 Menacing-Domestic Abuse conviction. I also do not doubt that the Oregon cities of Portland, Oregon City, and Albany, among others, do not forever prohibit a taxi driver permit as a result of a conviction under ORS 163. However, under the Corvallis Municipal Code, it is ORS 164 offenses that offer relief to the permit prohibition based upon time from a previous offense, and this relief is not extended to ORS 163 offenses.

I am sorry this is not the news you wanted. Should you disagree with my decision, you have the right to appeal to the City Council asking them to revise the Corvallis Municipal Code.

Sincerely,

Jon S. Nelson

Jon S. Nelson
City Manager

c: City Attorney Scott Fewel
Police Chief Gary Boldizsar

To Whom it may Concern,
I would like to appear before the city Council Concerning this matter
thank you

Isaiah H. Williams

4017

CORVALLIS 150 Celebrate Future

* * * M E M O R A N D U M * * *

FEBRUARY 2, 2009

TO: **MAYOR AND CITY COUNCIL**

FROM: **JON S. NELSON, CITY MANAGER**

SUBJECT: **FEMA GRANT CANCELLATION APPEAL**

Attached for your information is a letter to Chief Emery from FEMA cancelling the $341,760 fire ladder truck grant award and a response to FEMA from Chief Emery, requesting reconsideration.

Congressman DeFazio's and Senator Wyden's staff are aware of the cancellation and have made contact with FEMA officials.

We will keep you apprised of the appeal.

Should the grant award cancellation stand, the City's property tax-supported fund balance will be reduced by $341,760.

1019

U.S. Department of Homeland Security
Washington, DC 20472

FEMA

JAN 2 6 2009

Mr. Roy Emery, Chief
Corvallis Fire Department
400 NW Harrison Boulevard
Corvallis, Oregon 97330-4816

Re: EMW-2008-FV-01144

Dear Chief Emery:

I regret to inform you that we must cancel your grant award referenced above. On November 14, 2008, your department was awarded a vehicle grant from the Assistance to Firefighters Grant (AFG) program office. On December 1, 2008, your department requested approval for pre-award expenditure to reimburse you for a vehicle ordered on October 2, 2008, i.e., prior to the AFG award.

Page 54 of the 2008 Program Guidance states: ". . . grantees cannot use grant funds to pay for products and services contracted for, or purchased prior to, the effective date of the grant . . . expenses incurred after the application deadline but prior to award may be eligible for reimbursement if the expenses were justified, unavoidable, consistent with the grant's scope of work, and specifically approved by [DHS]."

In your request for approval of pre-award expenses, you have provided no urgent or compelling reason for acting prior to award. Secondly, while you formalized the contract for purchase of the new vehicle after the end of the application period, it is evident that you had the intentions and wherewithal to purchase the vehicle independent of the grant. Finally, the fact that your department had the fiscal ability to execute such a large procurement independent of the grant raises questions regarding your statements of financial need contained in your application. Since your department was able to satisfy the need for a vehicle without the AFG's assistance, we have no recourse but to deny your request and cancel your award.

If you believe we have made a material or procedural error in the decision iterated above, you can submit a request for a reconsideration of this decision. Requests for reconsideration should be directed to: Chief, Assistance to Firefighters Grants Program Office, DHS/FEMA/Grant Programs Directorate, 800 K Street, N.W., Washington, DC 20472-3620. If you decide to apply for reconsideration, the director of the grants program office must receive your request within 60 days of the date of your receipt of this notice.

Sincerely,

C. Gary Rogers, Director
Grant Development and Administration Division
Grant Programs Directorate

cc: Chief, Assistance to Firefighters Program Office
Director, Grants Management Division

CORVALLIS
ENHANCING COMMUNITY LIVABILITY

Fire Department
400 NW Harrison Blvd.
Corvallis, OR 97330
(541) 766-6961
Fax: (541) 766-6938
email: fire@ci.corvallis.or.us

January 28, 2009

Chief, Assistance to Firefighter Grants Program Office
DHS/FEMA/Grant Programs Directorate
800 N.W. K Street
Washington DC 20472-3620

Re: EMW-2008-FV-01144

Chief:

I received notification from Mr. Rogers that our grant is going to be canceled. In his letter, he states that the decision can be reconsidered if I believe a material or procedural error has been made regarding the decision. I am informing you that I wish this decision to be reconsidered.

Mr. Rogers' letter sets forth several statements, which I have included below, with my responses.

First, "...you have provided no urgent or compelling reason for acting prior to award." The process for specification writing, review, bidding, evaluation, awarding, allowing time for contesting the bid, contract signing and actual build time for an aerial device far surpasses the one-year grant performance period. By the time our ordered truck arrives, we will have over fourteen months' time invested in the procurement process. DHS/FEMA has made it very clear that they want projects completed within the performance period and discourage the extension of the performance period. With the process outlined above, we had no choice but to start our process early. This is coupled with the fact that there is no communication from DHS/FEMA about the status of the application between the time it is submitted and the time it is awarded, a period of approximately six to nine months. Our department has applied several previous times for this same grant with no success.

It is imperative that our truck (over 25 years old) is replaced. By the time we were notified of the possibility of getting the award, we were in contact negotiations with the vendor. It would have been bad faith on our part to forestall the process until final notification from DHS/FEMA.

Second, "...while you formalized the contract for purchase of the new vehicle after the end of the application period, it is evident that you had the intentions and wherewithal to purchase the vehicle independent of the grant." The monies for the aerial device were allocated after much discussion by our Budget Commission and City Council. The reason for this is that the funds would be coming out of the City's limited and diminishing reserves. The department also had to come up with monies to make this purchase possible. Multiple initiatives are being delayed and/or will not be pursued.

Finally, "...the fact that your department had the fiscal ability to execute such a large procurement independent of the grant raises the questions regarding your statements of financial need contained in your application." I have included our narrative from the grant outlining our financial need.

Tax revenues across the State of Oregon have been significantly reduced due to ballot measures 47 and 50. . These voter-approved tax measures, which took effect in 1997, dissolved serial levies (including fire levies), rolled back taxable property values to their 1995 levels, subtracted 10 percent from that amount, and capped the amount property values could grow at 3 percent per year. The state and local taxing environments have evolved to the point where property tax revenue are stable or declining in the face of a steadily increasing population, increasing demands for service, and costs rising more than five percent. Therefore, funding at the local level is decreasing; and it is becoming more and more difficult to fund basic programs which are required by law. Oregon's economy is in relatively poor health. The unemployment rate, which hit 8.5 percent in 2003, is still one of the nation's highest; and signs of a tentative economic recovery have been slow to arrive in Oregon.

Furthermore, Corvallis is home to Oregon State University (OSU), with buildings valued at more than $800 Million; but, as state-owned buildings, they are exempt from paying taxes. Therefore, while the presence of the University significantly increases our call volume and necessitates the purchase of expensive aerial fire apparatus, the University contributes no tax monies to help fund these requirements.

In recognition of our impending financial decline, for the past ten years the Corvallis Fire Department has reduced the cost of apparatus replacement through the purchase of good used apparatus for low use applications such as brush engines, tenders, staff cars etc. More than ten pieces of equipment have been obtained in this manner saving the City over $1,000,000 over the life of the apparatus. We have chosen not to replace high-use apparatus such as Type 1 Engines in this manner. In addition, the Department has been innovative in its approach to equipment purchase, relying on multi-purpose apparatus whenever possible.

Our financial need has not been misrepresented. Oregon's unemployment rate is now well over 9 percent. As with most municipalities in Oregon, our costs are increasing faster than tax revenues. The decision by City leaders to fund the purchase of the truck from reserves exacerbates this situation. Leadership was explicitly clear in directing the department to seek all opportunities to defray all or part of the cost of the aerial device so that monies could be returned to these reserves.

Also I would like to express my disappointment with the lack of communication from FEMA/DHS. We sent an inquiry about this issue on December 1, 2008. Over the next two months, there were multiple follow-up e-mails as well as telephone messages left asking about progress on this issue. It took an inquiry by our state elected officials to finally get a response from your agency.

I appreciate your time in reconsidering this decision, and I look forward to your response. If you have need of any further clarification or additional information, please do not hesitate to contact me.

Regards,

Roy A. Emery
City of Corvallis Fire Chief
400 NW Harrison Blvd.
Corvallis, OR 97330

roy.emery@ci.corvallis.or.us

Memorandum

To: Mayor and City Council

From: Ken Gibb, Community Development Director

Date: January 29, 2009

Subject: Response to City Council questions regarding the proposed Brooklane Heights Planned Development and Subdivision (PLD06-00018, SUB06-00006)

At the close of the public hearing regarding the LUBA Remand of the Brooklane Heights Planned Development and Subdivision City Council asked Staff several questions. Answers to these questions are provided here, and are organized into the following categories:

A. Applicable Standards and Policies
B. Cut and Fill Standards, and Grading
C. Home Owners Association and HOA requirements
D. Archeological Resources
E. Neighborhood Compatibility
C. Stormwater and Drainage

A. Applicable Standards and Policies

- **Is the City required to use the 2000 CCP and 1993 LDC to evaluate the proposal?**

The decision on the Planned Development for Brooklane Heights is to be based on the review criteria in Land Development Code Chapter 2.5 - Planned Development, and those for the Subdivision are based on Chapter 2.4- Subdivisions and Major Replats. The 1993 LDC is the set of standards in place at the time the Brooklane Heights application was submitted, and as a result, the 1993 LDC standards must be used in the review of the project.

> **ORS227.178(3)(a) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted and the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.**

- **Explain the different types of applicable criteria: standards vs. Comprehensive Plan policies.**

Standards are generally clear and objective. Setbacks in the RS-3.5 Zone under the 1993 LDC are an example. Front and Rear Yards were 25 feet, and Side Yards were 8 feet. The 8,000 sq. ft. Minimum Lot Size for the Zone is another example.

When addressing a criterion such as compatibility, no such clear and objective standard is identified in the LDC. Both Planned Developments and Subdivisions in the 1993 LDC require a consideration of the policies of the Comprehensive Plan and several other factors (Basic Site Design, Visual Elements, etc.) to determine compatibility. In addition, the Brooklane Heights Planned Development, as conditioned, includes requests to vary from 3 development standards, and Comprehensive Plan policies may be used to help in determining if the variations may be allowed. The Comprehensive Plan policies are used as review criteria but are not necessarily "standards." Often, the language used in a Comprehensive Plan policy is not clear and objective, and there are also policies that contradict one another. This is why these decisions are "discretionary." They require a balancing of the various, sometimes conflicting policies and the facts associated with the site to determine if the review criteria are met. This is further discussed with respect to the questions regarding cuts and fills, below.

B. Cut and Fill Standards, and Grading

- **Is it correct that there is no number associated with the cut and fill standard?**

There are no cut/fill standards in the 1993 LDC. For non-discretionary development (no public hearing required) under the 1993 LDC, the Building Code was used in the review of the development to determine what cuts or fills were allowed. Consequently, cuts and fills associated with the Brooklane Heights Planned Development are evaluated for compatibility in terms of consistency with the Comprehensive Plan and based on several other criteria. The discretionary nature of these decisions is apparent in the consideration of cuts and fills on this site. As an example, the Council must determine what is meant by the following in CCP 4.6.7:

> **4.6.7 In areas where development is permitted, standards in the Land Development Code for hillside areas will achieve the following:**
>
> **A. Plan development to fit the topography, soil, geology, and hydrology of hillsides and to ensure hillside stability both during and after development.**
>
> **D. Align the built surface infrastructure, such as roads and waterways, with the natural contours of terrain and minimize cutting and filling in developments.**

- **Please clarify the significance and history of the eight ft. cut/fill standard.**

In past land use decisions under the 1993 LDC, the concept of an 8-ft cut or an 8-ft fill was used as a means of determining if the concepts of "plan development to fit the topography" and "minimize cutting and filling in developments" were being achieved. These figures were arrived at by researching cut/fill standards in other communities and comparing them to local conditions. In this effort, it was determined that the 8-ft cut and fill limits generally would allow a local street to be constructed along the contours of a hillside with up to a 21 percent slope. Likewise, Arterial/Collector streets could be built along the contours of hillsides with 17

percent slopes. This was not an adopted standard, but something staff, the Planning Commission, and the City Council used as a yardstick. It was recognized that there were situations where this limit on cuts and fills would be difficult to achieve, and several developments (e.g. Meadowridge at Timber Hill: PLD00-00030; Park at Timberhill: PLD00-00011) were approved by the Planning Commission, or City Council (if appealed) through the Planned Development discretionary process that included cuts and fills greater than 8 feet.

- **Is the geotechnical report sufficient?**

The original application contained an initial Geotechnical Report and a supplemental report, both of which were stamped by the engineer. These were the reports upon which the City Council decided to approve the proposed development in September 2007. Staff continue to believe they are sufficient.

- **Does staff believe the grading, as proposed, is acceptable, safe, and not detrimental?**

In the December 24, 2008, Staff Report to City Council, all of the issues associated with the LUBA remand were evaluated against the criteria. This included an evaluation of the issues associated with cuts and fills on this site. It was staffs' conclusion and recommendation to the City Council that the development could be approved as consistent with the criteria.

- **Lots may be graded under the mass grading plan, and not developed for decades. What protections are in place to prevent erosion?**

The City is required by the Department of Environmental Quality to maintain a program to ensure erosion resulting from development is controlled. The City has a staff member whose job is to issue such permits and inspect them for consistency with the requirements of the permit. Enforcement of the permit is accomplished in the same manner as other city-issued permits.

- **Are the authors of the geotechnical report liable for their findings? Should/can the report be stamped by a certified engineer?**

The authors of the geotechnical report are liable for any negligent errors or omissions in the report. That liability extends to parties that the authors should reasonably know would rely upon the report.

It would seem reasonable to impose a condition that requires the applicant to provide the same report, signed and stamped by an appropriate PE, prior to the issuance of any permit allowing the movement of soil, grading, filling, excavation, cutting, or the stockpiling of soil or fill on the site.

C. Home Owners Association and HOA requirements

- **Is there a requirement to form an HOA?**

Yes, and this requirement is clarified in Revised Condition 1, provided at the end of this memorandum.

- **Is there a requirement for the HOA to maintain the tracts?**

  Yes. Refer to Condition 3, and Revised Condition 5, which is provided at the end of this memorandum.

- **Can landowners be required to not use fertilizers, pesticides, and other chemicals that could potentially pollute the wetland?**

  Please refer to the proposed Condition of Approval for "Maintenance Obligations" provided at the end of this report.

D. Archeological Resources

- **Can Staff provide follow-up information regarding the archeological test pits?**

  The site is known to contain archeological resources. The presence of such resources is not, in and of itself, reason to prevent development from occurring on the site. Adverse impacts to resources caused by the development proposed need to be mitigated. Mitigation typically is in the form of collecting data that may contribute to the body of knowledge regarding the history of the area and region. The applicant is currently working with a SHPO approved archeologist to survey the site, and recommend actions that should be taken to mitigate adverse impacts to identified resources. SHPO will review the report and recommendations, and will either concur with the recommendations or require additional actions to mitigate adverse impacts. This report has not yet been submitted to SHPO, and SHPO has not made its final determination of the adequacy of mitigation. However, there is no reason to believe that adequate mitigation could not occur.

E. Neighborhood Compatibility

- **Does the LDC specify protection of the viewshed? Who owns the viewshed?**

  The LDC does not specify protection of the viewshed. Certain Comprehensive Plan policies, such as those in CCP 4.6.7 address views to and from the hills. For example CCP 4.6.7. states:

  In areas where development is permitted, standards in the Land Development Code for hillside areas will achieve the following:

  G. Demonstrate a concern for the view of the hills as well as the view from the hills.

  This policy acknowledges that development on certain hillsides is permitted, and it directs standards in the LDC to create standards to achieve certain goals. One of which is to "demonstrate a concern" of views to and from hills. The 2006 LDC arguably achieves CCP 4.6.7 through the establishment of clear and objective hillside development standards. In the absence of clear and objective hillside

development standards in the 1993 LDC, CCP 4.6.7 was used to guide decisions relative to the compatibility of hillside development. While the language of CCP 4.6.7.G directs the Land Development Code to demonstrate a concern for views to and from hills, the Council can apply the same concept to the development proposal, and consider if the proposed development demonstrates a concern for views to and from the hills. There is no measurable standard for determining if a concern for views has been demonstrated by the applicant. It is a discretionary decision.

- **Can a condition of approval be created to address the height of buildings for lots adjacent to the existing homes on Fairmont Drive?**

  Staff has proposed revisions to Condition 22 to address building height for new structures, found at the end of this memorandum.

F. Storm Drainage / Wetlands

- **Will rainwater landing on roofs be channeled into the drainageway or the storm sewer?**

  Both, the majority of the lots would direct stormwater through weep holes in the curbs where it would be collected by the storm drain system in the streets. A few of the lots, 14 through 17, are shown to drain to private easements that either direct water to the streets or to drainage easements located in the open space tract.

- **Please evaluate issues raised by Diane Safford.**

  The proposed development has shown it can comply with standards adopted in the City's Stormwater Master Plan for water quality and quantity. 2-yr through 10-yr storm flow will be detained to predevelopment levels and the multiple water quality facilities that have been proposed have been shown to meet the City's requirement of removing 70% of TSS (Total Suspended Solids).

- **Please comment on testimony claiming that two of the existing drainageways are not functioning.**

  Brooklane Park Estates, located to the southeast of the proposed site, currently has two public storm drainage pipes located in easements that carry storm drainage through Brooklane Park Estates to the Marys River Natural Park. These pipes appear to be functioning correctly, however, if there are issues with these pipes they can be inspected and maintained by the City. Existing conditions of the pipes are not the responsibility of future development.

  The drainage problems located along the private access drive on the northwest side of Brooklane Park Estates is due to poor grading and lack of a ditch that would direct water to the public storm drainage inlets. This is a private (Brooklane Park Estates) drainage issue.

- **Is the developer responsible for ensuring drainageways are functioning?**

It depends. If it is an existing off site public drainageway, the City has the obligation to maintain it. However, the developer is required to ensure safe passage of up to the 100-yr storm such that stormwater does not flow through or inundate existing structures. Improvements may be required to satisfy the above requirement if identified during full design of the system.

On site public drainageways are maintained and warranted for two years by the developer after being accepted by the City.

- **Address ability to use BaySeparators and compliance with City standards.**

The City has water quality performance standards as adopted in the Storm Water Master Plan, removal of 70% of the TSS (Total Suspended Solids). 3rd party testing, as submitted by the applicant shows that the proposed water quality facilities can meet or exceed the City's standards as a stand alone system.

Appendix F of the Storm Water Mater Plan states that water quality facilities shall be designed in accordance with criteria as established in the King County, Washington Surface Water Design Manual (SWDM). The facilities listed in the SWDM require a large area of flat or gently sloped ground. In order to minimize extensive grading (cuts and fills) the City has typically allowed sloped and otherwise constrained sites to use proprietary water quality facilities, as long as they can demonstrate compliance with the City's performance standard. These types of facilities have been approved with prior land use applications and are in use at various locations within the City.

Revised Conditions of Approval

Based on City Council discussion, Staff recommend the following conditions of approval from City Council Order 2007-111 be revised as shown below. Italicized text is new, struck-out text is proposed to be deleted.

Condition 1 - Revised

Consistency with Plans - Development shall comply with the narrative and plans identified in or referenced in Attachment IX of the August 10, 2007, Memorandum to the City Council from Community Development Director, Ken Gibb, except as modified by the conditions below or unless a requested modification otherwise meets the criteria for a Planned Development Modification and/or a Tentative Plat Modification. Such changes may be processed in accordance with Chapters 2.4 and 2.5 of the Land Development Code.

A Home Owners Association shall be established and shall be subject to the requirements stated in the following Conditions of Approval.

Condition 22

Revised

House Size and Deed Restrictions - *Concurrent with final plat approval, the applicant shall record the following deed restrictions: Dwelling unit size on lots 19-29 shall not exceed 1,200 square feet.*

Buildings on Lots 2-13 and 44 and 45, shall be limited to one story above grade, with the option to construct daylight basements. The roof pitch of all buildings on all lots shall not exceed a 6:12 ratio. Cuts within any building footprint may exceed eight feet.

Original

House Size and Deed Restrictions - Concurrent with final plat approval, the applicant shall record a deed restriction on lots19-29 that restricts dwelling size to 1,200 square feet or less.

Condition 5 - Revised

Tree Preservation and Planting – Prior to issuance of any permits, the applicant shall submit a report by a certified arborist that identifies all significant trees proposed to be removed in this application. *Identified trees shall include*, those identified in the arborist report submitted with the subject application **(Attachments S and R.55 of the May 25, 2007, staff report to the Planning Commission),** ~~and~~ trees impacted by construction of the pedestrian path between Badger Place and Wolverine Drive, ~~and~~ trees impacted by construction of the stormwater swale in the north portion of the site, and trees potentially impacted by construction and use of the detention ponds in Tracts B and C.

Unless approved for removal through this application, trees in Tracts A, B, C, and D, as identified in the approved Revised Tentative Subdivision Plat shall be preserved unless a tree is determined to be a hazard tree, or its removal is necessary to protect the health and longevity of an Oregon White Oak tree. *Prior to removal of any tree a certified arborist's report shall be submitted to the Community Development Department for review, and trees shall only be removed if the City's Urban Forester concurs with the report's analysis and recommendations.*

Regarding the pedestrian path, stormwater swale, and ponds, the arborist's report shall detail methods to preserve as many significant trees as possible in or adjacent to these site components. The applicant shall follow tree preservation methods outlined by the arborist. Unless already approved for removal, (any) significant trees may be removed only if a certified arborist recommends removal and the City Forester concurs with the arborist's recommendation.

The arborist's report shall also illustrate all trees approved/proposed to be preserved. To ensure protection of trees, there shall be no cutting, filling, trenching, nor compaction of the soil under tree canopies and to a minimum distance of 5 feet outside the canopy's dripline, consistent with Section 4.2.20.c of the Land Development Code. To assure this protection, a minimum 5-foot high construction fence (constructed of metal chain link, and supported by metal posts sunk into the ground) shall be installed 5 feet outside the canopy's dripline for all trees to be preserved, prior to any excavation and grading of the development site. An exception may occur upon inspection and a recommendation by a certified arborist.

Existing trees, including trees on adjacent properties with driplines within 10 feet of the subject site, and construction protection fences shall be illustrated on all site plans submitted for excavation, erosion control, PIPC, and building permits. Tree protection plans shall be submitted to the City for review and approval, and tree preservation fencing shall be installed and inspected, prior to issuance of any excavation and grading, erosion control, PIPC, or building permits.

Condition 27

Revised

Lot Grading and Structures - Mass grading shall be limited to the areas shown on the grading plan identified as Attachments I.7 and I.8 of the August 10, 2007, Staff Memorandum to the City Council. Cuts and fills in the areas permitted to be mass graded shall not exceed the measurements shown

in Attachment I.8. All mass graded areas, as shown in Attachment I.8, shall be engineered and constructed such that retaining walls are neither required nor used. Grading and excavation activities in areas not approved for mass grading as shown in Attachment I.8 shall comply with Section 4.5.80 - Hillside Development Standards of the 2006 LDC Chapter 4.5 - Natural Hazards and Hillside Development Provisions. Regardless of the presence of extenuating circumstances, cuts and fills in areas not mass-graded shall comply with the eight-foot standard as defined in LDC Section 4.5.80.03 - Definitions. Exceptions or alterations to these standards shall only be permitted through the Planned Development process.

Lots shall only be developed with single-family, detached homes and Accessory Structures consistent with conditions of approval and 2006 LDC Sections 3.2.30, 3.2.40, and Sections 4.3.30 and 4.3.40 for Accessory Structures. Development on all lots shall comply with 2006 LDC Chapter 4.10 - Pedestrian Oriented Design Standards.

Modifications to applicable LDC standards, or standards established through this approval may only occur through a public hearing process.

Original

Lot Grading and Structures - All cuts and fills shown on the grading plan identified as Attachments I.7 and I.8 of the August 10, 2007, Staff Memorandum to the City Council shall be engineered and constructed such that retaining walls are not required. All lots shall be developed in accordance with Chapter 4.5 - Natural Hazards and Hillside Development Provisions and Chapter 4.10 - Pedestrian Oriented Design Standards from the December 31, 2006 Land Development Code.

Condition 28 - New

Maintenance Obligations - Individual homeowners shall be prohibited from applying pesticides, herbicides, fungicides, or fertilizers to their property. For the entire subdivision, the Homeowners Association (HOA) shall hire a Licensed Commercial Operator to apply any and all pesticides or herbicides on the site. The commercial operator shall be licensed by the Oregon Department of Agriculture, with licenses in the categories of Ornamental and Turf/Herbicide and Ornamental and Turf/Herbicide and Fungicide, or other applicable categories, with the appropriate insurance for that license. The Licensed Commercial Operator is to practice Integrated Pest Management as defined in Oregon Revised Statutes 634.650. The use of any pesticide material that contains any of the top ten leachable ingredients, as identified by the Oregon Department of Agriculture, Department of Environment Quality, and/or USGS for Oregon is strictly prohibited. Prior to recordation of the final plat, the applicant shall submit for review and approval by the Planning Division Manager draft CC&Rs for the development that provide notice to homeowners of this condition of approval. The CC&Rs shall clearly state that the obligation for maintenance of all tracts within the subdivision will be held by the HOA .

PO Box 3004-113

Corvallis, OR 97339

NAACP 100 Years Young!

Come celebrate with us!

Thursday, February 12, 2009, 7:00 PM

at 101 NW 23rd St. (Westminster House)

Monthly business meeting is moved up to 6:00 PM.

At 7:00, Mr. Ronnie Brooks, an education equity activist and NAACP leader from Texas will make a short presentation about the early history of the NAACP and its founding in New York City on February 12, 1909. The festivities will include ice cream and cake and singing of the Black National Anthem, **Lift Every Voice and Sing**. Long time Corvallis Branch members are encouraged to come and share memories of 36 years of NAACP history in Corvallis. Everyone is welcome. Invite your friends.

Heads up! The **2009 Freedom Fund Banquet** is scheduled for May 9.

Corvallis Branch NAACP activities are open to all interested persons.
For further information call Branch President Peter Leung at 207 4488.

My Name is John D. Price

I live at
My House is bordered BY: N.W. Ponderosa,
N.W. Acacia Dr. , and N.W. Rosemarie Place

I live at the tip of the traffic funnel, and, without exception, all traffic on Ponderosa west, of N.W. Acacia passes by my house.

By using County Maps: 11520DC, 11529AA and 11529AB, There are approximately 169 homes in the Ponderosa West Community. This does not include the home sites north of Ponderosa outside of the city.

All traffic and households on N.W. Ponderosa, West of Acacia St., are trapped into only one choice for travel, BY MY HOUSE, to and from the city. Until they go East to N.W. Acacia, which it allows them to get to N.W. Glenridge Going North., OR N.W. Audine, going south which gives them access to Walnut.

Someone in there infinite wisdom in years gone by, decided that N.W. Dear Run St. SOUTH OF Ponderosa should not or would not be finished. Why was this not completed ?

The N.W. Fair Oaks Dr Extension shown on Benton County map #11528 Was planed, but never completed. It was to connect the Skyline area to Walnut street.

In my opinion, All CONSTRUCTION SHOULD BE HALTED, until, another Access road is furnished, and Fire and Water mains are extended to all the city development west of Acacia St.

The last fire, that occurred west of Acacia St. Necessitated water Tanker trucks to use the Hydrants at N.W. Acacia and N.W. Rosemarie streets. This Blocked all traffic on Ponderosa, west of Acacia until they finished fighting the fire.

The council needs to get the Fire Department's input on this matter.

WILLAMETTE ANGEL CONFERENCE

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Thursday, May 14, 2009 | 8:00 am - 7:00 pm | Ch2MHill Alumni Center | Oregon State University

Anticipated Investment prize -$150,000

INVESTORS

ENTREPRENEURS

Conference May 14

Session 3 Bootcamp March 13-14

Finalist Selection —May 1

Early Bird Registration—April 17

Due Diligence Process—April 1-May 1

SWOT

Deadline for Applications Mar 13

Due Diligence Class March 30

Ent. Forum Mar 3

Smartups.org Pub Talk Feb. 26

Deal Structure March 2

Session 2 Bootcamp Feb. 20-21

Session 1 Bootcamp Jan. 23-24

Angel 101 Feb. 10

Entrepreneur Forum—Feb. 3

Ent. Forum Jan. 6

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To sign up for any upcoming event, go to
www.WillametteConference.com

(Note: All events are being held in Corvallis.)

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The Business Enterprise Center, Inc. Annual Marketing Report for 2008

There were 12 resident client companies located at 1965 SW Airport Ave. Corvallis, Oregon on January 1, 2008. There are 12 resident client companies located at the same address on December 31st, 2008 but they are not the same 12. In addition to the current companies shown as enclosure (1), eight companies passed through the incubation program with two of them relocating to the Eugene area, Oregon Software and State Logic, both software start-ups, two failing—Quality Innovators, Inc. due to lack of revenue and customer generation and Paleotech due to health crisis and lack of transitional focus. Four client companies graduated to other locations in the local area, Administrative Insights, Markurapoint, 3G Design, and Renewable Energy Systems were the graduating companies. All in all, the Business Enterprise Center, Inc. continues to accomplish its mission to "stimulate and support the development of emerging business resulting the creation and retention of jobs in the region" and its vision of "effectively accelerating the conversion of innovation of traded-sector businesses".

Clearly recognized as the region's primary and most successful accelerator, in addition to the residents reported on above, the BEC has worked with 10 affiliate clients during 2008 and finishes the period with 7 affiliates. Since coming out of hibernation in 2006, 70 net jobs were created.

In close cooperation with the Service Corps of Retired Executives (SCORE), the BEC hosted business development classes quarterly at the recently refurbished, improved and updated BEC classroom. The SCORE trainers presented classes on writing a Marketing Plan, writing a Business Plan, reading business financials and Appropriate Exit Strategies.

Along with the Oregon Bioscience Association of Portland, the BEC assisted in the establishment of the Willamette Valley Bioscience Industry Consortium hosted by Linn Benton Community College. Through a grant from Community Services Consortium part-time staffing was made possible.

Business professionals from the community presented 16 brown bag lunch sessions for the clients of the BEC and the community. 202 people attended these free sessions at the center.

Over 900 hours were donated as kind-in through this regional community and economic development tool. If computed at $50.00 per hour this amounts to a donation of $45,000. Many of our volunteers are highly compensated professionals such as attorneys and certified public accounts who bill at a much higher rate than $50 per hour this fact would increase the worth of this contribution substantially.

The BEC continues to improve its programs and offerings and is rapidly becoming one of the most cost effective tools for economic development in the economic development tool kit. The BEC is a charter member of the Economic Vitality Partnership and participates regularly in the Prosperity That Fits Plan.

Part of Team Corvallis and sponsor of the HiTech After Hours and Business Is Good Here, the BEC promotes a strong and growing entrepreneurial environment.

The BEC nominated graduate affiliate Perpetua Power, Inc.'s CEO Jon Hofmeister as the Entrepreneur of the Year as part of the Corvallis Chamber Coalition's Celebrate Corvallis event and he won. Bill Ford was nominated as Business Person of the Year, board member Curtis Wright was recognized as volunteer of the year, and former client ViewPlus Technologies, Inc. a current BEC tenant was chosen as Business of the Year for 2008. All in all, a very strong showing for the BEC.

Recipient of a one-time grant from Benton County, the BEC was able to hire staff and recruit a full-time Executive Director to further expand its role and purpose in the region.

Thank you all for your on-going and continued support.

The Business Enterprise Center
1965 SW Airport Avenue
Corvallis, Oregon 97333
Tel: 541.758.4009
Fax: 541.758.7319

Success Starts Here

BEC Resident Client Listing

Acewl Company, Inc. President: Bill Dean Phone: 541-905-3733
International Manufacturing and Supply Chain Consultancy

AnOvation Group LLC – President: Victoria Martinez Phone: 541-752-5238 Cell: 541-250-9643
Shaping Ideas That Grow Market

Online Media Development - (541) 207-2969
I create and publish Web sites for the home user, emphasizing:

Burke Technical Consulting Owner: Peter Burke Phone: 541-231-3316 (cell)
Engineering Consulting

Corvallis Conciege, LLC / Sheri Dover -541-602-6215
Personal Assistant Services from Corvallis Concierge gives you control over how you spend your time, allowing you to recapture the quality of your lifestyle.
Hourly Personal Assistant Services for all of Your Business, Office, Personal, and Household Needs

CrawforDesign Owner: Susan Crawford Phone: 541-758-3138
Marketing & Creative Services

Makarapoint Consulting, LLC Owner: Aruna Kumar Phone: 541-908-4003
Imaging Processing, Color Science & Lighting

Orange Software, LLC Jesse Chaney – 541-760-6207
Software & IT Consulting

Precision Plant Systems, Inc.

CEO/President - Larry Plotkin Phone: 541-760-3282
Vice President – Dr. Les Fuchigami
Chief Scientist – Dr. Ping Hai Ding

Agricultural Resource Optimization Systems

project.net **Owner: Ed Lee** Phone: 541-752-0706

Dustan Kassman Phone: 541-758-4364

Toggle 3D / Rory Plaire – info@toggle3d.com

Varient Embedded Systems / Rich Mullen – 949-636-7787

Variant offers a one-stop solution for all your embedded system and microprocessor control circuit needs. From Class 3 medical devices to electronic gaming systems, Variant will manage your project all the way from concept to deployment.

Yema Measho, Attorney at Law / 503-930-4413
Concentrates her practice in the areas of immigration, health care, and business law.

BEC Affiliates

Administrative Insight, LLC **Owner: Barbara Murry** **Phone - 541.602.5885**
Administrative and Bookkeeping Services for Your Company – *Competent, Thorough, & Complete*

Cleland Marketing / Katherine Cleland –
Cleland Marketing is all about profit and growth for its clients.

E-Art Café – Holly Marshall & Betty Hughes 541-754-7057

Materials & Research Process, LLC / Paul McClellan – 503-930-0348
Mat_Pro or (Materials Process Research) facilitates moving ideas from industry and academia into a reality that can be used to demonstrate commercial viability.

Oregon Soil Corporation - **Dan Holcombe** 503-557-9742
Organic Waste Processing – Vermicuture www.oregonsoil.com

Perpetua Power Source Technologies, Inc. - Jon Hofmeister
www.perpetuapower.com
info@perpetuapower.com
503-922-3169

Perpetua delivers renewable and reliable power solutions to the wireless sensor industry

Renewable Energy Associates Owner: Ryan Mayfield and Jacob Wood Phone: 541-754-7410Solar Energy System Design and Education

SynnOps, LLC –
Boyd Lyon, Stephen Shields & Dave Young
541-760-3625
Operations partnership, affiliated with Influent Corporation; dedicated to the commercialization of miniature pump technologies

Ideal-Logic.com – Damien Forkner (541-752-6125) and Paul Bollman (541-752-6125)

Bio-Algene – Stan Barnes Phone:206-2232-2272 Cell: 206-734-7323
P.O. Box 219 Mercer Island, WA 98040
Advanced Fuels & Products from Algae

***Destiny – Electric Vehicle Innovations** – Kirk Swaney – 541-760-1895 (possible)

***Culture Synergy Team** - Ahmed Sharbini – 541-272-7837

***Synteck Global** - Gary Boxall - 503-851-7286

OREGON CHAPTER SIERRA CLUB

SIERRA CLUB
FOUNDED 1892

January 20, 2009

Testimony before the Mayor and Members of the Corvallis City Council

Re: Appeal of the Corvallis Planning Commission Decision of November 19th, approving the Deer Run Park Conceptual and Detailed Development Plan and Tentative Subdivision plat.

From: Marys Peak Group - Sierra Club
Barry Wulff, Chair
P.O. Box 863
Corvallis, OR 97339

The Marys Peak Group recommends denial of the proposed Deer Run Park Conceptual and Detailed Development Plan, thereby reversing the Planning Commission's decision.

The Marys Peak Group is no stranger to land use issues and strongly believes that wise planning is a gift to the future. Our 1,300 members in the area are probably more familiar with the nooks and crannies of the City of Corvallis than many a surveyor. They are walkers, hikers, bikers, young and old, singles and families – and all care about our community's future.

We have three areas where we have objections.

Section 2.5.40.04 of the Land Development Code states that a variation from a standard of the NATURAL HAZARD AND HILLSIDE DEVELOPMENT provisions: Significant Vegetation, Riparian Corridor and Wetlands Chapters "shall provide protection equal to or better than the specific standard requested for variation." It further states that the variation "shall involve an alternative located on the same development site where the specific standard applies." The same section of the Code allows "Compensating Benefits" for variations being requested as a criterion.

The number of variations being requested to "specific standards" in the Deer Run proposal is 9. The number of "conditions" required by the Planning Commission for approval of the proposal is 35.

This tiny 2.55 acre site bordered to the west by an open drainage way was annexed as a part of a larger 141 acre parcel in 1984. The City Planning Commission placed "Special Requirements and Conditions" on the requested Planned Development Overlay for the parcel proposed for annexation, noted as: "CONDITIONS OF APPROVAL FOR THE DISTRICT CHANGE UPON ANNEXATION". One of those conditions requires "dedication [to the City] of open drainageways as adjacent areas are approved for development." That drainage way is Deer Run Creek, a tributary to Dixon Creek. The property today is zoned with the Planned Development Overlay – just as annexed.

The site is mapped by the City for protection of a Highly Protected Riparian Corridor (75 feet from top-of-the-bank of Deer Run Creek). The site is also mapped for Steep Slopes, Landslide Runout Hazards and is within the 500-foot buffer area of another mapped Landslide area, off-site. Much of the site has slopes exceeding 15% with areas 35% or greater.

Variations to specific standards requested by the applicant are justified by "compensating benefits." A variation to the requirement that "parking lots should be located to the rear of buildings" is justified by the benefit of "fully" protecting the Riparian Corridor. This already *is* fully protected. [Staff Report. p. 12, TABLE A]. The Staff Report notes that "Swapping the locations of the parking and dwellings allows the limits of grading to be moved further north (to between 24 feet and 40 feet of the 75-foot Riparian Corridor line).

Another requested variation from the required 25 foot maximum front yard setback also cites compensating benefits as "greater protection of the Riparian Corridor "from the effects of fill necessary to support vehicle driveway and parking areas." [Staff Report p. 12, TABLE A] The **Riparian Corridor has specific constraints as to fill.** The site in general has already suffered from fill, none authorized for building construction: approximately 200 cubic yard of fill, a maximum of 2,000 cubic yards of loose fill, 9,440 cubic yards of compacted fill, 2-3 hundred yards in the street. [Case Number EXC99000018, EXC92-00001, VIOO6-00138, corvallispermits.com]

LDC 4.0.30.a.2 requires a twelve-foot wide buffer to safely separate pedestrians from high-speed vehicular traffic on Collector streets. The variation requested [Staff Report, pp. 14-15, TABLE A] proposes to provide buffers only on the south side of the common sidewalk. The compensating benefit is providing "additional protection for the Riparian Corridor." The Riparian Corridor is already protected under Phase III of the Natural Features and Hazards Section of the LDC.

The Code requires eight-foot Standard and Terracing in proposing fills. The extenuating provisions for variations to the eight-foot standard, according to staff, do not apply. [Staff Report, p. 15.] Compensating benefits are described as moving the development to the north half of the site (requiring the variation), which would more "fully" protect the Highly Protected Riparian Corridor. But again, there is no proposed protection beyond what is already required by code.

The Land Development Code "strongly" discourages development for sites with slopes equal to or greater than 10%. Much of the site proposed for residential use is between 15 and 35% and some greater than 35%. Topographical and hydrological changes to the slopes with development are presumed minimized through the assurance of a geotechnical engineer's report and subsequent monitoring. It is not specified in the conditions whether building can be stopped or must just be monitored and re-engineered if greater risk is identified.

LDC 2.5.20.h states that one of the purposes of a Planned Development is to "Provide benefits within the development site that compensate for the variations from development standards such that the intent of the development standards is still met."

The Sierra Club does not believe that the benefits stated meet this test in terms of equity to the resource impacted or in meeting the intent of the development standards. Avoiding a development impact does not increase protection per se. **A compensating benefit should have some relationship to the resource affected or lost.**

The Sierra Club recommends that you deny the Deer Run Park application, considering the environmental impacts of this proposal – particularly considering the limited area remaining within the City in the Dixon Creek watershed – and the extent of variations from the City of Corvallis Land Development Code, which was developed with the help of many, many citizens.

February 2, 2009

TO: Mayor and Members of the Corvallis City Council

FROM: Liz Frenkel, Appellant

Corvallis, OR

RE: Appeal of Corvallis Planning Commission Approval
Deer Run Park Subdivision (PLD08-00013 / SUB08-00007)

"Compensating benefits for variations being requested" that are allowed by the Planning Commission's Disposition Order 2008-098 do not meet Land Development Code standards either as to intent or specificity. The "Highly Protected Riparian Corridor" on the Deer Run site does meet the test of the Land Development Code requirements both as to intent and specificity. More "fully" protecting this Corridor, described as the intent of the "compensating benefit" for several of the "variations to the Code in this Order, implies that the standard for the "Highly Protected Riparian Corridor has not been met. To "provide protections equal to or better" does not fill that implied gap. Expanding the protected boundary beyond the present proposed 75 foot buffer, if there is a gap, would. For these reasons, elaborated below,
I request that you deny the proposed Conceptual and Detailed Development plan, thereby supporting the appeal and reversing Planning Commission Order 2008-098.

1. RIPARIAN CORRIDOR PROTECTION

*The purposes of LDC Planned Development review as stated in **2.5.20** include:*
(h) "Provide benefits within the development site that compensate for the variations from development standards such that the intent of the development standards is still met."
*The LDC Conceptual Development Plan review as stated in **2.5.40.04** include:*
a. Compatibility Factors
1. "Compensating benefits for variations being requested."
b. Natural Resources and Natural Hazards Factors.
1. "Any project variation .... shall provide protections equal to or better than the specific standard requested for the variation.

The Planning Commission's decision, Order 2008-098, assumes that certain variations to the Land Development Code, as noted in Table 4 of the November Staff Report, can be allowed as providing "compensating benefits" for exemption to the Code. The Code cited above related to Natural Resources and Natural Hazards Factors does not authorize just any compensating benefit but rather the compensation must provide protection "equal to or better than the specific standard requested for the variation."

Staff Memo of Jan 8, 2009, to the City Council is explicit: "protection of the Riparian Corridor is required by **LDC Section 4.13.50**, regardless of the type of development that occurs on the subject site." **[p. 8]** The **Comprehensive Plan 4.6.2** states: "Development

on hillsides shall not endanger life and property nor land and aquatic resources determined to be environmentally significant." Variances to the 10-Ft. Code standard **[45.5.80.04]** are not justified by assuming **more** protection to the Riparian Corridor. The Corridor is either protected or not. If the applicant had proposed decreasing cut and fill in other areas of the site, that could be considered "equal to or better than the specific standard requested for the variation." Cut and fill standards are "Hillside" specific standards not "Riparian Corridor" standards, which must be met irrespective of the "type of development that occurs on the subject site."

The variance to the 25 foot maximum front yard set-back **[3.3.30 e.1]** also is justified by "fully" protecting the Riparian Corridor. **[Nov. Staff Report, Table A]**

There are two variances to the Location of Vehicle Parking and Circulation Areas Standards: specifically, parking not allowed between buildings and parking lots must be located at the rear. **[4.10.60.01.a.3]** and **[4.10.60.02.a.1]** Both presume to justify the requested variances as "fully protecting the Riparian Corridor" and adding "protection to the Riparian Corridor." **[Nov. Staff Report, Table A]**

LDC 4.2.30.a.3 and **4.10.60.08.f,** Pedestrian Walkway Landscaping and Vehicle Circulation Separation require 5-ft. landscape buffers <u>and</u> on both sides of internal walkways. These two requested variances, reducing the buffer to 2-ft. and providing the buffer on only one side of the internal walkway, are justified as providing "additional protection for the Riparian Corridor".

2. RIPARIAN CORRIDOR AND USEABLE YARDS

This variation of the standard that requires each unit to have a 15-ft. "useable yard either on the side or to the rear **[3.3.30.e.2]**, unlike the above six variations, compromises the protection of the Riparian Corridor. The variation reduces the ~~15-ft. to 25-ft. standard~~ requirement for a "useable yard" back yard depth of 15-20 ft ~~either~~ for all the units or alternately allows the Riparian Corridor to be used as the units backyards. The Riparian Corridor constraints do allow for passive public use. A fenced backyard, however, impinging into the Riparian Corridor, does not add protection and reduces public use. A "Private Outdoor Space" **[3.3.40.c]**, for example, is not a substitute for passive public use. The justification that this intrusion provides more "Green Area" hardly resolves the conflict.

3. PEDESTRIAN REQUIREMENTS – COLLECTOR STREETS

While an exception is made for buffers within a Natural Resource area, this exception only would apply to a very small portion of the 600 foot northern border of the property. The off-set requested for Collector Street Improvements **[4.0.30.a]** requiring a minimum of a 12 ft. wide landscaped planter area, separating the curb from the sidewalk, is an "environmental assessment" [Condition #11] in exchange for the possible loss of the buffer. The intent of the 12 foot buffer is both for a pedestrian amenity and a protection for pedestrians. Enhanced "Common landscaping" elsewhere or additional protection of existing Significant Trees cannot off-set pedestrian safety. This is a long, long way from the original clear and objective standard.

LWV Corvallis
PO Box 1679, Corvallis, OR 97339-1679
541-757-2276 • http://lwv.corvallis.or.us

January 20, 2009

TO: Mayor and Members of the Corvallis City Council
FROM: Annette Mills, President, LWV Corvallis
RE: Deer Run Park Subdivision. PLD08-00013 / SUB08-00007

The Corvallis League of Women Voters appreciates this opportunity to present testimony regarding the Deer Run Park Conceptual and Detailed Development Plan and Tentative Subdivision Plat.

Many members of the League worked with the City in the development of the new Land Development Code. Among our many League positions, we support implementation of the Comprehensive Plan, impartial enforcement of that implementation, regulation of natural hazard lands where redevelopment could endanger life and property, preservation of riparian corridors, as well as pedestrian safety and pedestrian orientation. The League also has many positions that support protection of water quality.

While the League supports "efficient use of land" and recognizes it as a purpose for Planned Development, the League does not support the Deer Run Park proposal as an "efficient use of land". A proposal that requires 35 conditions, numerous variations to the Land Development Code and extensive grading, excavation, as well as retaining walls that change the topography in order to enable development is not "efficient use of land." Furthermore, the site is not accessible by public transportation and is a considerable distance from any public services such as grocery stores etc.

The proposal requests a minimum five foot-wide landscaping buffer on only one side of inner pedestrian sidewalks rather than both sides as required by the Land Development Code. It asks to reduce the buffer to only two feet on one side. This variance does not comply with connectivity codes [LDC.4.0.40]. The claimed trade-off is protection of the Riparian Corridor. This is not an equitable trade-off, because the application would not provide any more Natural Features protection than what is already required under the code.

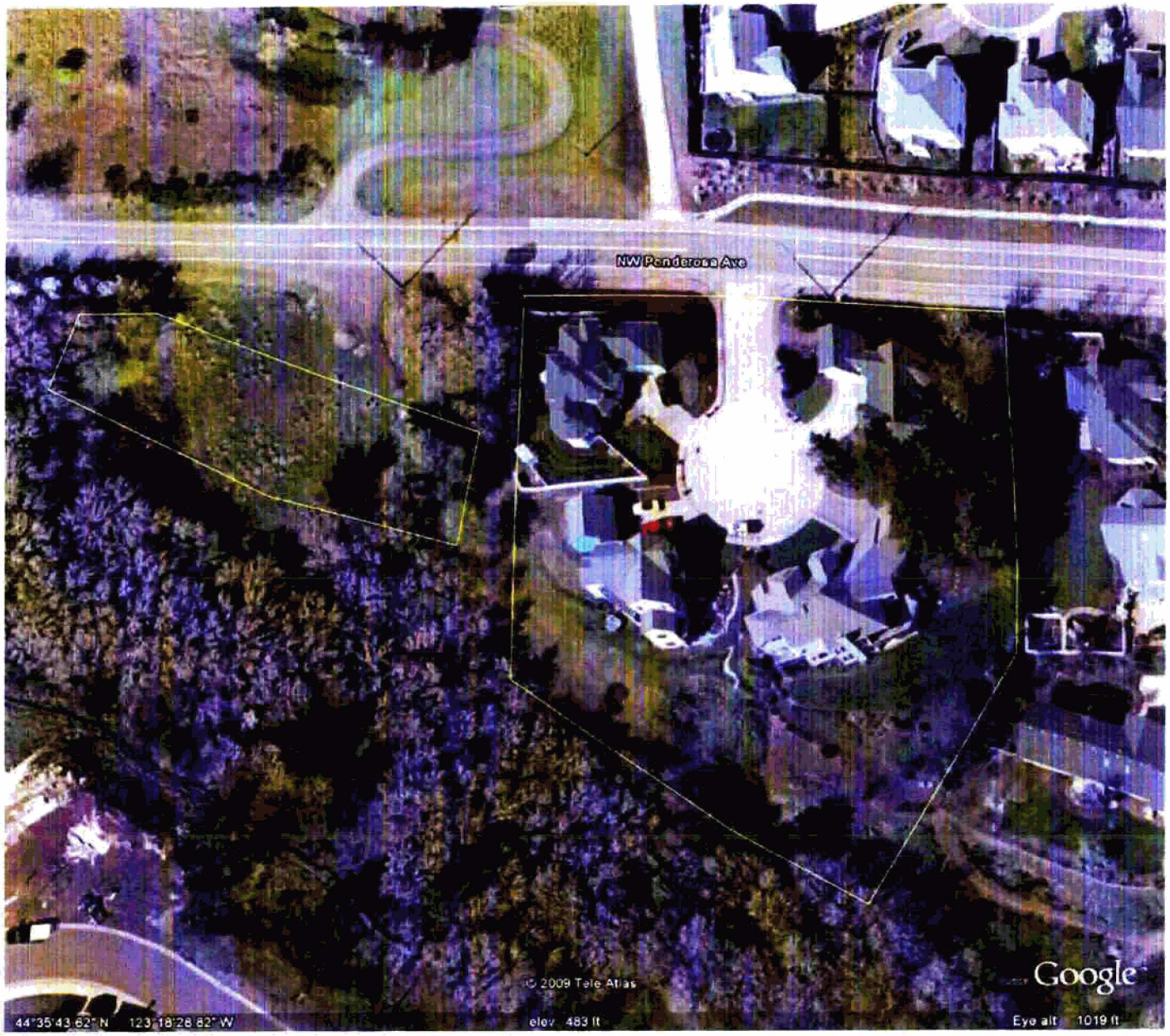
The League has safety concerns with the reduction of the 12 ft. planter strip with setback sidewalks on NW Ponderosa [4.0.1]. The trees in the buffer would provide protection from errant traffic to pedestrians on that well-traveled (and fast) street, as well as supplying pleasant amenities. The trade-off for protection for "Significant Trees" is not equitable.

The proposal for the 2.55 acres site is in the Dixon Creek Watershed. Water quality should be a major City concern when considering "efficient use of land". It should be integral to the planning approval, not just left to post-approval permitting.

The League recommends that the City Council deny the proposed Conceptual and Detailed Development plan.

Annette Mills, President Corvallis League of Women Voters of Corvallis
PO Box 1679 Corvallis OR 97339-1679

Alan Robinson



CITY OF CORVALLIS
CITY COUNCIL WORK SESSION

January 29, 2009

The work session of the City Council of the City of Corvallis, Oregon, was called to order at 5:30 pm on January 29, 2009, in the Madison Avenue Meeting Room, 500 SW Madison Avenue, Corvallis, Oregon, with Mayor Tomlinson presiding.

I. ROLL CALL

PRESENT: Mayor Tomlinson, Councilors O'Brien, Daniels, Hervey, Brown, Beilstein, Hirsch, Raymond, Hamby, Brauner

The Mayor and Councilors were joined by facilitator Joseph Bailey, City Manager Jon Nelson, Assistant City Manager Ellen Volmert, Library Director Carolyn Rawles-Heiser, Finance Director Nancy Brewer, Parks & Recreation Director Karen Emery, Public Works Administrative Services Manager Mary Steckel, Fire Chief Roy Emery, and Assistant to City Manager/City Recorder Kathy Louie.

II. NEW BUSINESS

A. 2009-2010 City Council Goal-Setting

The Mayor and City Council conducted goal-setting for the 2009-2010 Council term. The Council will continue discussion of the goals at another work session scheduled for February 4, 2009.

III. ADJOURNMENT

The meeting was adjourned at approximately 9:20 pm.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY RECORDER

CITY OF CORVALLIS
CITY COUNCIL WORK SESSION

February 4, 2009

The work session of the City Council of the City of Corvallis, Oregon, was called to order at 5:30 pm on February 4, 2009, in the Madison Avenue Meeting Room, 500 SW Madison Avenue, Corvallis, Oregon, with Mayor Tomlinson presiding.

I. ROLL CALL

PRESENT: Mayor Tomlinson, Councilors O'Brien, Hervey, Brown, Beilstein, Hirsch, Raymond, Hamby, Brauner

ABSENT: Councilor Daniels (excused)

VISITORS: Carter O'Brien, Dan Kellom

The Mayor and Councilors were joined by facilitator Joseph Bailey and City Manager Jon Nelson.

II. OTHER BUSINESS

A. Councilor Hervey referenced a property acquisition opportunity at Evanite. Mr. Kellom noted three parcels were on the market listed by Cushman-Wakefield.

III. UNFINISHED BUSINESS

A. Refinement of 2009-2010 City Council Goals

The Mayor and Council continued discussion to refine the goals for the 2009-2010 Council term. City Manager Nelson and Department Directors will prepare an implications analysis of the proposed goals for Council's consideration at the March 2 City Council meeting. A revised draft set of goals from Facilitator Bailey is attached.

IV. ADJOURNMENT

The meeting was adjourned at 7:55 pm.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY RECORDER

Linn-Benton
COMMUNITY COLLEGE
Business and Employer Services

Joseph Bailey
6500 Pacific Blvd SW
Albany, OR 97321
joseph.bailey@linnbenton.edu
541-917-4935

Corvallis City Council 2009-2010 Goals

DRAFT *DRAFT* *DRAFT* *DRAFT*

Citizen Involvement **Cost Efficiency** **Diversity** **Sustainability**

Culture and Recreation	*Central City*	*Economic Vitality*	*Education and Human Services*	*Governing and Civic Involvement*	*Protecting the Environment*	*Where We Live*
Goal #1	Develop community sustainability policies and implement selected actions.					
Goal #2	Work with public, private, and nonprofit entities to improve community resources available for combating homelessness, with the aim of providing paths to stability and self-sufficiency.					
Goal #3	Develop an integrated 10 year development plan for the AIP utilizing such tools as the EZ.					
Goal #4	Establish a commission for arts and culture.					
Goal #5	Continue to implement PTF/EVP/Economic Development and refine as necessary.					
Goal #6	Work with RC&D and others to seek funding for acquisition or restoration of, and improvements to, publicly owned or protected wetlands, riparian, and natural areas.					

DRAFT
Subject to review & approval
by Airport Commission

AIRPORT COMMISSION
MINUTES
January 6, 2009

Present
Todd Brown, Chair
Dan Allen, Vice Chair
Louise Parsons
Jim Moran
Vincent Remcho
Rod Berklund
Brian Wall
Bill Dean
David Hamby, Council Liaison

Absent

Staff
Dan Mason, Airport Coordinator
Lisa Namba, Transportation Services Supervisor
John Sechrest, Corvallis Benton Chamber Coalition

Visitors
Lanny Zoeller, Pilot, SASO
Bill Gleaves, Pilot, SASO
Jack Mykrantz, Pilot, SASO

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Open Meeting, Introductions	X		
II. Review of December 2, 2008 Minutes			Approved
III. Visitor Comments • Bill Gleaves Report on Contact with DeFazio's Office	X		
IV. Old Business- • Change to Airport Industrial Park Master Plan • City Transit to Airport • ADRC Meeting (12/18/08) Report	X	X	Approved recommendation
V. New Business- • None			
VI. Update on Industrial Park	X		
VII. Update on Airport	X		
VIII. Update on FBO			No update provided
IX. Update on City Council	X		
X. Information Sharing • Monthly Financial Report	X		

CONTENT OF DISCUSSION

I. Open Meeting, Introductions

Chair Brown opened the meeting at 7:00 a.m. Staff and visitors were introduced, including the new City Council Liaison, David Hamby, and a new Commissioner, Bill Dean.

II. Review of Minutes

Commissioners Parsons and Moran, respectively, moved and seconded that the Commission approve the December 2, 2008 minutes. The motion passed unanimously.

III. Visitor Comments

Mr. Gleaves reported that he contacted Congressman DeFazio's assistant, Dan Whelan, who handles transportation issues. Mr. Gleaves reviewed for DeFazio's office how revenue is allocated to the list of airport development funds that are agreed upon between the FAA and the City. He recommended either increasing the FAA's budget to fund the full 100% of the funding needs or allocating some funds to the State Board of Aeronautics or the State Department of Transportation. Mr. Whelan took the information to Karmen Fore, DeFazio's Chief of Staff, who said they are interested in this, noting that there needs to be a push from local governments and the Department of Transportation for it to work.

IV. Old Business

Change to Airport Industrial Park Master Plan
Commissioner Allen reported that the revisions to the Airport Industrial Park Master Plan are still in progress and that the next meeting will be on January 14 at 2:00 p.m.

City Transit to Airport
Commissioner Allen moved to make a recommendation to CACOT and to the City Budget Commission that a transit route to the airport be established. Commissioner Berklund seconded the motion, which passed unanimously. Chair Brown volunteered to attend the CACOT meeting on January 14 at 8:20 a.m. to make the recommendation.

ADRC Meeting Report
Commissioner Parsons reported that the two proposals, from T. Gerding and Precision Aggregate, do not meet the standards of the Airport Industrial Park (AIP) Master Plan due to the limitation of 5% of area developed on outdoor storage. T. Gerding intends to build their new headquarters in the AIP, and plans to build a wall, consisting of materials and construction similar to the main building, to screen their storage. The Committee approved the request, although it may be difficult to get a variance to allow the amount of area proposed for outdoor storage . The Precision Aggregate proposal consists primarily of storage for rock products, with little in the way of screening. The Committee could see no way to approve that request.

Mr. Mason said that when the leases are presented at the February meeting, the Commission will have to review the ADRC report and decide if the leases should be forwarded. He and Ms. Namba are also trying to resolve discrepancies between the County zoning and the AIP Master Plan.

Ms. Namba raised the question of whether the Commission is primarily interested in developing an "industrial park" or "business park." These involve different uses and development standards, and updates to both zoning and the AIP Master Plan should reflect the direction the Commission recommends.

V. New Business

None.

VI. Update on Industrial Park

Mr. Sechrest reported that AVI Biopharma appears to be pulling back from their interest in their AIP building and looking at the possibility of either renting or selling it. Part of the building is currently being sublet to another

company. Mr. Mason stated that the market for AVI Biopharma's product has changed, which may be part of the reason they are leaving the AIP.

VII. Update on Airport

Mr. Mason reported on the following:

- Fred Lowther's hangar extension has begun. A private contractor is in the process of moving the water line consistent with a PIPC (public improvement by private contractor) permit.
- City Council Advisory Commission Chairs, including Chair Brown, will brief the new City Council on January 12 between 4:30 and 6:00 p.m. to discuss goals and answer questions from the Council members.
- Following up from an earlier meeting, the catch basin near HTSI has been cleaned of oily and greasy gravel and a filter has been added to the catch basin to help keep oil and other pollutants out of the stormwater system. A water sample taken three weeks ago, as well as another a couple of days ago, found no detectible amount of oil and grease in the system.
- On the same day as the last Airport Commission meeting, when the economic stimulus package was discussed, the Oregon Airport Management Association and the Public Works Director both asked for airport projects to submit for possible stimulus funding. The City, through Public Works, has suggested the extension of runway 17/35. The FAA has previously said it will not fund this project because it is not needed yet. To justify the additional runway length, the FAA requires that there are 400 operations per year that need the additional length. Mr. Mason also submitted all nine of the pending Airport Master Plan CIP projects to the Oregon Department of Aviation through the Oregon Airport Management Association.
- Dave Roberts in the Seattle Airport Division Office of the FAA put in a request to fix the ramp in front of the main hangar. While the ramp is made of concrete, it is showing its age and starting to deteriorate.
- REACH Air Medical's lease assignment was approved by City Council. The name will change from "REACH SSC LLC" to "REACH of Corvallis, LLC," because they are planning on building other projects in other cities for REACH.
- Mr. Mason noted he has spent most of his time recently working on changing the Benton County zoning for the airport, as mentioned in the agenda item on the ADRC meeting report. The current zoning is not consistent with the AIP Master Plan and has not been updated to reflect recent State requirements for airport zoning. This situation was identified a few years ago but has just been recognized as a major problem for AIP development with the two most recent proposals.

VIII. Update on FBO

None.

IX. Update on City Council

Councilor Hamby stated that he will report only on Council issues that deal with the Airport and Transportation. He recommended that Chair Brown impress upon the Council when he speaks to them that the Airport is self-contained with regard to funding. He also stated that the Mayor wants the Airport Commission to continue thinking about the Industrial Park as well as the Airport, and mentioned that the Commission's name may change to reflect that emphasis.

Mr. Sechrest noted that there is an information delay to the Commission and requested that Councilor Hamby keep an updated calendar for the Airport Commission to know what is coming up. Councilor Hamby agreed that this is something that would be useful for every Commission.

X. Information Sharing

Monthly Financial Report

Commissioner Moran requested clarification on the update that the Commission received. Mr. Mason said that the update removed funds for special projects at the Airport that are normally not included in the Commission’s Monthly Financial Report. Mr. Mason also stated that the update was sent to show the most recent audited fiscal-year budget, 07-08, rather than 06-07.

Ms. Namba reported that a number of Special Projects have been proposed for the next few years, including the airport sign, security cameras, a utilities infrastructure plan and updates to both the Airport and AIP Master Plans. These projects will be forwarded to the Budget Commission for consideration.

The meeting was adjourned at 8:10 a.m.

NEXT MEETING: February 3, 2009, 7:00 a.m., Madison Avenue Meeting Room

CITY OF CORVALLIS
BUDGET COMMISSION MEETING

The City of Corvallis Budget Commission meeting was called to order at 7:02pm on Thursday, January 22, 2009 in Fire Station #1, 400 NW Harrison Boulevard, Corvallis, Oregon, with David Hamby presiding.

ROLL CALL

Present: Commissioners Mike Beilstein, Hal Brauner, Dan Brown, Barbara Bull, Karyle Butcher, Tim Cadman, Rich Carone, Patricia Daniels, John Davis, Dave Hamby, Guy Hendrix, Richard Hervey (7:35pm), Joel Hirsch, Mark O'Brien, Barbara Ross, Jacque Schreck

Excused: Commissioner Elizabeth French

Absent: Commissioner Jeanne Raymond

Visitors: Mayor Tomlinson, Stewart Wershow

Staff: Jon Nelson, Nancy Brewer, Janet Chenard, Tony Krieg, Greg Gescher, Steve Rogers, Gary Boldizsar, Jackie Rochefort, Aaron Manley, Ellen Volmert, Mike Dohn (recorder),

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
VII. Election of Officers			Jacque Schreck was elected Chair. Hal Brauner was elected Vice Chair. Rich Carone was elected Secretary.
VIII. Approval of Minutes from May 1 and May 6, 2008			Approved as presented
IX. Visitors' Propositions			None
X. CIP Presentation	X		
XI. Status of Council Goal Setting	X		
XII. Citizen Survey Results	X		
XIII. Overview of City's Budget/Financial Status	X		
XIV. Budget Capacity	X		
XV. Adjourn			Adjourned at 8:47pm

Commissioner Dave Hamby, acting as chair until a chair was elected, called the meeting to order at 7:02pm.

I. ELECTION OF OFFICERS

Chair

Commissioner Hamby opened the discussion for nominations for the chair. Jacque Schreck was nominated for Chair by Commissioner Carone, seconded by Commissioner Hendrix. Ms. Schreck accepted the nomination. Hal Brauner was nominated as Chair by Commissioner Butcher, seconded by Commissioner Daniels. Mr. Brauner declined the nomination citing his belief that the Chair should be a Citizen member of the Budget Commission.

There being no other nominations, the nominations were closed, and Jacque Schreck was unanimously elected as Chair.

Vice Chair

Chair Schreck nominated Hal Brauner for Vice Chair, seconded by Commissioner Hendrix. Mr. Brauner accepted the nomination. . Hal Brauner was unanimously elected as Vice Chair.

Secretary

Commissioner Butcher nominated Rich Carone as Secretary, seconded by Commissioner Cadman. Mr. Carone accepted the nomination. Commissioner Carone was unanimously elected as Secretary.

II. APPROVAL OF MINUTES FROM MAY 1 AND MAY 6, 2008

Commissioner Brauner moved to approve both the May 1 (Attachment 1A) and May 6 (Attachment 1B), 2008 Budget Commission Minutes. The motion was seconded by Commissioner Davis and passed unanimously.

III. VISITORS' PROPOSITIONS – None.

IV. CIP PRESENTATION

Engineering Supervisor, Greg Gescher, presented the proposed FY 2010-2014 Capital Improvement Program (CIP) 2010 Update. Mr. Gescher highlighted several new projects added to the five-year plan and commented on them as follows (Attachment 1C):

a. Airport Industrial Park Improvement (pg. 3): This road project will be designed in FY 09/10 and constructed in FY 10/11, funded through a Federal Highway Grant.
b. Law Enforcement Fenced/Paved Compound (pg. 15): This project would serve as a storage space for large evidence items such as a vehicles and bicycles stored as evidence or for forfeiture.
c. Advanced Transportation Management System (pg. 59): This project was scheduled in conjunction with an ODOT grant to ease traffic congestion along Van Buren Avenue and Harrison Boulevard. The grant is to install an Advanced Transportation Management System (ATMS) which will include remote video monitoring of intersection conditions and control of signal operations.

d. Circle Boulevard Pedestrian Activated Crossings (pg. 65): This project will include installing two pedestrian activated crossings at Richey's Market, Janssen, and 17th Streets.
e. Corvallis to Albany Rails with Trails (pg. 67): This project is a joint effort with the City of Corvallis, City of Albany, and Benton County to provide a multi-use path from Corvallis to Albany. This project would be funded through Street SDCs and an ODOT grant.
f. Electric Vehicle Charging Stations (pg. 73): This project includes installing electric vehicle charging stations at five different locations around the community. The planning and design of this project will need to begin in FY 09-10 with completion in FY 11-12.
g. Biosolids Storage Tank (pg. 101): This project in conjunction with Allied Waste and Valley Landfill Inc. (VLI) may allow the City to share construction costs of a new tank because VLIis currently using City facilities for the treatment of leachate from their facilities, using temporary holding tanks. The City's existing biosolids tank is beginning to show signs of age, and this may present an opportunity to provide permanent facilities for VLI leachate and repair or replacement of the current biosolids tank..
h. South Corvallis Interceptor (pg. 107): This project consists of a larger wastewater pipe from South Corvallis to the Mary's river pump station. The pipe is not needed at this time, but the planning and working with property owners to establish right-of-ways is needed now.

The following projects were previously identified in the CIP document, but have modifications to the scope of work (Attachment 1C):

a. Municipal Buildings Rehabilitation
b. Acquisition of Parks
c. Osborn Aquatic Center
d. Park Facility Renovation
e. Park Improvements – Existing
f. 9th & Circle Intersection Improvements
g. Street Reconstruction
h. Traffic Signals
i. Utility and Street Improvement Projects

Commissioner Daniels stated that the Park Improvements project was originally on the Senior Center Bond which failed, so her question was what happens to the appropriations that were set aside. Mr. Gescher said the appropriations are still used as a placeholder. City Manager, Jon Nelson, added that this topic came up during council goal setting and Mr. Gescher was correct in his response.

Commissioner Butcher inquired about the type of material that would be used to replace the pavers for the Park Facility Renovations at the Art Center Building. Park Planner, Jackie Rochefort stated the resurfacing for the pavers is yet to be determined. Commissioner Butcher stressed replacing the pavers with pavers would be more

sustainable for runoff as opposed to a concrete surface. Parks and Recreation will take this into consideration when development of this project progresses.

Commissioner Davis was concerned whether the Systems Development Charge (SDC) revenue listed in the CIP was revenue the City already had or would it need to come from future SDC payments. Mr. Gescher followed by saying the funds are already there and the CIP doesn't depend on future revenues. Commissioner Davis also said that there were three projects funded out of the General Fund and asked if these were budgeted items; Finance Director, Nancy Brewer, said they were in the Financial Plans.

Chair Schreck commented on staff's effort in seeking out grants for CIP projects and getting them. She stressed there is an unwritten rule that the CIP Commission (which she is a member of) encourages staff to get as many grants as possible to fund projects and staff should be commended for the effort put forth to obtain grants.

Commissioner Ross questioned whether or not a capital project could be moved up to create more jobs. In response, Mr. Nelson stated there is a long list of projects that staff works from and are able to place on the stimulus funding list with direction from the City Council. In most cases the projects from which the City pulls from are good to go within 90 days, but others would take longer in implementing.

V. STATUS OF COUNCIL GOAL SETTING

Mr. Nelson stated the goal setting session had not yet taken place, but is set to start on January 29 with refinement of the goals on February 4th. Usually about a dozen goals are given to staff to further develop. Budget Commission will be updated at the April 9th meeting.

V. CITIZEN SURVEY RESULTS

Mr. Nelson presented the Citizen Survey Results (Attachment 1D) and shared information with the commission about the new format of the survey. The survey varies from what it had been in the past because the City chose to go with the National Research Center's (NRC) National Citizen Survey, which allows the City to compare results to other communities. The response rate of 42% is much lower than from the past, but is still considered high among comparators. Mr. Nelson considered the survey to be a good tool for the Budget Commission to use when setting out the budget for FY 09-10 and highlighted a few of the survey questions.

Chair Schreck commented on the survey by saying it is much nicer than it was before, but stated it did lack Ward specific information which the old survey had. Mr. Nelson said the City has the ability to add questions to the survey, just not to the same degree that was available in the past.

Commissioner Daniels asked when the survey was conducted. Mr. Nelson responded with September of 2008. Commissioner Daniels also wanted to make the point that you can't

make any assumptions of the people who didn't respond. You cannot assume there are no issues or assume there are many issues not addressed. Commissioner Hamby made an inquiry to whether or not we have the actual percentages of the National Comparisons. Mr. Nelson stated that we do, we just can't publish them because they belong to the NRC.

VII. OVERVIEW OF CITY BUDGET/FINANCIAL STATUS/PERFORMANCE MEASURES

Finance Director, Nancy Brewer, presented the Financial Plans to the Commission highlighting a few of the changes and a new best/worst/most likely budget scenarios for future years (Attachment 1E).

Secretary Carone commented on the Potential Unrestricted Fund Balance calculations on page 13 of the Financial Plans. Ms. Brewer highlighted that when looking at the bottom line you need to include all previous years' Historical Norming Adjustments (HNAs).

Mr. Nelson commented the biggest swing for allocations is done by the commissioners and councilors and what they want to carry forward with the City's budget. Chair Schreck was unsure of how numbers were making sense, Ms. Brewer clarified. Secretary Carone stated the Financial Plans are much clearer than what they have been in the past.

Ms. Brewer said staff was asked by Council to create best/worst/most likely case scenarios to help better prepare a budget. The best/worst/most likely scenarios were only done for property tax funds. She also noted that the majority of funds carry reserves .

In conclusion, Ms. Brewer wanted commissioners to be aware that the Financial Plans provide a short narrative for the funds, but more detailed information is available in the Business Plans (Attachment 1F).

VIII. BUDGET CAPACITY

Mr. Nelson commented that the budget capacity has a mixture of good news, stemming from a memo that was done by City staff (Attachment 1G). The City government does not have the same dependencies as other municipalities on income and sales taxes and the City's fund balance is relatively healthy. Mr. Nelson further commented, Budget Commission communicated to Council last year that it would be useful to know the budget capacity in configuring the budget. The City Council was established that an appropriate fund balance would be either 5% of revenue or about three months of payroll to meet the appropriate fund balance, and settled on three months of payroll or about $6 million. This means that there is about $3 million in capacity to appropriate. The City Council decided that they would target spending only 20% of the capacity, so around $600,000 for new or expanded programs. In the Budget Capacity Memo (Attachment 1G) it states how the numbers are exactly derived.

Discussion opened up between commissioners of exactly what to do with the budget capacity. Some suggestions were not to spend the money and lower property taxes, find

community enhancements that were beneficial to the community, or to be very cautious with the decisions made and recognize that the funds don't have to be used.

Commissioner Cadman wanted to know if it were possible to reduce property taxes instead of using the budget capacity. Ms. Brewer commented that the city can under levy.

Commissioner Beilstein stated that he sees that the budget capacity could be used for Commissioner Ross's inquiry on whether or not we could move forward with capital projects to create jobs; we basically have $3 million in budget capacity to do so. Vice Chair Brauner agreed with what Commissioner Beilstein said, but added we also don't have to spend the $600,000 in FY 09-10.

Ms. Brewer, in a response to what is the most likely case for the City's budget; stated property taxes are a pivot funding source. She said there hasn't been any new residential development and Hewlett Packard (HP) has asked for a reduction in their assessed property value, meaning a reduction in property tax revenue for the City. Commissioner Beilstein commented that HP pays proportionally less of the property tax revenue than it did a decade ago. A decade ago HP was responsible for 25% of the property tax revenue, today that is less than 10%. Commissioner Beilstein pointed out that property tax revenue decline from HP is less significant than it once was.

Commissioner Bull inquired about the effect of market volatility of residential property tax revenue. Ms. Brewer replied that Corvallis hasn't seen lost value like other communities. Residential development is down and homes are not selling as quick, but they are still selling and the property tax revenue has dropped very little in comparison. Vice Chair Brauner also supported the question by saying the uncollected taxes will still get collected because once the home is sold, there would be back taxes paid by the new owner.

IX. ADJOURNMENT

The meeting was adjourned at 8:47pm.

SUMMARY OF ATTACHMENTS

- Attachment 1A – May 1, 2008 Budget Commission Meeting Minutes
- Attachment 1B – May 6, 2008 Budget Commission Meeting Minutes
- Attachment 1C – CIP Cover letter and CIP Proposed 2010 Update
- Attachment 1D – Citizen Survey Results
- Attachment 1E – Financial Plans
- Attachment 1F – Business Plans
- Attachment 1G – Budget Capacity

Respectfully Submitted:

Richard A Caione

Budget Commission Secretary

Finance Director

DRAFT
Subject to review & approval

CORVALLIS CITIZENS ADVISORY COMMISSION ON TRANSIT
MINUTES
January 14, 2009

Present
Bob Lowry, Chair
Stephan Friedt, Vice-Chair
Tad Abernathy
Heather Bennett, ASOSU
Susan Hyne
Tom Kincaid
Brandon Trelstad
Robert E. Wilson
Hal Brauner, City Councilor

Staff
Lisa Namba, Public Works
Tim Bates, Public Works

Visitors
Todd Brown, Airport Commission Chair
Stewart Wershow

Absent

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Introductions	X		
II. Approval of December 10, 2008 Minutes			Approved
III. CACOT/Visitor Comments			Conditionally approved a recommendation to write a letter of support for transit service to Airport
IV. Old Business • Review of CTS Passenger Code of Conduct and Implementing Procedures		X	
V. New Business	N/A		
VI. Information Sharing • Written Report	X		
VII. Commission Requests and Reports	N/A		
VII. Adjournment	N/A		Adjourned at 9:17 a.m.

CONTENT OF DISCUSSION

I. Introductions

The meeting was called to order at 8:20 a.m. Introductions of Commission members, visitors and staff were made.

II. Approval of November 12, 2008 Minutes

Commissioner Wilson and Vice-Chair Friedt, respectively, moved and seconded that the Commission approve the December 10, 2008 minutes. The motion passed unanimously.

III. CACOT/Visitor Comments

- Todd Brown, Chair of the City's Airport Commission, addressed CACOT on behalf of the Airport Commission to request support for transit service to and near the Corvallis Municipal Airport (Airport). Mr. Brown said there are two aspects of the Airport, airport operations and the Airport Industrial Park (AIP). The Airport has approximately 130 employees and the AIP has 400-500 who work in the vicinity of the Airport. A recent survey of the AIP tenants revealed that transit to and from the AIP is of interest to some employees at the AIP. City staff provided cost estimates to the Airport Commission for various levels of transit service. Mr. Brown told the Commission that a commuter service that would operate two runs in both morning and evening is the level of service that City staff and the Airport Commission determined would be best for the AIP. To that end, he asked the Commission to draft a letter of support for this service. Mr. Brown added that he is planning to appear before City Council's Budget Commission on February 5th to request a budget enhancement to support this service.

  Discussion followed among the Commission regarding Mr. Brown's request. Chair Lowry said that there has been significant interest in the past from passengers about the need for transit to the DMV offices near the AIP and this commuter service could potentially serve the DMV as well. Vice-Chair Friedt said a Group Pass Program membership for the AIP and Airport employees would be useful if this commuter service were to come to fruition.

  Vice-Chair Friedt and Commissioner Abernathy, respectively, moved and seconded that the Commission approve a recommendation asking staff to draft a letter of support, on behalf of the Commission, for commuter transit service to the Airport Industrial Park (AIP) and surrounding areas, if staff determines there are no FTA funding restrictions or City policy restrictions on providing transit service outside of the City limits, and if the AIP and Airport agree to share costs associated with this service.

  Discussion ensued regarding the motion. Ms. Namba agreed to send a draft of the letter of support to the Commission members for their review and approval. This will be done before the next CACOT meeting because Mr. Brown's appearance before the

Budget Commission will occur before the next CACOT meeting.

The motion passed unanimously.

IV. Old Business

- **Review of CTS Passenger Code of Conduct and Implementing Procedures**

At the December meeting it was decided this document was to be reviewed by the Commission and further discussion will occur at this meeting. Ms. Namba reminded the Commission of her comments at the December meeting which centered around the fact that some of the time lines listed in the "Appeals" section of the document were vague or of too short a period of time. Specifically, an excluded party is given only 10 days to file a notice of appeal of the exclusion to the Transit Manager and the period of exclusion is not specified. If the excluded party were out of town for 10 days or otherwise unable to file an appeal, it could be assumed that the appeal period had lapsed and the exclusion notice would be in place in perpetuity.

Councilor Brauner said any action by City staff can be appealed to City Council by a community member. In response to a question regarding what happens to an excluded party during the appeals process, Mr. Bates pointed out there is a section in the Code which states "At any time during the exclusion, an excluded person may petition in writing to the City's Transit Manager, or designee, for a temporary waiver of the exclusion". This would allow an excluded party to ride CTS while the appeal was being reviewed.

Vice-Chair Friedt and Commissioner Trelstad, respectively, moved and seconded that the Commission approve a recommendation to have staff craft language to make the appeals section of the *CTS Passenger Code of Conduct and Implementing Procedures* reflect clearer policies. The motion passed unanimously.

V. New Business

- There was none.

VI. Information Sharing

Written Report.- Mr. Bates reviewed the Written Report. The following is additional information to the report:

- **New Buses** - Vice-Chair Friedt asked if there would be an expected delay in putting the buses on routes once they arrived. Ms. Namba reported that staff has been in contact with Luminator and there is a service agreement in place to provide for installation of VIS equipment. Staff plans to make a request to the FTA and City management to allow for an expansion of the transit fleet of buses by two in number. This would mean not surplusing any older buses in order to provide additional back-up vehicles once the two new buses arrive.

Vice-Chair Friedt and Commissioner Abernathy, respectively, moved and seconded that the Commission approve support of staff's request to increase the CTS transit fleet by two buses when the two new buses are delivered in June. The motion passed unanimously.

- **Student Incidental Fee Committee -** Commissioner Bennett's view was that the SIFC will be amenable to approving the 09-10 proposed CTS fee because the SIFC appreciates the value of the service to its students. Mr. Bates said that staff and ASOSU's staff have been in contact regarding the proposal to include the cost of Beaver Bus service into the per student per term fee.

- **Google Transit -** Staff expects a late January update from the volunteer working for CTS to format transit data with the purpose of having CTS routes and times available on Google Transit.

- **Linn-Benton Loop shelter on 14th/15th Street at OSU -** This shelter will be accessible next week.

- **OSHA Investigation -** Vice-Chair Friedt asked about the ongoing OSHA inspection of CTS bus routes. Mr. Bates reported that he has been contacted by an OSHA investigator and was told that the investigator will meet with staff as soon as the investigation is complete to discuss the findings.

VII. Commission Requests and Reports

None.

VII. Adjournment

Commissioner Wilson and Vice-Chair Friedt, respectively, moved and seconded that the meeting be adjourned. The motion passed unanimously.

The meeting was adjourned at 9:17 a.m.

NEXT MEETING: January 14, 2009, 8:20 a.m., Madison Avenue Meeting Room

THE COMMISSION FOR MARTIN LUTHER KING, JR
MINUTES
DECEMBER 16, 2008

Present
Commissioner Lissa Perrone - Chair
Commissioner Anthony Stumbo – Vice Chair
Commissioner Katrina Hopkins
Commissioner Megha Shyam

Staff
Linda Weaver, HR Administrator
Marci Laurent, HR Specialist

SUMMARY OF DISCUSSION

Agenda Item	Action Recommendation
I. Consideration & Approval: Minutes of 11/25/08	Approve with corrections
II. Annual Event Planning	Discussion & approval of expenditure
III. Essay Contest Update	Continue
IV. Performance Partnership Update	Continue
V. Day of Service Collaboration with HP	Continue
VI. Civil Rights film Event	Discussion
VII. Film Series at Dark Side Theatre	Continue
VIII. Report on Commission Funding to Date	Continue
IX. Report on MLK Park Capitol Projects – Anthony	Continue
X. New Commission Information Packet & Signage or Plaque	Continue
XI. Other Business	None

CONTENT OF DISCUSSION

I. Consideration & Approval: Minutes of 11/25/08 – Minutes were approved with corrections.

II. Annual Event Planning

A. January 20th Event: Expenditure for rental of Memorial Union Lounge January 20th 12pm speech by Dr. Orosco.

Commissioner Shyam moved the Commission approve this expenditure; Commissioner Hopkins seconded the motion and it passed unanimously.

B. January 21st Event:

Flyer: The Commission discussed the flyers, where to post and distribute them and to insure OSU and Dr. Orosco received them. Commissioner Hopkins stated that she will email out a draft of the flyer. Commissioner Shyam noted that the Majestic Theater has a list of where they can be posted in town; he also suggested the flyers be distributed to the schools so they can post to their websites. The Commission will contact Amy Rose Simpson with AmeriCorps to distribute the flyers and assist with the event as ushers and greeters.

Linda Weaver noted that staff will send flyers to previous Commission members and the current essay contestants as well as previous winners. An announcement will be in the City Newsletter, on the City's website, kiosk and on the City TV channel.

Refreshments: Ms. Weaver indicated that the Majestic has tables available and that the Dollar Store has inexpensive table cloths to cover them. She added that she will order the cake and they will deliver it, and that Commissioner Alexander is bringing drinks, cups and utensils.

Commissioner Shyam suggested ordering a Starbucks group pack as they provide cups etc. Commissioner Perrone agreed and suggested it be decaf.

Program: Commissioner Shyam stated he had spoken with the NAACP, CAD and the Hispanic Alliance and they all would like to have tables at the reception for their information.

The Commission discussed the program and what it should contain; they agreed: a Short bio of Dr. Orosco, essay contest winner, information about the MLK Commission, short description of the other agencies, a list of action items attendees can use.

Commissioner Shyam suggested that for next year they try to sign up for the 2nd Street Display Case. Commissioner Stumbo added that the Library also has display cases.

Other: Commissioner Perrone suggested they invite the Mayor, noting it could conflict with another event.

Commissioner Stumbo moved the Commission approve a $1500 honorarium for Dr. Orosco. Commissioner Hopkins seconded the motion and it passed unanimously.

III. Essay Contest Update

Ms. Weaver noted that no essays had been received yet but that she was in contact with school staff to remind them of the contest and dates.

IV. Performance Partnership Update – No update – continue item to agenda after the event.

V. Day of Service Collaboration with HP

Commissioner Perrone noted that this Day of Service to re-gravel pathways in Martin Luther King Park will occur on Friday, January 16, 2009 at Martin Luther King Park from about 1:00 pm to 4:00 pm. The Commission will host the event, the Parks and Recreation Department is supplying the Release Forms, first aid station, gravel and materials, and Hewlett Packard will supply the volunteers, with the AmeriCorps volunteers serving as greeters.

The Commission agreed that it would be great to get a Starbucks Group Pack and serve coffee to the volunteers.

The event will be called “The First Annual Martin Luther King/Hewlett Packard Day of Service” with announcements to be posted on Channel 29 and the City’s website.

VI. Civil Rights film Event

Commissioner Perrone reviewed the information provided at the last meeting about the video “Dare Not Walk Alone”, noting that the DVD can be ordered from the web. The Commission discussed the options for them to preview the film prior to organizing a viewing and it was decided to have a potluck outside their regular meeting. If they determined it was an appropriate film for them to host a public viewing they could then discuss partnering with OSU and decide if it should be part of a film festival event or held separately.

VII. Film Series at Dark Side Theatre

Commissioner Stumbo introduced this item and noted that the owner suggested a “month of Sundays” series, adding that the cost could run $500 - $1000 per film. The Commission discussed holding a series as a fall or winter event; that a viewing during February as part of Black History month, or holding seasonally or the 4th Sunday of each month; and to possibly partner with OSU and other agencies promoting diversity.

The Commission also discussed the purpose of such an event, to educate and provide for community building; to be entertaining and less documentary and to bring a variety of films. Titles mentioned included Slam, urban hip hop, Little Mosque on the Prairie, and Guess Who’s Coming to Dinner. They agreed to exchange emails suggesting additional movies that may fit this event.

VIII. Report on Commission Funding to Date

Ms. Weaver noted that after the expenditures for the event they would have a balance of about $1500 - $1600.

IX. Report on MLK Park Capitol Projects

Commissioner Stumbo noted that no funding is currently allocated for projects at the park. Commission Megha suggested contacting Dick Thompson with the Benton County Foundation to look for matching funds.

X. New Commission Information Packet & Signage or Plaque – Continue to February meeting.

The meeting adjourned at 1:30 p.m. to Tuesday, January 13, 2008.

CITY OF CORVALLIS
MINUTES OF THE COMMITTEE FOR CITIZEN INVOLVEMENT
Madison Building Meeting Room
January 8, 2009

Attendance
Larry Earhart
Jerry Groesz, Chair
Tom Powell
Shannon Reich
Julie Risien
Stewart Wershow
Tony Howell, Planning Commission Liaison

Absent
Kirk Newburgh

Staff
Sarah Johnson, Assistant Planner
Terry Nix, Recorder

SUMMARY OF DISCUSSION

	Agenda Item	Summary of Recommendations/Actions
I.	Call to Order; Review Agenda	Called to order at 7:15 p.m.
II.	Review Draft Minutes from December 4, 2008	Approved as presented.
III.	Visitors' Propositions	Information only.
IV.	Welcome New CCI Member Stewart Wershow	Information only.
V.	Planning Commission Liaison Report	Information only.
VI.	Discussion: Work Program Ideas for 2009	Information only.
VII.	Planning Commission/HRC Current Agenda Update	Information only.
VIII.	Next Meeting	February 5, 2009, 7:15 p.m.
IX.	Adjournment	The meeting was adjourned at 8:45 p.m.

CONTENT OF DISCUSSION

I. CALL TO ORDER

Chair Jerry Groesz called the meeting of the Committee for Citizen Involvement (CCI) to order at 7:15 p.m. There were no changes to the agenda.

II. REVIEW DRAFT MINUTES FROM DECEMBER 4, 2008

MOTION: Larry Earhart moved to approve the December 8, 2008 minutes as drafted. Tom Powell seconded the motion and it **passed** unanimously.

III. VISITORS' PROPOSITIONS: None.

IV. WELCOME NEW CCI MEMBER

The Chair welcomed new CCI member Stewart Wershow.

V. PLANNING COMMISSION LIAISON REPORT

Planning Commission Liaison Tony Howell advised that another citizen has expressed concern regarding the short amount of time that staff reports are made available before public hearings, especially when there is a holiday. One idea would be to put applications on the City's website once they have been deemed complete. He invited any other ideas or comments. In discussion, it was noted that there are often multiple iterations of applications, and that it would be good to add a disclaimer that application materials provided online are as of a certain date.

Assistant Planner Sarah Johnson agreed to draft a letter from the CCI regarding citizen concerns about the difficulty of accessing information through the archive system, as well as the possibility of providing online access to applications. The letter will be addressed to Community Development Director Ken Gibb, who may then choose to forward it to the group that is updating the City's website. The draft will be approved by CCI members via email and signed by Chair Groesz.

Chair Groesz said he would like a CCI member to attend at least one Planning Commission meeting each month. He will attend the February meetings, assuming they are not canceled.

VI. DISCUSSION: WORK PROGRAM IDEAS FOR 2009

Planner Johnson invited ideas for the 2009 CCI Work Program.

Mr. Earhart initiated discussion regarding the *Citizen's Guide to Land Use Planning* update. It was agreed to form a subcommittee to conduct a rewrite and update of the content. A graphic design consultant may be recruited to help with the layout. Shannon Reich offered to contact a graphic designer she knows who might be interested. Julie Risien agreed to Chair the subcommittee.

Chair Groesz suggested that any purchases for the Footwise display and/or DaVinci Days be made before June 30 in order to utilize this year's funds.

Mr. Howell suggested that the CCI consider purchasing books from the American Planning Association if there are funds left in the CCI budget at the end of the fiscal year. The books could be made available for viewing at the public library or the Planning Division office. There was general support for this idea.

Mr. Wershow noted that the FEMA flood maps have been updated, and he initiated discussion about ways to educate the public about potential impacts. In discussion, it was noted that a public meeting on this issue could include information about insurance, emergency services, and land use. Ms. Reich offered to provide information on insurance and a list of acronyms. Planner Johnson said the updated maps may be available at City Hall. It was agreed to discuss this further at the next meeting.

Chair Groesz said the Parks and Recreation Department has requested a representative from CCI for the newly formed Urban Forestry Management Plan Stakeholders Committee. Mr. Wershow agreed to serve in that capacity.

VII. PLANNING COMMISSION/HRC CURRENT AGENDA

Planner Johnson noted that the next Planning Commission meeting will include deliberations on the Presbyterian Church application and a Capital Improvement Program (CIP) Review. Upcoming items for the Planning Commission include a 6,000-square-foot addition to the Alzheimer's facility at Regent Court, and an application for improvements to Willamette Park in South Corvallis.

Mr. Wershow provided information on a Health Hazard Annexation in the Highland Dell area, which the City Council has returned to staff for additional information. Brief discussion followed.

VIII. NEXT MEETING

The next meeting of the CCI will be on Thursday, February 5, 2009.

IX. ADJOURNMENT

The meeting was adjourned at 8:45 p.m.

Approved as submitted, February 5, 2009

CORVALLIS-BENTON COUNTY PUBLIC LIBRARY BOARD MINUTES
December 3, 2008

Board Present	Staff Present
Judith Edelstein, Chair	Carolyn Rawles-Heiser, Library Director
Leanne Giordono, Vice-Chair	Janelle Cook, Senior Administrative Specialist
Scott Elmshaeuser	Carol Klamkin, Management Assistant
Samantha Fisher	Curtis Kiefer, Youth Services Manager
Martha Fraundorf	
Corrine Gobeli	
Erlinda Gonzales-Berry	
Sandy Ridlington	
Jacque Schreck	
Tom Wogaman	
Bill York	
Excused:	**Visitors**:
David Low and Linda Modrell	None

Summary of Discussion

Agenda Item	Information Only	Action/Recommendation
Call to Order	7:30 pm	
Visitors' Propositions		None
Minutes: November 5, 2008	x	
Library Board Packet	x	
Committee and Board Reports • Friends of the Library • Library Foundation • Board Committees	x	 None None
Review of Circulation Policy	x	
Director's Report	x	
Budget Process Discussion	x	
Information Sharing	x	
Adjournment	8:55 pm	

CONTENT OF DISCUSSION

I. CALL TO ORDER

Judith Edelstein called the meeting to order at 7:30 pm.

II. VISITORS' PROPOSITIONS

None.

III. APPROVAL OF MINUTES

Motion: Jacque Schreck moved approval of the November 5, 2008 minutes as submitted. The motion was seconded by Corrine Gobeli and carried unanimously.

IV. LIBRARY BOARD PACKET QUESTIONS AND COMMENTS

Bill York questioned if there had been further progress made on the purchase of the Monroe property. Carolyn Rawles-Heiser replied yes and that she would cover this in her report later in the meeting. Corrine commented on one volunteer, Stefani McRae-Dickey, who is working with other volunteers and the Heather Society to incorporate low-maintenance native landscaping at Philomath Community Library.

V. COMMITTEE AND BOARD REPORTS

Friends of the Library: Jacque reported that the Friends last met on November 17. The Holiday Book Sale featuring collectible books is scheduled for Saturday, December 6. Both Benton Books and the fifty-cent bookshelf have each brought in about $8000 year-to-date. A set of Lincoln books was recently purchased through Benton Books by President-elect Barack Obama. The confirmation of the sale was passed around for all to view. Last month's Random Review, *The Team of Rivals*, reviewed by John Frohnmayer, was very well attended with over 100 people. Next week, *The Hearts of Horses* will be reviewed by Library staff member, Erin Kahle. Membership numbers are slightly down. Corrine added that the Friends have purchased poinsettias from the Corvallis Ski Team for the main library and the branches. Also, a new color option (red with black trim) for the canvas bags is now available for purchase. Martha Fraundorf inquired if the Friends send out a mailing to remind members to renew their membership. Corrine and Jacque replied yes and it is usually done sometime around February.

Foundation Board: No report.

Board Committees: No report.

VI. REVIEW OF CIRCULATION POLICY

Since the last Board meeting, Library staff have recommended a few more changes to the current Circulation Policy. Due to the fact that the audio visual collection is now adequate size, it was suggested by staff to change the policy in order to allow one time renewals on DVDs if there is no hold on the item. The same recommendation was made for periodicals. Sandy Ridlington questioned if the renewal would be for two weeks and Carolyn replied affirmatively. The only items in the collection that would not be renewable are video games, which is a very small collection. It was also suggested that the replacement cost for magazines be capped at five dollars because it is not necessary to charge a processing fee when it is unlikely a lost magazine would be replaced. Sandy clarified that an audiobook which a patron has had checked out for four weeks could be renewed up to three times. Carolyn said yes, that is correct, as long as there are no holds on the item. Sandy feels that part of the importance of a library is its browsing value and this length of time seems excessive. For example, when checking out an audiobook, she simply browses the collection and selects one that she finds interesting. Thus, if the vast majority of the audiobook collection was checked out, she would not have a very good browsing experience. Martha concurred with this sentiment because a longer loan period may cause the patron to not feel an urgency about returning the materials. Corrine asked if there is any data on how frequently items are renewed. Carolyn was not sure, but in the case of DVDs, they frequently have holds on them so they would not be renewable anyway. Leanne Giordono agreed with Sandy on the browsing argument because she often does not find any DVDs in the kids section to browse; they are all checked out. Curtis Kiefer interjected that Shaun Hearn and Mary

Norman presented some statistics at their staff meeting on this subject and there are not a lot of patrons who renew materials. The majority of the collection is returned early. Due to the size of the collection, staff felt renewals could be implemented. Corrine liked the idea because she tends to checkout the “how-to” DVDs that generally require more than two weeks to learn something. Additionally, a TV series with multiple DVDs can be difficult to watch in a two-week period. Judith noted by making this change to the policy, it would be more consistent with the rest of the collection and thus, much easier for patrons to understand. Motion: Jacque moved that the changes to Appendix A in the Circulation Policy be accepted and approved as discussed. The motion was seconded by Scott Elmshaeuser and passed by a majority vote.

VII. DIRECTOR’S REPORT

Carolyn began by responding to Bill’s previous question regarding Monroe. Teresa Landers and Roger Irvin, Benton County Public Works Director and Chair of South Benton Community Enhancement, had a conference call with the real estate negotiator for the railroad and they did agree on a mutually acceptable price for the preferred piece of property on Highway 99 across from the high school. They are in the process of developing a purchase agreement. Once this is finalized, the fundraising for the new building will commence. Today, Carolyn mentioned to Roger about the possibility of receiving funding from an economic stimulus project supported by Senator Wyden’s office. She asked him to mention this as a possibility to the County Commissioners. The Senator’s office is looking for projects that will create more jobs.

Carolyn met with Randy Kugler, the City Manager of Philomath, about improving communication with the City of Philomath. She will be attending one of their Council meetings after the first of the year and will also be providing them with some reports so they will feel more connected to the Library.

An example of a Playaway was passed around for all Board members to see. A Playaway is a single book loaded onto an MP3 player that can be checked out and will be convenient for those patrons that do not have MP3 players and do not want to borrow one that belongs to the Library. Earbuds will be available for a small fee and patrons will be responsible for replacing the batteries. The Library has purchased about 100 - 200 titles in this new format.

The VHS collection is being weeded out and slowly going away by attrition. The tapes are falling apart due to excessive use, especially in the kids’ section. DVD will be the primary format since staff is no longer able to purchase VHS tapes.

A technical issue with the Library’s catalog arose over the Thanksgiving weekend that was not immediately fixed and Carolyn apologized to all who may have been affected by this glitch.

The Library will be closed December 15 - 21 for further remodeling of the lobby and regularly scheduled building maintenance. Carolyn briefly outlined the changes that would be made.

An opportunity to create a sister library relationship with Corvallis’ sister city, Uzhgorod, has developed. One of their librarians will be traveling to Corvallis in the next couple of months to visit. Details will be worked out later on the specifics of this relationship.

Early Literacy Coordinator, Peik-Kuan Lim, and Carolyn attended a meeting with the school district on developing an early literacy curriculum. Carolyn said they had very good representation from the childcare community and received good feedback.

VIII. BUDGET PROCESS DISCUSSION

Every two years, each City department develops a Business Plan to outline future needs. Due to the fact that the Library is in the process of developing a new strategic plan, it was decided to update the Library’s Business Plan in greater detail next summer after recommendations are received from the master planning consultants. In the meantime, Carolyn would like to submit the following enhancement items to the City Manager and the Finance Department for consideration:

- Carolyn would like to ask for $10,000 in unspecified money for quick fixes recommended by the consultants so these projects would not have to wait for the following fiscal year to be implemented.

- Martha was confused by the first item which requests fifteen more hours of staff time as well as new shelving for the new building. Carolyn agreed that this item needs to be split into two separate items. Martha thought the ambiguity with regard to when these requests are actually needed was confusing. Carolyn said yes, but the completion date of the new Monroe library building is unknown at this time. However, if the fundraising successfully comes together, it is possible that construction could begin in the spring. Leanne suggested maybe it is not the phrasing, but the ordering of the points that creates vagueness. She further stated that some requests appear more concrete than others. Bill and Corrine both agreed and the latter recommended using sub-headings for better clarity. Jacque proposed including an explanation of the library district with the budget enhancement requests for the benefit of the City's Budget Commission. Carolyn noted that the Library's Business Plan, which will accompany the enhancement requests, is more explicit on this subject. Martha added that perhaps using the phrasing "the library system needs more shelving" would be more effective. It was also recommended by Jacque to list the capital improvement projects at the top of the enhancement list since these have already been reviewed by the Capital Improvement Committee. She further inquired about the solar project to which Carolyn elaborated on the City's efforts to implement solar energy on some City buildings. Apparently, a grant was applied for to accomplish this sustainability project, but it was not received.

- Other enhancements include installing about five or six more security cameras. One desirable location for a new camera would be near the CDs due to theft problems in this particular area. Jacque voiced concern about privacy issues, but Carolyn said the cameras are not sophisticated enough to see the actual CD titles. Additional locations being considered for security cameras include the front patio, the back arcade entrance, the garage, and possibly the lobby as well.

- The extra revenue generated from the increased parking meter fares (estimated to be about $8000) has been designated for building maintenance (replacement of the carpet in the Main Meeting Room) and special cleaning such as the upholstery.

- Minor remodeling to the Youth Services staff area is an enhancement that would allow the Manager's office to open into their workroom, plus create a workstation for the Early Literacy Coordinator who is temporarily working in Adult Reference at the desk of a staff member who is out on leave. The kids' computer room would be moved to the current location of the Manager's office.

- The Bookmobile will cost more to replace than originally anticipated. It was purchased in 2001 and the estimated time of replacement is 2017. Every year, staff requests a quote from the vendor for the current replacement cost. Apparently, the vendor has been only providing a bare bones estimate and this year, they included all of the options that are currently installed on the Bookmobile. Thus, the true cost of replacement was underestimated by a significant amount. If this enhancement is not added to the vehicle reserve fund, the Library would either have to wait even longer to replace the Bookmobile or find a way to cover the difference. Jacque surmised that by the year 2017, Bookmobiles may have better sustainability options. Carolyn noted it already uses bio-diesel.

- The Library's reserve fund designated for unforseen future needs has historically been used to purchase or replace an expensive piece of equipment. However, spending money from this fund causes cash flow issues for the City Finance Department. They have requested that the Library allocate these funds toward something more concrete. With this in mind, Library staff is recommending that this money be used to even out the spikes in their long-range technology plan.

- Casual employees are those that work fewer than twenty hours per week who are not part of the union. They are employed for basic operations. Per the Finance Department, the amount of money allotted for casual hours needs to remain the same from year to year. This causes a hardship for the Library's budget when minimum wage increases or casual employees receive a raise. Last year, the Library spent 101% of their personnel budget. This point is being added to the Business Plan in order to increase awareness of the problem.

- Reference librarians are spending an inordinate amount of time managing public computer functions (e.g. fixing paper jams, adding paper to the printers, showing patrons how to reboot a computer). An idea to establish a teen employment program has been developed to assist patrons with basic computer tasks. This would give the teens an employment opportunity and free up the librarians' time. Staff would like to apply for an ICMA grant to give this idea a trial run, but if they receive the grant and the program has positive results, the Library would need a way to fund the ongoing cost. Thus, a $50,000 enhancement request has been included in the Business Plan for this purpose. Both Bill and Jacque were of the opinion that it would be a good idea to quantify the amount of time librarians spend on these types of tasks versus the amount of money it would cost to have a teen perform the same tasks. Leanne clarified that it is not a matter of saving money, but instead the redeployment of the reference librarians. Carolyn concurred and added that they would be free to more actively engage patrons, especially on the main floor. Several suggestions were made by Board members for partnerships and grants. Scott inquired if there was a reason only teens were being considered and Carolyn said staff thought it would be a good opportunity for local high school students who otherwise have difficulty getting jobs. Leanne affirmed this sentiment and added that partnerships might be more easily identifiable with teens.

- An ongoing concern regarding the branches, specifically Monroe and Alsea, operating with only one staff person is still viewed by Carolyn and other staff members as unsafe. She again would like to include this enhancement in the Business Plan, but still needs to figure out the exact cost of adding more staff. Bill inquired how many hours each branch is open and Carolyn responded 31½ hours for Alsea and 26 hours for Monroe.

- In 2003, budget cuts eliminated a .25 FTE Adult Reference position for adult programming. If this enhancement is approved, it would be added to a current part-time staff member's schedule. Jacque suggested including examples of adult programming in the request.

Carolyn asked if there were any other ideas for the enhancement list and if so, she needs to know by the end of the week. Jacque commented it would help with some of the arguments to include language about public libraries being a refuge during adverse economic times and Carolyn noted she will do so in her verbal presentation.

IX. INFORMATION SHARING

Carolyn thanked Bill for his assiduous service to the Library Board. He will be replaced by another City Council member after the first of the year. Curtis distributed the newly published "Books for Giving" pamphlet that Youth Services created. They are looking at expanding the pamphlet to include adult books next year.

X. ADJOURNMENT

The meeting was adjourned at 8:55 pm.

NEXT MEETING: February 4, 2009 at 7:30 pm

CITY OF CORVALLIS
DOWNTOWN COMMISSION MINUTES
JANUARY 14, 2009

Present
Pat Lampton
Jim Moorefield
Michele Adams
Kirk Bailey
BA Beierle
Justin Wirth
Kavinda Arthenayake
Liz White
Les Boudreaux

Mark O'Brien, Council Liaison

Excused
Bernie Sebastien
Catherine Mater

Staff
Ken Gibb, Community Development Director
Sarah Johnson, Assistant Planner
Claire Pate, Recorder

Guests

SUMMARY OF DISCUSSION

	Agenda Item	Held for Further Review	Recommendations
II.	Approval of December 10, 2008 minutes.		Approved, with one modification.
III.	Public Comment		None.
IV.	Presentation by Mayor Tomlinson: Mayors Institute of City Design		For information only
V.	Continued Discussion of 2009 Work Program		For information only
VI.	Updates		
VII	Other Business		
VIII	Adjournment		Meeting adjourned 7:10pm

CONTENT OF DISCUSSION

Chair Pat Lampton called the Corvallis Downtown Commission to order at 5:30 p.m. in the Madison Avenue Meeting Room, 500 SW Madison.

I. CALL TO ORDER:

Introductions were made, and it was noted that Mark O'Brien was the new Council Liaison to the Downtown Commission.

II. APPROVAL OF DECEMBER 10, 2008 MEETING MINUTES:

Jim Moorefield moved and Ms. Beierle seconded to approve the December 10, 2008 minutes with one change as noted below:

Page 5, Section VII: Change first sentence to read as follows: *Assistant Planner Sarah Johnson reported that the City Council unanimously approved the Urban Renewal Plan with a few changes, including the clarification of a couple of sections. The plan includes a map and a legal description of the boundary."* The motion was unanimously approved.

III. PUBLIC COMMENT: None.

IV. MAYOR CHARLIE TOMLINSON'S PRESENTATION ON THE MAYORS' INSTITUTE OF CITY DESIGN:

Mayor Tomlinson outlined a presentation he had given to urban planning and design professionals, at a recent Mayors' Institute of City Design session held in Seattle. The intent was to get feedback on Corvallis' vision and planning initiatives for its downtown area. He shared with the Downtown Commission the comments he received, both general and specific to the plan, following his PowerPoint presentation outline:

General Urban Design Themes:

- Eliminate lost space, such as the space between 3rd & 4th south part of the downtown area.
- Restoration of natural areas
- Create social opportunity through urban form
- Enhance recreation
- Streets are a public space - only 50% for use by cars; the rest for bikes, pedestrians and greenways
- Create sociable environments
- Eliminate unsustainable public spaces

Pedestrian scale and Linkage Themes:

- Safe, functional and comfortable
  Minimize auto impact
- Balance public space and building scale - City Hall block plan shows a building too large in scale for the public space
- Provide safe and efficient pedestrian linkage
- "Tame the street" - use traffic calming devices such as on 1st Street

Parking::

- Typically there is not a parking problem, just a walking problem.
- Minimize diagonal parking, such as the diagonal parking on 2nd Street for which we get complaints
- Instead of the 85% parking utilization benchmark we use for downtown, use up to a 150% utilization benchmark for major shopping days
- Move at grade parking to residential and commercial use only
- Build multiple parking garages with lower mass and greater flexibility

- Lack of parking is a major indicator of the continuing success of a public space
- Parking should be within three blocks of a public space
- Put parking underground
- Their specific comment on proposed parking structure in City Hall block: too massive for the City Hall structure

Campus linkage:

- Let campus spill into the downtown with university functions. University of Washington does this as does Portland State University; functions such as the Art Department
- Promote university and museum partnership with potential private development. Also an opportunity for the proposed 509J teacher training to integrate into the plans for the museum, locating downtown which would bring OSU faculty into the downtown as well. While museum honors the past, these other usages honor the future.
- Street car linkage on Jefferson; pedestrian linkage on Madison. People get on light rail (on tracks) more easily than on a bus.
- Along Madison avenue or other linkage avenues, continue to develop university housing toward downtown.

Transit:

- Fund transit first then everything else follows.
- Make transit a mode of choice. Corvallis has a lot of existing tracks that connect many parts of town and could be used for a light rail transit system.

Other ideas:

- Build cinemas in parking garages, so that the garage also becomes a destination.
- Infrastructure should be a driver of community development.
- Eliminate one way streets, they are meant to move people through quickly, and do not give "eyes" going both direction. Third and Fourth Streets come under ODOT so we do not have much of a choice. If we get a northern bypass built, jurisdiction of 3rd & 4th might come back to the City and we might be able to alter the configuration.
- Provide amenities and development will come to it. This was our thought with the Riverfront park.
- City should purchase property to determine what will be developed on the property.
- Have a cooking school downtown.
- FOOD drives people presence.
- Use Urban Renewal to attract retail
- Commercial should go in on ground floor of a parking garage.
- Clearly, we should get people onto the river. We should have kayaking, canoeing opportunities; perhaps a boathouse.
- Do not remove trees or mature vegetation.
- Do not remove existing people or activities.
- Do not demolish any building until a replacement is ready to go up. Such as Copeland Lumber.
- Do not add any commercial land in town that would take investment away from downtown projects.
- Beware of the "broken window" effect.

Mayor Tomlinson suggested that as part of Downtown Commission's work program, they might want to arrange for a visit from a competent urban designer to do a walk through of downtown area and get some ideas from him/her.

Chair Lampton thanked the Mayor for his presentation and suggested that the Downtown Commission could spend some time with this list and figure out which of them were applicable and could be used as guiding principles. For instance, though it is important to protect the commerce in the downtown area, this might fly in the face of providing nodes of retail centers more accessible to neighborhoods.

Mayor Tomlinson emphasized the importance of three points: getting people down to the river by providing better access to it for recreation and enjoyment; increasing the linkage with campus; and getting something going with the empty museum block property. Ms. Adams said that La Crosse, Wisconsin and Boise, Idaho were two cities that used their rivers well.

The commissioners then discussed funding mechanisms, and Mayor Tomlinson said that the Urban Renewal Plan will hopefully pass and provide funding. Mr. Moorefield said that they should begin developing the partnerships and the planning for a potential development on the museum property block. And on other under-utilized land. The museum would likely need to combine with other functions in order to enable it to develop Mr. Lampton said they needed to focus on getting the Urban Renewal Plan approved, while developing some guiding principles, and invite in folks who own properties who might have some plans and take a look at them.

Mr. Bailey said they should also consider other funding mechanisms such as being involved in the genesis of new projects for the City's Capital Improvements Plan.

V. CONTINUED DISCUSSION OF 2009 WORK PROGRAM

Community Development Director Ken Gibb said that, if approved by voters in May, the Urban Renewal Plan (URP) will create a lot of work for staff and the Downtown Commission. He suggested that they decide on a mix of projects that could keep the Downtown Commission busy in the meantime. He called attention to the summary of their discussion from the last meeting. More detail was asked about what it means to "oversee and implement" the Downtown Corvallis Strategic Plan. Mr. Gibb said that the plan calls for a formal review every two years and that no entity had been assigned this task. The Downtown Commission could take on management responsibility for it.

Staff suggested the following as possible work items until the URP is approved:

- Parking plan - mini update (this would be worked through the Parking Committee with recommendations from staff)
- Locations of electrical charging stations in downtown area
- City Hall block improvements - Public Works will bring a proposal forward in March
- Alley access issue - look at issues such as widths and alley one way vs two way, placement of waste containers
- Land Development Code amendments - tweaking them to support the Downtown Strategic Plan.

Ms. Adams said that another item might be to develop a vision and a development strategy for the Evanite property. Mayor Tomlinson thought that this could be a focus for having an urban planner to come in, walk the property and generate ideas. Chair Lampton cautioned that it is private property. Mr. Moorefield supported the importance of having a vision for this valuable space and suggested that there could be a forum where private and public concerns can share planning ideas.

Mr. Moorefield added that he would like the Downtown Strategic Plan to encourage the development of housing choices downtown, and explore the range of other things we could encourage. The word "encourage" implies incentivizing versus implementing by code.

Chair Lampton advised the commissioners that their primary charge is implementation of the Downtown Corvallis Strategic Plan and said that the group needs to spend time with it and be familiar with all of its elements. They should also be taking time to read and acquaint themselves with other applicable plans, such as the South Corvallis Plan, Transportation Plan, etc. Mr. Bailey suggested that they have mini-discussions about the plans.

Mr. Moorefield said it was a mistake to put all their eggs in the URP basket. There are other tools available and the Downtown Commission needs to be proactive and visionary, especially about big chunks of land like Evanite. They need to explore what other tools might exist for carrying out their mission. Ms. Beierle suggested that the Oregon Main Street program might be one of those tools.

There was a consensus to have a work program that mixed some of the smaller action items with discussion items about the various plans that already exist. There could also be an exploration of the larger subjects such as where they stand on the strategic plan, and other tools that might exist as funding mechanisms.

VI. UPDATES

- Oregon Main Street program - we missed the first round of cities selected, but the Downtown Corvallis Association has a request into City Council to support the program. This program offers mostly technical advice, but opens the door to funding possibilities.

- The Urban Renewal Plan will go to City Council Committee next week for consideration of the ballot title and content, and the voter pamphlet explanation is being worked on.

- Ms. White gave an update on the Parking Committee activity, and said that they were discussing enforcement of employee parking limitations. They were also wrestling with the issue of roles and responsibilities and how they interface with the Downtown Commission. They are starting to look at the bigger picture, and they will need to know their limitations so that they will know when to defer decisions to Downtown Commission. Generally, parking control changes go directly from the Parking Committee to City Council. Other more policy-oriented issues would come to the Downtown Commission before going to City Council. Both entities will have to continue to fine-tune how they mesh together.

VII. OTHER BUSINESS

Mr. Arthenayake said that part of his job is to bring people to campus, and it is always an issue to get conference attendees downtown and to shuttle people from Holiday Inn Express, where many end up staying, back and forth from downtown to campus. This will be a very important transit issue to work on.

VIII. ADJOURNMENT

The meeting was adjourned at 7:10pm. The next meeting will be February 11, 2009, 5:30pm, at Madison Avenue Meeting Room, 500 SW Madison.

DRAFT
Subject to review & approval by Downtown Parking Committee

DOWNTOWN PARKING COMMITTEE
MINUTES
January 6, 2009

Present
Holly Peterson, Chair
Brad Upton
Liz White
Patrice O'Brien, Councilor
Mark O'Brien, Council Liaison

Staff
Lisa Namba, Public Works
Kathleen Begin-Wasco, CPD

Visitors
Alan Ayres

Absent

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Call Meeting to Order • Approve December 2, 2008 Minutes			Minutes approved
II. Old Business • Management Strategies for 2nd Street		X	The Committee decided to table the letter to downtown businesses addressing parking
III. New Business • Pursuit of Shared Parking Opportunities with Private Lots			Item tabled
IV. Pending Items • Conversion of 2-Hour Signed Spaces to 2-Hour Metered Spaces (Held until Parking Plan Review) • Parking Survey Update (Core Zone Mgt. Strategies, Enforcement Effectiveness Assessment) • Potential Ord. Change 6.11.300 1)Downtown Free Customer Parking		X	Item tabled Item tabled Combining with Management Strategies for 2nd Street
V. Committee Requests and Reports • CIBA/DCA Bike Parking			The Committee requested Staff action on this
VI. Visitor Comments	X		
VII. Other Business/Actions/Information Sharing • Local Bike Rack Manufacturing			The Committee decided to continue doing business with the current supplier

CONTENT OF DISCUSSION

I. Call Meeting to Order

Chair Peterson called the meeting to order at 5:30 p.m.

Committee Member Upton moved to approve the December 2, 2008 minutes; Committee Member O'Brien seconded the motion. The minutes were unanimously approved.

II. Old Business

Management Strategies for 2nd Street
The Committee discussed the letter that had been drafted to send to downtown businesses regarding compliance with the downtown Free Customer Parking Area (FCPA). The Committee wants to go ahead with the survey portion of the letter in order to get a better perspective on how downtown businesses and residents feel about parking management downtown. Staff will develop some survey questions for the Committee to review at the next meeting.

There was considerable discussion about the pros and cons of the current parking control method downtown. The Committee had numerous questions for Parking Enforcement Staff, and agreed that there were significant issues with the FCPA. It's difficult to enforce and ensuring compliance is time-consuming; consequently, there appear to be a number of employees and residents who park within the FCPA. The Committee decided to look at the previous Commission's discussion in 2002/2003 on changing the parking control downtown to a three-hour limit, as well as 2007 research on how other cities manage their parking, in order to make an informed decision on how to proceed. Ms. Namba reported staff is unaware of any other cities in Oregon that manage downtown parking the way Corvallis does. Most other cities have gone to free, time-limited parking that is available to anyone, with three hours being the most common limit.

III. New Business

Pursuit of Shared Parking Opportunities with Private Lots
The Committee decided to table this item.

IV. Pending Items

Conversion of 2-Hour Signed Spaces to 2-Hour Metered Spaces
The Committee decided to table this item.

Parking Survey Update
The Committee would like to pursue this item at some point, and as noted in Management Strategies for 2nd Street under Old Business, requested that staff develop for review by the Committee a short survey of downtown employers.

Potential Ordinance Change 6.11.300 1)Downtown Free Customer Parking
The Committee decided to combine this item with the "Management Strategies for 2nd Street" item.

V. Committee Requests and Reports

Ms. Namba suggested reorganizing the agenda to receive Visitor Comments earlier in meetings, after approving minutes and before Old Business. Councilor O'Brien mentioned that the City Manager's Office is working to create a standardized agenda format for all Commissions and Committees.

Staff report on CIBA/DCA Bike Parking
The Committee asked staff to follow up on this item. Staff will contact these business groups to let them know about the partnering possibilities for having bike racks installed in front of businesses.

VI. Visitor Comments

Mr. Ayres requested the addition of seven two-hour meters in front of his building at 521 SW 2nd Street to create turnover in those spaces, which are currently being parked all day. It was suggested that this portion of 2nd Street be included in whatever is decided about the Downtown Core parking area. Mr. Ayres would be satisfied with either two-hour limit signs or meters. The Committee requested that staff contact Mr. Ayres to review the request and examine options.

VII. Other Business/Actions/Information Sharing

Local Bike Rack Manufacturing
Committee Member Upton has not been able to contact LBCC in regard to producing bike racks, and Cornerstone Associates is not interested. The Committee decided to continue to use the current supplier in Junction City.

The meeting was adjourned at 7:00 p.m. by Chair Peterson.

NEXT MEETING: February 3, 2009, 5:30 p.m., Madison Avenue Meeting Room

CITY OF CORVALLIS
HISTORIC RESOURCES COMMISSION MINUTES
JANUARY 13, 2009

Present
Deb Kadas
Scott McClure
Bruce Osen, Chair
E. Ross Parkerson
Michael Pope
Cynthia Solie, Vice Chair
Jacqueline Stephens
Karyn Bird, Planning Commission Liaison

Excused
Robert "Jim" Morris
Aaron Collett
Dan Brown, Council Liaison

Staff
David Coulombe, Deputy City Attorney
Brian Latta, Assistant Planner
Bob Richardson, Associate Planner
Kelly Schlesener, Senior Planner
Mark Lindgren, Recorder

Guests
B.A. Beierle, PO Box T
Chris Bentley, Assoc. Planner, BC Comm. Dev.
Larry Landis
Margaret Fox
Emily Killin
Hilarie Phelps, 2310 NW Harrison Blvd.

SUMMARY OF DISCUSSION

	Agenda Item	Held for Further Review	Recommendations
I.	Work Session with Benton County HRC		Discussion on Historic Preservation Month planning.
II.	Visitor Propositions		None.
III.	Public Hearings. A. (HPP08-00022) Ira & Sadie Allison House		A. Motion passed unanimously to approve the application as proposed, with staff report conditions.
IV.	Minutes Review- December 9, 2008		Minutes approved as presented.
V.	Other Business/Info Sharing		Special January 27, 2009 meeting scheduled to develop the HRC work plan; 6 p.m. at the Madison Avenue Meeting Room.
VI.	Adjournment.		Meeting adjourned 8:00 p.m.

CONTENT OF DISCUSSION

Chair Bruce Osen called the Corvallis Historic Resources Commission to order at 7:02 p.m. in the Corvallis Downtown Fire Station Meeting Room, 400 NW Walnut Blvd.

I. WORK SESSION WITH BENTON COUNTY HRC.

Chris Bentley suggested splitting costs of Historic Preservation Month; she stated new ideas were needed. Deb Kadas suggested highlighting Historic Preservation Month activities that draw the biggest audiences; that could require making tough choices. She suggested events that dovetail with

the current sustainability efforts. She noted the Commission has jurisdiction over 500 properties and suggested simple primers, such as, "So You're Thinking of Remodeling Your Historic Home"; this would promote public relations and help people to know what to expect if they decide to do something that could come before the HRC.

Ms. Kadas related the Assistance League's tour will focus on remodeled homes; one of them came before the HRC (for window changes); it could be a chance to promote what the HRC does. Ms. Beierle added that no activities will be scheduled during the tour of homes in order to avoid dividing the market.

Ross Parkerson noted that a booth at the Farmers Market, which starts the third Saturday of April, is a good opportunity to promote Historic Preservation Month. Ms. Bentley noted that there is usually a speaker and asked for suggestions; sustainability could be a good theme this year.

Scott McClure suggested an informational presentation on why one might want to consider maintaining one's historic windows; he suggested holding it at the library, which is easy to get to. Ms. Beierle concurred that that might be the most important sustainability topic. Mr. Parkerson suggested scheduling it like a Brown Bag event at the library. Ms. Beierle suggested a Brown Bag series in May, including an event based on Ms. Kadas' suggestion regarding changing one's historic home. Another topic could be on buying a historic home.

Doug Eaton suggested events linked to Oregon's 150th Anniversary that would involve schools at all levels; for example, extra credit could be given to students participating in historic tours; he suggested outreach to teachers. Two front-page stories during May would be a step forward; coverage in the past has boosted attendance for specific events. Ms. Beierle added that the newspaper is interested in new, fresh events.

Mr. Eaton emphasized the importance of the mayor kicking off the month at the beginning of the month, not near the end. He advocated inviting old home owners to events (or just to meet each other). He suggested adding one interior tour on each walking tour.

Jacqueline Stevens related that she previously lived in an antebellum home in the old tourist town of Natchez, Mississippi. Opening up such homes there to the public was critical to raising the funds to save those houses. She noted that the trolley tours here are always solidly booked. She related that she owned a tour company that successfully held nightly tours in Natchez; she suggested having some participating homeowners wear period dress and perhaps tell stories. Another possibility would be to have actors stand outside on the porches; history or theater majors at OSU may wish to participate.

Mr. Landis recalled that OSU stated that it planned to hold an event to celebrate the establishment of its historic district and May would be a perfect time; several members concurred. He volunteered to contact OSU. He emphasized avoiding competing events, especially on Mother's Weekend.

Mr. Parkerson related that he previously lived in Petaluma, a town similar in some ways to Corvallis, which developed a Petaluma Heritage Homes House Tour, similar to the tours described by Ms. Stevens; these were well attended and profitable. Eight or nine homes would be opened up once a month, generally in September or October, with homeowners in period costume. Petaluma preservation advocates research the people notable in the town's growth and then someone acts out the part, leading walks once a month on Sunday, starting from the museum.

Mr. Parkerson noted the date of Oregon's 150th Anniversary is February 14; he advocated piggybacking information on Historic Preservation Month activities with whatever the Chamber of Commerce has published by then. Ms. Bentley noted there is a state website regarding the anniversary.

Margaret Fox suggested borrowing costumes from OSU's Costume Shop. She related that there have been discussions about activities to draw kids to the Crystal Lake Cemetery; perhaps there could be a scavenger hunt as a family activity. Someone could be there in period dress. Ms. Stevens added that Natchez holds a cemetery tour at night called Angels on the Bluff; the tour is booked months in advance. The tour was very profitable and was changed every year. People in costumes sat at selected gravesites and told the story of who their historic character was.

Ms. Fox stated that museum docents are well prepared to make presentations on topics. The museum has scheduled events in March with Sharon Applegate and a Calapooia tribal elder; marketing then could tie in to the May events. Mr. Parkerson suggested having fliers for Historic Preservation Month available at all such events.

Ms. Kadas emphasized that people must receive a message several times before they respond. She suggested targeting property owners and members of the Benton County Historical Society. She said the BCHS membership would be a good mailing list. She suggested placing windshield slips on parked cars at Saturday Market. She added that Eagle Scouts need projects; that could tap the Scouting community. The Benton County Genealogy Society was suggested as another good mailing list.

Ms. Beierle emphasized the importance of including the list of events in the BCHS newsletter. She stated that she was hearing a recurring theme of sustainability among participants as a topic for a speaker. She anticipated the National Trust would put forward a sustainability theme, too.

Ms. Beierle ran down the list of proposed events. Mr. Eaton confirmed there would be an inside tour of the Whiteside Theater. Following discussion, members agreed to not schedule a Hull-Oakes tour.

Ms. Kadas observed that people love contests and suggested having walking tour participants paying attention to finding things; Ms. Stephens added that she has done that on tours and people enjoy it. Ms. Stephens related she put on an event where participants had to find architectural details on downtown buildings to fill out a form; a store could sponsor goodies or gifts. Ms. Beierle noted the Gazette-Times took photos during Corvallis Sesquicentennial; the Gazette-Times would likely partner to create an event with the photos. Ms. Kadas suggested having merchants or Historic Preservation Month events give out stamps for participants to collect in order to enter in a drawing.

Mr. Richardson suggested forming a subcommittee to work out details.

Mr. Parkerson suggested that having kids doing sidewalk stamp rubbing would tie in to education. Mr. Eaton suggested a geocaching event. Ms. Bentley asked for speaker topics and suggested that one sustainability topic could be, "The greenest building is one you don't have to build". Ms. Beierle noted that the case is often made that historic preservation was a sound, sustainable practice in and of itself. Ms. Kadas stated that the Architectural Heritage Center in Portland may have some speaker suggestions.

Ms. Solie volunteered to work on the awards, suggested the major players confer ahead of the event to try to get a balanced mix of awards, and asked for feedback on last year's awards. Ms. Kadas offered to work on awards, along with Ms. Killin. There was consensus that the Benton County Courthouse was a good venue. Ms. Beierle noted there will be a city election on May 12; Ms. Bentley will check on availability.

Mr. Eaton stated that new walking tours are needed; he will work with Mr. Parkerson and Ms. Stephens.

Ms. Kadas suggested that marketing could be its own committee, and publications should include consistent use of typefaces, styles and logos. Ms. Killin stated she would like to have scheduled one of the driving tours using the Benton County Historic Guide developed a year ago. Ms. Bird added that she would like to have a bicycling tour developed. Ms. Bentley noted that there was a daylong bike tour of rural historic Benton County last year. Ms. Beierle stated that PreservationWorks would do marketing.

II. VISITOR PROPOSITIONS. None.

III. PUBLIC HEARINGS –A. IRA & SADIE ALLISON HOUSE (HPP08-00022)

A. Opening and Procedures:

Chair Osen reviewed the public hearing procedures. Staff will present an overview followed by the applicant's presentation. There will be a staff report and public testimony, followed by rebuttal by the applicant, limited in scope to issues raised in opposition and sur-rebuttal by opponents, limited in scope to issues raised on rebuttal. The Commission may ask questions of staff, engage in deliberations, and make a final decision. Any person interested in the agenda may offer relevant oral or written testimony. Please try not to repeat testimony offered by earlier speakers. It is sufficient to say you concur with earlier speakers without repeating their testimony. For those testifying this evening, please keep your comments brief and directed to the criteria upon which the decision is based.

Land use decisions are evaluated against applicable criteria from the Land Development Code and Comprehensive Plan. A list of the applicable criteria for this case is available as a handout at the back of the room.

Persons testifying either orally or in writing may request a continuance to address additional documents or evidence submitted in favor of the application. If this request is made, please identify the new document or evidence during your testimony. Persons testifying may also request that the record remain open seven additional days to submit additional written evidence. Requests for allowing the record to remain open should be included within a person's testimony.

The Chair opened the public hearing at 7:02 p.m..

B. Declarations by the Commission: Conflicts of Interest, Ex Parte Contacts, Site visits, or Objections on Jurisdictional Grounds

1. Conflicts of Interest – None.
2. Ex Parte Contacts – None.
3. Site Visits –Declared by all except Commissioners Kadas, Osen and Pope.
4. Objections on Jurisdictional Grounds – None. No rebuttals were made.

C. Staff Overview:

Assistant Planner Brian Latta stated that the subject site is located at 2310 NW Harrison Boulevard. The Applicant is proposing to do an Alteration or New Construction of a 314 square foot addition towards the rear, on the west side. The proposed addition will physically connect the primary structure to the existing cottage (previously the garage); however, the addition will only be connected internally

to the primary structure. A landing is also proposed to connect the existing walkway between the two existing structures; and to install two windows on the existing cottage; and to remove the existing porch on the north of the cottage and relocate it to the west end of the proposed addition.

D. Legal Declaration:

City Deputy Attorney David Coulombe stated that the Commission would consider the applicable criteria as outlined in the staff report, and he asked that citizens direct their testimony to the criteria in the staff report or other criteria that they feel are applicable. It is necessary at this time to raise all issues that are germane to this request. Failure to raise an issue, or failure to provide sufficient specificity to afford the decision-makers an opportunity to respond, precludes an appeal to the State Land Use Board of Appeals on that issue.

The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government to respond to the issue precludes an action for damages in Circuit Court.

E. Applicant's Presentation:

Hilarie Phelps related that she and Allen Goodman are the current innkeepers at Harrison House Bed &Breakfast at 2310 NW Harrison Blvd. After living there for a couple years, they decided they needed more room for themselves, which is the reason for the family room addition. They sought to locate the addition in a way that would least affect the historic structure. The proposed addition, to the northwest, will only touch the original structure by six feet and will not be very high into the wall; it will only require changing one window to a French door, so it would be quite simple to reverse the changes in the future, if desired.

The proposal will require making changes to the cottage; however, the portion of the cottage that would be affected was added on in 1997 with a building permit- it is not historic portion. The cottage was converted from a garage in 1997 by adding a sitting area and a porch; it is attached to the main building by a breezeway. The proposal is to relocate the covered porch, add new windows facing west and add a family room.

Ms. Phelps stated the design is compatible with the main residence and provides some differentiation by stepping back with the recessed 6' by 9' hallway to the proposed added family room, which provides symmetry with the original garage, which would become a bridge between the two structures. The Dutch gable roofing would be continued on the family room; all siding, materials, and trim would match the existing structure; and the covered porch would be replaced on the west.

The shutters from the window that is proposed to become a French door would be placed on the north-facing window in the hallway. The door opposite that window would match exactly the existing back door off the kitchen hallway. The doors on the west-facing wall of the family room would match the original 1939 front door (a Dutch door with lites and two side light panels. Pairs of windows, not single windows, with no shutters are proposed; she said this would help provide differentiation. (There already is one pair of windows on the existing original structure; this would provide an example to copy). She added that all existing shutters are plastic. All proposed new windows would be the same size as the main north-facing front windows and the same grid configuration; she is proposing using all wood with true divided lites.

Ms. Kadas praised the quality of the drawings and the thoroughness of the application.

F. Staff Report:

Planner Latta used PowerPoint to highlight the proposed site plan and the proposed floor plan. He stated that staff found the proposal consistent with compatibility criteria 2.9.100.04.b.1 and 2.9.100.04.b.2; the proposal is not making the historic resource more closely resemble the original.

Regarding the Facades and Architectural Details criteria, there are eight new windows and two doors proposed on the north-facing façade that faces Harrison Boulevard. Staff found the proposed windows were consistent with the windows on the house in material and detailing and consistent and compatible with the historic resource. The proposed windows would be aluminum clad, while the existing windows are not. Staff found the Facades criterion would be met.

Staff found Building Materials would be compatible with the designated historic resource. The proposed wood siding and trim would match; the doors and windows are proposed to be wood, and the shutters on the north hallway window will be relocated.

Regarding Scale, Proportion and Height, the 314 square foot addition is in relation to a 390 square foot garage/cottage and the designated historic resource is much larger; staff found the size and scale of the addition would be proportional to the designated historic resource. The height will be about 13.5' at the peak of the gabled roof and about 15' where the gambrel roof attaches, which is much lower than the height of the designated historic resource (about 24.5'); staff found the proposal was compatible.

Regarding the Roof Shape, the proposed gabled roof is proposed to match the cottage and maintain the same roof shape that extends from the cottage and will connect into the proposed gable roof end; staff found that was consistent. Regarding Pattern of Windows and Door Openings, he highlighted Table II on page 9 of the staff report that lists all proposed windows; all would be double-hung, and match those on the existing house in size and grid pattern. Staff found the proposal consistent with this criterion.

Regarding Building Orientation, no additional entrances are proposed for the north side and staff found the building orientation would not be affected. Staff found that RS-20 Site Development standards would be met; no change in its use as a bed and breakfast is proposed. Regarding Differentiation, staff found that the hallway would be set back 2.5' from the front of the house and 7.5' from the existing porch, which provided differentiation from the original designated historic resource.

He highlighted distributed Attachments E 14 through 17, which are reproduced more clearly than in the staff report. Mr. Latta related that staff found the proposal is consistent with the review criteria and compatible with the existing designated historic resource. Staff recommended that the HRC approve the proposed permit with staff recommended conditions of approval.

Ms. Kadas asked whether the proposal met setback requirements from the alley; Mr. Latta replied the proposal met all setback standards.

G. Public Testimony in favor of the application: None.

H. Public Testimony in opposition of the application:

B.A. Beierle stated the proposal does not meet criteria 2.9.100.04.b3.a, Facades; she noted the addition would be clearly visible from the street right of way. The addition to the primary façade of

the designated historic resource is also in alignment with the primary façade of the resource; the net effect is of increasing the bulk of the façade to the west, changing the entire appearance of the resource.

She noted that the existing windows are wood, not the proposed aluminum-clad wood, so the application fails the Materials criterion (b). Regarding the Differentiation criterion (n), she noted the addition is well differentiated from the historic structure through the passageway; differentiation does not apply to shutters or other materials. However, the alignment of the addition along the primary facade defeats the purpose of differentiation, creating a greater appearance along the primary façade on Harrison. In response to a query by Ms. Kadas, Ms. Beierle stated that architectural features are being retained, but the appearance of the entire façade is changing as a whole.

I. Neutral testimony: None.

J. Additional Questions for Staff: None.

K. Rebuttal by Applicant: None.

L. Sur-rebuttal: None.

M. Additional time for applicant to submit final argument:

The applicant waived the right to submit additional testimony and there was not been a request for a continuance or to hold the record open.

N. Close the public hearing:

Mr. Parkerson moved and Ms. Solie seconded to close the public hearing; motion passed.

O. Discussion and Action by the Commission:

Mr. Parkerson stated that the resource was an interesting structure, with many shapes. The 1997 addition was well done. The proposed addition shows sensitivity to the existing cottage and is a reasonable use of the property. The addition will be mostly screened from Harrison by a hedge. He noted that while there may be certain elements of the code that the proposal may not meet, the commission also tries to provide for the needs of those who live and work in historic structures like this, within reason, and this proposal meets that need.

Ms. Kadas concurred with Mr. Parkerson, as well as some of Ms. Beierle's concerns. She disagreed with Ms. Beierle's contention regarding the Materials criterion, noting that clad windows are little different than painted windows and are appropriate in this climate (especially in a new addition). Regarding the Facades criterion, she concluded that the façade was not being changed at all, it was simply being added to. Also, the hedge will somewhat screen the addition. The applicant spent a great amount of time to try to minimize the impact as much as possible and did a good job tying into the accessory dwelling, as well.

Mr. Parkerson added the applicant did a good job given the little amount of available space. Ms. Kadas emphasized the importance of continued and adaptive use of this property in this neighborhood, surrounded by student rentals, and praised the continued investment in the property.

Mr. Osen stated that the application highlighted the commission's ongoing challenge to respond to a more intensive city. It's a pleasure to see a project that respects the historic fabric and builds on that to make a more intensive use.

MOTION:
Ms. Kadas moved and Mr. Parkerson seconded to approve the application as conditioned in the staff report; the motion is based on findings in support of the application presented in the staff report and findings made by the commission during deliberation; motion passed unanimously.

P. Appeal Period:

Chair Osen stated that any participant not satisfied with this decision may appeal to the City Council within 12 days of the date that the Notice of Disposition is signed.

IV. MINUTES REVIEW.

December 9, 2008 minutes as presented; motion passed.

V. OTHER BUSINESS/INFORMATION SHARING.

There was consensus to schedule a meeting on Tuesday, at 6 p.m. at Madison Avenue Meeting Room on January 27, 2009 to work on the HRC's work plan.

Ms. Schlesener related an offer by Riverside Window and Door to make a presentation on window and doors replacements for historic buildings. The commission, following discussion, chose not to accept. Ms. Schlesener noted that Riverside could place materials in the HRC Library.

Chair Osen related attending the mayor's meeting with chairs of all city boards and commissions; he relayed the mayor's thanks for members' service.

Ms. Kadas highlighted receiving a notice about the Kline Department Store and asked about the application's status; Mr. Latta replied that the applicants had needed to gather more information and the commission will likely see the application at its February meeting.

VI. ADJOURNMENT: The meeting was adjourned at 8:00 p.m.

DRAFT

HOUSING AND COMMUNITY DEVELOPMENT COMMISSION
MINUTES
January 21, 2009

Present
Judy Gibson, Chair
Robin de La Mora
Jennifer Jordan
Michael L'Heureux
Sherry Littlefield
Patricia Weber, Planning Commission Liaison
Jeanne Raymond, City Council Liaison

Absent
Ed Fortmiller, Vice Chair
Buzz Berra
David McCarthy

Staff
Kent Weiss
Lauren Sechrist
Terri Heine

Visitor
Mark Kellenbeck, Cascade Management
Joe Heaney, Samaritan Village

SUMMARY OF DISCUSSION

Agenda Item	Action/Recommendation
I. Samaritan Village CDBG Project Funding Increase Request	Recommendation
II. Consideration & Approval: HCDC Draft Minutes of 12/17/08	Approval
III. Status: Loan Funds and Recent Rehab Loans	Information Only
IV. Summary of FY 09-10 CDBG & HOME Funding Proposals	Information Only
V. FY 09-10 Funding Proposal & Allocation Meetings in February	Information Only
VI. FY 09-10 Economic Development Allocations Request for Notices of Intent to Apply	Information Only

DRAFT

CONTENT OF DISCUSSION

I. Samaritan Village CDBG Project Funding Increase Request

Chair Gibson opened the meeting, welcoming new City Council Liaison, Jeanne Raymond. Samaritan Village representatives introduced themselves as Mark Kellenbeck, Cascade Management, and Joe Heaney, Board President. Mr. Heaney noted that several years ago, following a survey of Samaritan Village residents, it was determined that the installation of a lift in the Commons Building would improve quality of life and enjoyment of the complex. The City provided a grant of $100,131, the amount requested by Samaritan Village during the FY 08-09 funding allocation process a year ago, toward the installation of the lift as well as a natural gas-fueled backup generator. The original lift-related cost estimate used to support last year's grant request has turned out to be significantly lower than the bids recently received based on a more detailed request for proposals. In addition, since their original selection of lift equipment, Samaritan Village has now determined that there is a more desirable (and more expensive) unit available that will better suit their needs. Mr. Heaney noted that Samaritan Village is prepared and able to cover the amount related to opting to go with a more expensive lift equipment option ($15,949), adding that the grant increase of $22,518 requested today would cover the $19,349 difference between the original estimate used for the grant request and the now-known cost, as well as $3,169 in cost overruns related to the generator installation. The additional amount requested today would bring the total grant amount up to $122,649.

Chair Gibson asked Commissioners if they had any questions. Councilor Raymond asked for a more detailed description of the Limited Use Limited Application (LULA) elevator lift that has replaced the original lift proposed for the project. Mr. Kellenbeck responded that the type of lift originally proposed for the project was a basic wheelchair lift that would typically be found in a private residence. The LULA lift is similar in looks to an actual elevator and will better meet the needs of the complex as it will be used frequently by the residents. Commissioner Weber added that it was her understanding that the intent of the less-expensive lifts, such as the one originally included in Samaritan Village's proposal, is to provide businesses that are doing a retrofit a means to comply with ADA requirements for the occasional customer in a wheelchair, agreeing that it seems more appropriate to install the LULA at Samaritan Village to accommodate the heavier use.

Following the discussion, Commissioner Jordan moved, with Commissioner Weber's second, that the HCDC recommend City Manager approval of the request from Samaritan Village to increase their grant amount for their lift and generator installation project by $22,518 for a total grant amount of $122,649. The motion passed unanimously.

II. Consideration & Approval: HCDC Draft Minutes of December 17, 2008

Chair Gibson asked for consideration of the HCDC minutes of December 17, 2008. The minutes were approved unanimously.

III. Status: Loan Funds and Recent Rehab Loans

Grant Program Specialist Sechrist reported that one new First Time Home Buyer (FTB) loan had closed since the last meeting of the HCDC. Regarding rehabilitation loans, Sechrist reported that one new Essential Repair (ER) Program loan had closed since the last meeting, adding that several more are in the application/review process.

IV. Summary of FY 09-10 CDBG & HOME Funding Proposals

Weiss directed Commissioners to a table included in their packet entitled FY 09-10 Funding Requests: Letters of Intent Received by 11/03/08 and Applications Received by 1/8 and 1/9, 2009. He reminded Commissioners that they had previously reviewed the Letters of Intent Received portion of the table during their 11/19/08 meeting, adding that the table has now been updated to show the applications that were indeed received. Weiss noted that the amount of FY 09-10 CDBG & HOME funding showing on table are reflective of the amounts the City has received in recent years. He noted that there is speculation that the new administration will be more supportive of the CDBG & HOME programs, adding that the House has already proposed legislation that would increase funding for both programs, and it is possible that the final amounts allocated to the City for FY 09-10 will be larger.

Regarding Human Services Fund (HSF) proposals, Weiss noted that although the Arc of Benton County had submitted a Letter of Intent, the agency chose not to submit an application for FY 09-10. The Grace Center for Adult Day Services also had submitted a Letter of Intent, but the agency did not submit an application by the January 9 deadline. Following receipt of all of the HSF applications, Weiss noted that the proposed requests for funding now total $162,328, adding that the total Human Services funds anticipated to be available for allocation will be $80,000.

Continuing, Weiss noted that Willamette Neighborhood Housing Services (WNHS) has again submitted an application for $20,000 in funding outside of the Human Services and Capital allocation processes for its microenterprise program. He explained that this is an economic development activity and has its own category of eligibility withing the CDBG regulations.

Regarding CDBG capital funds, Weiss noted that three applications were received. The first proposal was submitted by the Arc of Benton County for funding in the amount of $12,700 for exterior painting of their four units located on NW Dream Place. The second application was received from Home Life for funding in the amount of $27,341 for a bathroom renovation project in their duplex located at 1710 NW Division Street. The final application was received from WNHS for $200,000 of assistance to fund public infrastructure costs for their Alexander/Seavey project. Weiss noted that the three applications total $240,041, adding that between $50,000 and $200,000 is expected to be available depending on rehab and First Time Home Buyer loan program needs for FY 09-10.

Regarding HOME capital funds, Weiss noted that three applications have been received from WNHS. He reminded Commissioners that $1,000,000 has already been committed to WNHS for their Alexander/Seavey Meadows housing project, adding that an additional request for $450,000 has been received for consideration during the upcoming allocation process. He noted that WNHS has intentionally submitted incremental annual requests for this project because the City has not had enough HOME funds available in an individual year to allocate at the $1.45M level the agency feels is necessary in order to move the project forward. The second application request from WNHS is for funding in the amount of $400,000 toward their purchase/rehab/resale program. Weiss explained that WNHS is looking to build on experience they will gain from what they anticipate being a successful Leonard-Knolls project. The final application requests $20,000 of assistance to fund WNHS's operations in their role as the HOME program's Community Housing Development Organization (CHDO). Weiss noted that the three pending applications total $870,000, adding that the amount of HOME funding available is anticipated to be approximately $970,000, which is the combined amount from FY's 07-08, 08-09 and 09-10.

Concluding, Weiss noted that staff is preparing summaries for all of the proposals received and will mail this informatin along with copies of the proposals to Commissioners in early February for their review prior to the proposal presentations on February 17 and 18.

V. FY 09-10 Funding Proposal & Allocation Meetings in February

Weiss noted that agency proposal presentations are scheduled during meetings on the evenings of February 17 and 18. Both meetings will be held in the Madison Avenue Meeting Room (MAMR). The February 17 session will begin with dinner at 4:45 and presentations following at 5:30. The meeting on the 18th will begin with dinner at 5:15 and presentations at 6:00. The second meeting will conclude with the allocation process following the final presentation.

VI: FY 09-10 Economic Development Allocations Request for Notices of Intent to Apply

Weiss directed Commissioners to a memo and related timeline included in their packet for general information purposes regarding the Notice of Intent for Economic Development Funding Request. He noted that the City's Economic Development funds are made up of a portion of the funds received from the City's transient room tax. An allocation process takes place each fiscal year for funding to be provided in the following fiscal year. Commissioners were invited to spread the word to agencies that may have interest.

There being no further business, the meeting was adjourned at 1:05 p.m.

Community Development
Planning Division
501 SW Madison Avenue
Corvallis, OR 97333

Approved as corrected, February 4, 2009.

CITY OF CORVALLIS
PLANNING COMMISSION MINUTES
January 7, 2009

Present
Karyn Bird, *Chair*
Frank Hann
Tony Howell
Steve Reese
Jim Ridlington
Denise Saunders
Patricia Weber
Joel Hirsch, *Council Liaison*

Staff
David Coulombe, Deputy City Attorney
Fred Towne, Planning Division Manager
Jeff McConnell, Development Engineering Supervisor
Matt Grassel, Development Review Engineer
Bob Richardson, Associate Planner
Brian Latta, Assistant Planner
Terry Nix, Recorder

Excused
Jennifer Gervais

SUMMARY OF DISCUSSION

	Agenda Item	Information Only	Held for Further Review	Recommendations
I.	Visitors' Propositions	X		
II.	Public Hearing **Storage Depot** **(PLD08-00008, LLA08-00006)**			Approved as conditioned.
III.	Public Hearing **First Presbyterian Church** **(PLD08-00012, SUB08-00006)**		X	The record was held open until January 14, 2009, 5:00 p.m. for additional written testimony. Deliberations will be held on January 21, 2009.
IV.	Planning Commission Minutes: None for consideration	X		
V.	Old Business	X		
VI.	New Business A. Planning Division Update	X		
VII.	Adjournment – 11:00 p.m.			

CONTENT OF DISCUSSION

The Corvallis Planning Commission was called to order by Chair Karen Byrd at 7:00 p.m. in the Downtown Fire Station Meeting Room, 400 NW Harrison Boulevard.

I. **VISITOR'S PROPOSITIONS:** There were no propositions brought forward.

II. **PUBLIC HEARING – Storage Depot (PLD08-00008, LLA08-00006):**

A. Opening and Procedures:

The Chair welcomed citizens and reviewed the public hearing procedures. This public hearing is continued from October 1, 2008. Staff will present an overview followed by the applicant's presentation. There will be a staff report and public testimony, followed by rebuttal by the applicant, limited in scope to issues raised in opposition and sur-rebuttal by opponents, limited in scope to issues raised on rebuttal. The Commission may ask questions of staff, engage in deliberations, and make a final decision. Any person interested in the agenda may offer relevant oral or written testimony. Please try not to repeat testimony offered by earlier speakers. It is sufficient to say you concur with earlier speakers without repeating their testimony. For those testifying this evening, please keep your comments brief and directed to the criteria upon which the decision is based.

Land use decisions are evaluated against applicable criteria from the Land Development Code and Comprehensive Plan. A list of the applicable criteria for this case is available as a handout at the back of the room.

Persons testifying either orally or in writing may request a continuance to address additional documents or evidence submitted in favor of the application. If this request is made, please identify the new document or evidence during your testimony. Persons testifying may also request that the record remain open seven additional days to submit additional written evidence. Requests for allowing the record to remain open should be included within a person's testimony.

The Chair opened the public hearing.

B. Declarations by the Commission: Conflicts of Interest, Ex Parte Contacts, Site visits, or Objections on Jurisdictional Grounds

1. Conflicts of Interest: Commissioner Weber stated that she has worked with one of the owner's representatives on projects in the past, and that this professional relationship will not impact her ability to be impartial.
2. Ex Parte Contacts: None.
3. Site Visits: Commissioners Hann, Howell, Reese, and Ridlington declared site visits.
4. Objections on Jurisdictional Grounds: None.

Commissioner Saunders stated that she was not present at the October 1, 2008 public hearing and has not listened to the tapes of that hearing. If deliberations on this item go forward this evening, she will not participate.

C. Staff Overview:

Assistant Planner Brian Latta said the applicant requests approval of a Conceptual and Detailed Development Plan to construct five mini-warehouse storage buildings, and approval of a Lot Line Adjustment to consolidate four existing tax lots into one. The proposal includes street improvements to SW Hopkins Avenue; a north-south right-of-way on the west end of the development site; and associated landscaping. The applicant's request is an expansion of the existing mini-warehouse facility, which has four storage buildings and an office. The Planned Development Overlay is proposed to include the existing and the proposed storage and office buildings. Planned Development approval is requested to allow variations to Land Development Code requirements regarding green area, block perimeter standards, building orientation, building design, and parking.

Planner Latta reviewed the Vicinity Map, Comprehensive Plan Map, Zoning Map, Existing Conditions Map, and Natural Hazards Map for the site and surrounding properties.

D. Legal Declaration:

Deputy City Attorney Coulombe said the Commission will consider the applicable criteria as outlined in the staff report, and he asked that citizens direct their testimony to the criteria in the staff report or other criteria that they believe are applicable. It is necessary at this time to raise all issues that are germane to this request. Failure to raise an issue, or failure to provide sufficient specificity to afford the decision-makers an opportunity to respond, precludes an appeal to the State Land Use Board of Appeals on that issue.

The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government to respond to the issue precludes an action for damages in Circuit Court.

E. Applicant's Presentation:

Carey Stephens, 123 NW 7th Street, said he is an attorney representing the applicant, Scott Lepman. He said he would update the Commission on changes to the application since the October 1, 2008, public hearing and address the proposed Conditions of Approval. Changes to the application include an increase in the caliper of the trees to three inches, a change in the type of tree to medium-canopy, an increase in the number of trees to 19 street trees and 20 landscape trees, enlargement of the landscape bulbing at the ends of the building to the maximum amount possible while still allowing for the needed turning radius for vehicles, and the addition of trees within the landscape bulbing. In response to comments at the previous hearing regarding green area, the applicant is proposing to add a 2.5 foot strip of pervious paving along the buildings and pervious paving in the emergency access area. Technically, the pervious pavement does not qualify as green area, but it could be

considered as a compensating benefit since it addresses stormwater concerns. The proposal exceeds the amount of landscaped area by about 50 percent. Other proposed changes include shortening Building I and adding windows to the second and third floor of Building E.

Mr. Stephens referred to Condition of Approval 14. He said it is the applicant's position that, based on the traffic study, the north-south street is not necessitated by the proposed development, and that there should be some compensating benefit for building that roadway. However, there was an agreement at an earlier stage that the roadway would be moved from the center of the property to the west edge of the property and the applicant is willing to honor that agreement.

Jack Burrell, K&D Engineering, 276 Hickory Street, Albany, 97321, addressed the Commission on behalf of the applicant. He submitted and reviewed a requested revision to Condition 9 to require that a LOMR-F from the Federal Emergency Management Agency (FEMA) be submitted prior to issuance of Occupancy Permit rather than prior to issuance of Building Permits **(Attachment A)**. He reviewed the basis for the request, as detailed in his written testimony, and stated that the revision would avoid a three month delay in receiving the Building Permit.

Mr. Stephens requested a change to Condition of Approval 14, the beginning of the second paragraph, as follows: "If the Applicant chooses to secure the improvements as allowed by LDC Sections 4.0.20.a.2, 2.4.40.12, and 2.40.09, the street improvements shall be constructed within 10 years of issuance of the building permit for any building *unless extended by the City Council...*" He said the applicant believes it is unlikely that the road will be needed 10 years from now and it makes more sense to build the road when it is needed.

In response to inquiries from Commissioner Weber, the applicant's representatives provided the following additional comments:

1) A Replat will be needed to consolidate the four tax lots into one. A Lot Line Adjustment is not the proper procedure to vacate the existing boundaries, which is why it was not addressed by the applicant.
2) There is currently an easement on SW Hopkins Avenue. There is a Condition of Approval to require a right-of-way dedication. The property that will be in the public right-of-way was not included in the applicant's greenway calculations.
3) There are 25-foot one-way drive aisles between the buildings. The buildings are proposed to line up in a way that would allow for security cameras to be used for the entire line of buildings.
4) Consolidation of the lots would eliminate setback requirements on the east side since there would no longer be a parcel line at that location.
5) A LOMA amends a FEMA map that is not accurate. A LOMR-F is used when the FEMA maps are correct, but one wants to place fill on a property to raise it up above the floodplain. The Condition of Approval should be revised to require a LOMR-F.
6) Building Permits are required prior to pouring foundations and slabs.

In response to inquiries from Commissioner Howell, the applicant's representatives provided the following additional comments:

1) The current fill permit is still valid. There is typically reluctance on the part of applicants to submit a LOMR-F application until they know there will be project approval. Mr. Burrell would recommend that the applicant be allowed to submit a LOMR-F application to FEMA after the foundation and concrete slabs have been constructed, and then proceed with the construction process without having to wait the 60 to 75 days that it would take for FEMA to process the application.
2) The applicant believes that the north-south road connection is not proportional to the increased traffic from this site. The applicant included it in the proposal based on an earlier agreement and asked for a compensating benefit. No compensating benefit has been allowed. The applicant believes that, constitutionally, it should not be required to build the road and that, if it is required to build the road, there should be an opportunity to ask the City Council for an extension of the 10-year time period specified in the Condition of Approval.

Commissioner Howell stated that there appears to be a contradiction in that the applicant is requesting a variance to not comply with minimum block size and the MUE requirement to have access from each street that the development abuts, and then raises constitutional issues about required improvements for a road that they would typically be required to access. Mr. Stephens stated that multiple access points to the subject site are not desired due to the nature of the proposed use; the applicant wants to provide a secure location and to monitor people who are coming and going from the site. He noted that mini-storage is an allowed use in this zone and that the applicant thought it would receive some compensating benefit for building a road that is not necessary for this use type. However, he said, the applicant does not want to continue to argue the point.

F. Staff Report:

Planner Latta reviewed the proposed site plan, noting that the proposed one-way drive aisles are 22 feet wide and not 25 feet as previously stated. He stated that the area proposed for outdoor storage is within the dedicated right-of-way, and that it would be necessary to go through a separate City Council process to apply for a license to occupy the right-of-way. This is addressed in the Conditions of Approval. He pointed out the proposed landscape areas, as well as the areas of the proposed extension of SW Hopkins and the north-south street improvements.

Planner Latta said the proposed Conceptual and Detailed Development Plan requests five variations to the Land Development Code standards. Other than the five requested variations, the proposal is consistent with applicable standards. He reviewed the variation requests and the proposed compensating benefits as detailed in the written staff report. He then reviewed staff findings related to the 14 compatibility factors, as detailed in the written staff report. He acknowledged that Condition 9 should be revised to require a LOMR-F rather than a LOMA. Staff requests that the LOMR-F be provided up front to ensure that a redesign is not required. The applicant was made aware since the beginning of discussions that this letter would be required prior to issuance of Building Permits.

Planner Latta stated that staff supports the requested variations and finds that, as conditioned, the proposal is consistent with the provisions of the MUE Zone, the review criteria in Chapter 2.5, and the applicable standards of Article IV of the Land

Development Code. Staff recommends that the Planning Commission approve the proposed Conceptual and Detailed Development Plan as conditioned.

Planner Latta said the Lot Line Adjustment process cannot be used to consolidate units of land. Depending on how the units of land were created, the applicant will need to do a Tax Lot Consolidation with Benton County, or a Minor Replat with the City. Staff recommends that the Planning Commission deny the proposed Lot Line Adjustment.

In response to an inquiry from Commissioner Weber, Planning Division Manager Fred Towne suggested that a Condition of Approval be added to require that the applicant consolidate the four existing units of land into one prior to issuance of building permits.

In response to an inquiry from Commissioner Hann, staff reviewed options for the north-south street improvements as detailed in Condition 14. Mr. Towne suggested that this be discussed further during deliberations.

G. Public Testimony in favor of the application: None.

H. Public Testimony in opposition to the applicant's request: None.

I. Neutral testimony: None.

The Chair reminded people that speaking neutrally removes rebuttal rights.

J. Rebuttal by Applicant: None.

K. Sur-rebuttal: None.

L. Additional time for applicant to submit final argument:

The applicant waived the additional time to submit written argument.

M. Close the public hearing:

MOTION: Commissioner Weber moved to close the public hearing. Commissioner Hann seconded the motion and it **passed** unanimously.

N. Discussion and Action by the Commission:

Commissioner Weber requested general information about the intent behind lot coverage maximums. Planning Manager Towne said there are a number of reasons for lot coverage maximums, including reducing impervious surface and providing landscaping to reduce heat islands, and providing an ability for water to flow across the land and slow down movement toward the river.

In response to inquiries from Commissioner Hann, Planning Manager Towne advised that the definitions chapter defines green area to include landscaping, private preservation areas, and/or pedestrian amenities such as sidewalks, plaza, multiuse paths, unenclosed patios and decks. Green area does not include areas covered by

buildings, structures enclosed on one or more sides, parking areas, or vehicle circulation areas. The pervious materials being proposed within vehicle circulation areas could not be counted toward green areas. In response to further inquiries regarding green area, Mr. Towne stated that the requirement for this development would be 20,000 sq. ft. of green area and that patios and pedestrian amenities could comprise half of that. The applicant is instead proposing to provide 15,700 sq. ft. of landscaping.

Commissioner Ridlington asked if neighborhood concerns regarding noise have been addressed. Planner Latta noted that the citizen concern compared this site to a County work site. Staff analysis found that it is not anticipated that there would be significant noise generated with the proposed use.

Council Liaison Joel Hirsch said he rents a storage unit at this location. He noted that the landscaping is generally around the outside of the facility. He believes that maximizing green space where the facility meets the public is a positive thing.

MOTION: Commissioner Howell moved to approve the Storage Depot Planned Development Permit number 2008-00008. The motion is based on findings presented in the December 26, 2008, staff report to the Planning Commission, and findings made by the Planning Commission during deliberations on the request. Commissioner Hann seconded the motion.

Commissioner Hann asked for staff input regarding the applicant's requested change to Condition 9. Planning Manager Towne stated that it is important that the City get the LOMR-F prior to building permits being issued. The City cannot approve a building permit that does not include the required standards without either a flow-through design or volumetric exchange.

Commissioner Hann asked for staff input regarding the applicant's requested change to Condition 14. Planning Manager Towne stated that a request to the City Council would not be the appropriate mechanism to extend the 10-year timeframe for the north-south street improvements. A PD Major Modification would be the available mechanism to extend that timeframe.

MOTION TO AMEND: Commissioner Hann moved to revise Condition of Approval 9 to change LOMA to LOMR-F. Commissioner Weber seconded the motion and it **passed** unanimously with Commissioner Saunders abstaining.

Manager Towne suggested a new condition of approval as follows: "Prior to issuance of Building Permits, the applicant shall consolidate the four existing units of land (tax lots 1300, 1600, 1700, and 1800) into one unit of land."

MOTION TO AMEND: Commissioner Hann moved to add a new Condition 24 as proposed by staff. Commissioner Howell seconded the motion and it **passed** unanimously with Commissioner Saunders abstaining.

Commissioner Howell asked for the City Attorney's opinion on the constitutional issue raised by the applicant regarding street improvements. City Attorney Coulombe said it is his opinion that it is not necessary to do a rough proportionality assessment given

that there was an earlier agreement that the applicant would construct the road. The Planning Commission could take on the task of conducting a rough proportionality assessment if it so chooses.

Commissioner Howell stated that, in terms of connectivity as addressed in the South Corvallis Area Refinement Plan (SCARP), the north-south route may preserve southbound left turn movements onto Hopkins for customers of this development, as opposed to having medians the full length of South Third. He stated that the land was purchased after completion of the SCARP, which was a well publicized process. He believes that the applicants had plenty of fair warning of what the requirements were going to be. He stated that the typical requirement for the MUE zone is to have an entrance for each building fronting on a particular street. It makes sense to vary that for this development, he said, but not to use that variance as a reason to not do the street improvements. Each property owner is responsible for constructing the part of the street that fronts their property. He thinks the 10-year window is a fair projection of when the street is likely to be needed, and there is a process to extend that timeframe if needed. He is satisfied that the additional amount of landscaping compensates for the lack of total green space for this type of development which does not lend itself to pedestrian amenities. Regarding the other variances, he believes the applicant has done a good job of trying to creatively meet the requirements of this zone.

Commissioner Weber said she does not agree that there is adequate compensation for the green area variance. While sidewalks, pedestrian plazas, driveways and buildings all constitute types of impervious surfaces, buildings and driving areas are considered to be pollution-generating impervious surfaces where sidewalks are not. Having more or bigger trees in landscaped areas does not compensate for having more pollution-generating surface. There is no reason that the applicant cannot meet the 80 percent lot coverage by making the buildings a little smaller. In addition, she is not convinced that the previous agreement to relocate the road obviates the block face standard that requires a pedestrian connection every 400 feet.

The amended main motion **passed** by a vote of 4 to 1, with Commissioner Weber voting no and Commission Saunders abstaining.

MOTION: Commissioner Howell moved to deny the Lot Line Adjustment Permit number 2008-00006. The motion is based on findings presented in the December 26, 2008, staff report to the Planning Commission, and findings made by the Planning Commission during deliberations on the request. Commissioner Reese seconded the motion and it **passed** unanimously with Commissioner Saunders abstaining.

O. Appeal Period:

The Chair explained that the decision will be effective 12 days from when the Notice of Disposition is signed, unless an appeal is filed with the City Recorder.

III. PUBLIC HEARING – First Presbyterian Church (PLD08-00012, SUB08-00006):

A. Opening and Procedures:

The Chair welcomed citizens and reviewed the public hearing procedures. Staff will present an overview followed by the applicant's presentation. There will be a staff report and public testimony, followed by rebuttal by the applicant, limited in scope to issues raised in opposition and sur-rebuttal by opponents, limited in scope to issues raised on rebuttal. There has been a request to hold the record open, so the Commission will not engage in deliberations or make a final decision this evening. Any person interested in the agenda may offer relevant oral or written testimony. Please try not to repeat testimony offered by earlier speakers. It is sufficient to say you concur with earlier speakers without repeating their testimony. For those testifying this evening, please keep your comments brief and directed to the criteria upon which the decision is based.

Land use decisions are evaluated against applicable criteria from the Land Development Code and Comprehensive Plan. A list of the applicable criteria for this case is available as a handout at the back of the room.

Persons testifying either orally or in writing may request a continuance to address additional documents or evidence submitted in favor of the application. If this request is made, please identify the new document or evidence during your testimony. Persons testifying may also request that the record remain open seven additional days to submit additional written evidence. Requests for allowing the record to remain open should be included within a person's testimony.

The Chair opened the public hearing.

B. Declarations by the Commission: Conflicts of Interest, Ex Parte Contacts, Site visits, or Objections on Jurisdictional Grounds

1. Conflicts of Interest: Commissioner Weber said she will recuse herself based upon the involvement of herself and her employer in this project. She left the meeting.
2. Ex Parte Contacts: None.
3. Site Visits: Commissioners Howell, Reese, and Ridlington declared site visits.
4. Objections on Jurisdictional Grounds: None.

C. Staff Overview:

Associate Planner Bob Richardson reviewed the Site and Vicinity, Comprehensive Plan Map designations, and Zoning Map designations of the subject site and surrounding properties. He advised that the church was listed in the Local Register of Historic Landmarks and Districts in 1989. In November 2008, the Historic Resources Commission (HRC) approved an application to apply a Historic Preservation Overlay to the lots west of the church contingent upon Replat approval. The HRC also reviewed the proposed addition for consistency with Land Development Code Chapter 2.9 and found the building design to be historically compatible.

Planner Richardson reviewed the applicant's request for approval of a Conceptual and Detailed Development Plan and a Major Replat. The applicant proposes to consolidate multiple legal lots on the subject site into a single parcel, construct a 6,444 sq. ft. single-story addition to the existing church building, and make associated changes to the site, including reducing, improving, and reconfiguring vehicle parking areas, reconfiguring access ways, and adding sidewalks, landscaping, and a bicycle parking shelter. The applicant requests to vary from certain Land Development Code (LDC) standards, including reducing on-site vehicle parking to less than the LDC minimum standard.

D. Legal Declaration:

Deputy City Attorney Coulombe said the Commission will consider the applicable criteria as outlined in the staff report, and he asked that citizens direct their testimony to the criteria in the staff report or other criteria that they believe are applicable. It is necessary at this time to raise all issues that are germane to this request. Failure to raise an issue, or failure to provide sufficient specificity to afford the decision-makers an opportunity to respond, precludes an appeal to the State Land Use Board of Appeals on that issue.

The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government to respond to the issue precludes an action for damages in Circuit Court.

E. Applicant's Presentation:

David Dodson, Willamette Valley Planning, introduced himself, Kurt Schultz of SERA Architects, Lyle Hutchens of Devco Engineering, and church member Tony VanVliet, all of whom will be available to answer questions. Mr. Dodson said the purpose of the proposed addition is to relocate the main fellowship hall from the second level to the ground floor, making it more convenient for elderly members of the church. The new fellowship hall will be used for church events, and the second floor area will be converted into a choir rehearsal room and education space. The proposed addition is not intended to increase church membership, but to provide a more accessible gathering area. Mr. Dodson reviewed the requested Detailed Development Plan. The parking area will be modified to accommodate 21 parking spaces with a new exit lane onto Ninth Street. A new covered bicycle shelter will provide parking for 16 bicycles. Although the church has owned and used 44 parking spaces west of the church since the 1980's, this parking has never been required. SERA Architects has designed the addition to closely mirror the prominent architectural features of the existing church, using building materials and architectural elements similar to those on the existing building. The design and materials of the proposed addition work in concert with the 1928 addition to frame the sanctuary when viewed from the intersection at NW Monroe Avenue and SW 8th Street.

Mr. Dodson said the request includes several variations from standards, the most significant of which is for vehicle parking. He reviewed the results of parking surveys done during times that the church is in use, which concluded that the proposed development, along with the reduction of 23 onsite spaces, resulted in 8 to 105 available parking spaces during Sunday services and 25 to 39 parking spaces

available on Tuesday evenings. On Wednesday mornings between 7:00 and 11:00 a.m. there were vacant parking spaces at all times except between the 10:00 and 11:00 a.m., during which analysis found a worst case finding of a one to three space deficit. The analysis reflected an average surplus of vacant spaces. The alternative to allowing on-street parking is for the church to acquire and demolish neighboring structures to provide a paved parking lot. The compensating benefits of using on-street parking include an efficient use of land through shared on-street parking, facilitation of infill development near the downtown and other civic uses, prevention of new pollution generating impervious surfaces, preservation of a civic use in a centralized location, and preservation of the neighborhood by avoiding demolition to construct a parking lot. If the existing gravel parking area west of the church were paved to City standards, it would only accommodate 15 vehicles as opposed to the current 23. The Major Replat request to consolidate 12 lots into one would allow the HPO designation to be expanded and the new addition to comply with setbacks. Mr. Dodson said the applicant concurs with the staff recommendation to approve both requests.

F. Staff Report:

Planner Richardson briefly reviewed the requested variations from Land Development Code standards, as detailed in the staff report. He noted that the applicant proposes to reduce the parking onsite from 44 spaces to 21, displacing 23 spaces onto the street. The current situation is a legal nonconforming circumstance and the applicant does not propose to expand any uses. The applicant's parking analysis studied 155 spaces – 21 onsite and 134 on the street. On Sunday mornings, there were between 8 and 105 available spaces. As conditioned and as proposed, because uses would not occur in the addition at the same time as Sunday services, there would not be a change in condition with the exception of the loss of onsite parking. A second parking study was done on Tuesday and Wednesday. There were found to be 25 to 39 available spaces on Tuesday evenings and negative one to 119 spaces on Wednesday mornings. On average, there were spaces available on Wednesday mornings. Compensating benefits include efficient use of land through shared on-street parking, infill development in the Central City, prevention of pollution generating and impervious surfaces, proximity to transit and bicycle facilities, facilitation of civic and religious assembly uses in the Downtown Residential Neighborhood and Central City, support for uses in a historic building, and prevention of the demolition of adjacent structures for parking.

Planner Richardson highlighted the proposed conditions related to landscaping. He said the PODS require that 60 percent of street facing facades be composed of windows. The application requests to reduce the requirement to 49 percent. The compensating benefit is a more historically compatible building. The proposed right-out-only driveway is less than 150 feet from the intersection, and the City Engineer granted an exception based on an evaluation that it would not create safety hazards. The applicant is requesting to reduce the driveway from 24 feet to 20 feet. If that were to occur, there is a proposed Condition of Approval to require the driveway to be designed to meet current City standards. He reviewed the compatibility criteria from LDC Chapter 2.5, noting that the HRC found the design to be historically compatible and that staff did not find any problems with the design.

Regarding the Major Replat, Planner Richardson stated that consolidation of the lots would create a through-lot. The LDC requires that a 20-foot wide, six-foot tall, 80 percent opaque screen be provided. Staff supports a variation because there are no unsightly views or visual conflicts, and because a screen would prevent "eyes on the street" and would detract from a pedestrian friendly environment. Staff finds that, as conditioned, the proposal complies with applicable LDC standards.

In response to inquiries from Commissioner Hann, Planner Richardson stated that the parking studies counted cars on the street, not making any distinction between those associated with the church and those associated with other uses. He further responded that the applicant has indicated that there is some level of van pooling, but it is not extensive.

Commissioner Reese asked if there is some irony in that the compensating benefit for not having parking is the reduction of impervious areas; i.e., not having parking. Manager Towne responded that the compensating benefit is not having the negative aspects of the impervious surface.

G. Public Testimony in favor of the application:

Lyle Hutchens advised that 16 citizens present have asked John Fenner to represent them this evening.

John Fenner, 910 NW Elizabeth Way, said he has been a member of the church since 1931. He said it is important to keep the community benefit of this church in mind; it is an old building with beautiful windows which has been in the same location for many years and which has helped to raise a lot of people. The change will help older people who can't walk very well. It will be good for Corvallis, good for the church, and good for both old and young people.

Mark Knapp, 131 NW 4th Street, noted that the proposal would reduce onsite parking by 23 spaces and that compensating public benefits are required. His perspective is that of a bicyclist who believes that society needs to drive much less. Global warming is real and about 20 percent of carbon emissions come from motor vehicles. He said he is fundamentally in favor the application. In keeping with the negotiating purpose of a PD, he proposes that the application do a better job of providing compensating benefits. Covered bicycle parking is a great incentive to get people out of their cars. He thinks the reduction of motor vehicle spaces would be nicely offset by covered bicycle spaces in excess of the 16 proposed, perhaps 32. He added that this application is for a space that would likely be used for public meetings, which is a public benefit.

H. Public Testimony in opposition to the applicant's request:

Stan Nudelman, 2842 NW Larkspur Place, said he owns property at 760 Madison and 223 SW 8th Street, near the subject site. He stated that the current 44 parking spaces are not adequate and the proposal would make the situation even more inadequate. He said the church is important, but so is the community of business people and professionals, of which there are many near this building. He said he has been a member of the Downtown Parking Commission for about five years and he is very

concerned about parking in the area of the church. He summarized a chronology of letters and action he has taken since 2002 in an effort to address parking problems in the area. He recently took several photographs in the area between 3:00 and 3:30 p.m. and found only one parking space available. He said the parking studies done by the applicant are not adequate to address the needs of the area, which includes the Art Center, Central Park, the Corvallis Public Library, several churches, businesses and professionals and their clients, some of whom have disabilities that make it difficult to walk any distance. He is mainly concerned about weekdays between the hours of 8 a.m. and 5 p.m. when the area is inundated by employees from the downtown area and students from the university looking for free parking. He said parking problems in this area have been around a long time and the loss of another 23 spaces is unconscionable. He requested a continuance of the public hearing in order to do an adequate parking study. He said he just recently heard about this application and he knows of many other people who would like the opportunity to testify.

Mr. Nudelman submitted written testimony from Strands Labs, Inc. **(Attachment B)**, which he offered to read for the record. The Chair advised that the Planning Commission has received copies of the written testimony from Strands Labs, Inc. Mr. Nudelman noted that Strands Labs, Inc. also requests a continuance of the public hearing within the written testimony.

Chair Bird asked if Mr. Nudelman has pursued local permitting to prevent people from using the area for free parking. Mr. Nudelman said he has not pursued this option, but he appreciates the suggestion.

Commissioner Hann asked if Mr. Nudelman had considered contacting the Corvallis Public Library about the possibility of a leasing arrangement for parking on Sundays. Mr. Nudelman said he has not. He reiterated that his main concern is the lack of parking on weekdays.

Commissioner Saunders asked if Mr. Nudelman provides covered bike facilities for his tenants. He stated that he provides a total of 10 uncovered bicycle spaces. He said he has talked to bicyclists who believe that covered bicycle parking is not that helpful in that bikes get wet while they are riding and that they get wet under the covered spaces. He acknowledged that some bicyclists would argue against that reasoning.

I. Neutral testimony: None.

The Chair reminded people that speaking neutrally removes rebuttal rights.

Questions of Staff:

Commissioner Howell noted that the Central Business District has a system which allows for contributions in lieu of providing parking. He asked if that applies to this area. Manager Towne said that only applies to the Central Business District and Riverfront Zones at this time. In response to further inquiries, Manager Towne said that he is not aware that the Parking Commission has done any specific studies in the subject area, that he believes there is parking on at least one side of Madison between 9th and 11th Streets, and that existing office uses were grandfathered in with the

adoption of the 2006 LDC but in some situations parking would continue to be nonconforming.

In discussion and in response to further inquiries, Manager Towne stated that the parking study done for the Downtown and Riverfront areas found that there was excess parking available and that walking distances were acceptable. That is one reason that the Council reduced parking requirements in the downtown area and grandfathered in all existing uses as not requiring additional parking. He is not aware of that same level of detailed study in the subject area.

J. Rebuttal by Applicant:

David Dodson referred to Mr. Knapp's suggestion that additional covered bicycle parking be provided as a compensating benefit for the reduction in vehicle parking. He noted that he proposal exceeds requirements for both covered and uncovered bicycle parking.

Mr. Dodson said he appreciates Mr. Nudelman's concerns about parking. He noted that parking demands on the neighborhood include employees from the downtown area and students from OSU. He noted that there are a number of uses in the area which are under-parked by City standards, including the buildings owned by Mr. Nudelman. He said the downtown parking study showed a high turnover of parking spaces and he thinks that may be the case in this area as well. He referred to Mr. Nudelman's testimony that there were not many spaces available between the hours of 3:00 to 3:30 p.m. He drew attention to Attachment H-81 showing the church's usage in half-hour increments, noting that, although the area is highly parked up between the hours of 3:00 to 3:30, it does not appear that this is necessarily due to people using the church at that time. He said the applicant believes that, in considering the tradeoffs and options, allowing on-street parking to continue to be used by the church is preferable to tearing down buildings in order to build a parking lot.

Tony VanVliet, 3671 NW Goldfinch, said he is Chairman of the Presbyterian Church Building and Grounds Committee. He said he also served on the Parking Commission and the Downtown Commission which recommended the downtown parking study that was completed in 2002. The study covered the downtown area and the area up to 7th Street from "B" to Tyler. The conclusion of that study was that there was parking space available. The consultants laid out a management plan and the belief was that the City would do everything possible to manage the situation. There was never a study done for the area between 7th Street and 11th Street and there is no City solution for that area. He said one property should not be held hostage for the larger parking problem in this area. He noted that, prior to removal of the large tree, there were 8 to 15 spaces rather than 21. He said he was surprised to hear that Mr. Nudelman had not heard about this project until recently since it has been ongoing since 1994. The seismic work was done first for safety reasons. Had the fellowship hall been done first, it would likely have been completed before the new rules. He stated that, if the church is not able to move forward on the project this year, the costs will likely increase by about $200,000.

In response to an inquiry from Commissioner Howell, Mr. VanVliet affirmed that things done in preparation for this project temporarily increased parking and that the increased parking is now being considered lost parking. Mr. Hutchens added that all of the parking for the church was on the street prior to the 1960s when adjacent lots were purchased for parking. Mr. Dodson added that, more recently, removal of the large sequoia tree provided room for several parking spaces.

In response to an inquiry from Commissioner Hann, Mr. VanVliet said there is no basement in the proposed addition and there was no consideration given to providing underground parking.

In response to an inquiry from the Chair, Mr. VanVliet said the new minister is considering the possibility of rescheduling some of the Wednesday morning activities to other times in order to spread out usage of the church.

Mark Knapp clarified his position that having even more covered bicycle parking would be an opportunity to offset the loss of motor vehicle parking for public benefit.

John Fenner asked whether it isn't more important to Corvallis to have this lovely old church than it is to have space for parking cars.

K. Sur-rebuttal:

Mr. Nudelman said he does appreciate the church and is a strong advocate of historic buildings. One of his buildings is a historic building that was in disrepair when he purchased it, and he would hate to see that happen again because he cannot get tenants due to parking issues. He agreed that parking problems are contributed to by downtown employees and university students, but stated that this proposal represents a change to the parking situation. He clarified that he was aware that the church was doing work, but that he just recently received notification about the parking consideration. He reiterated his request for a continuance.

Commissioner Howell advised that the basis for a continuance is typically that the applicant presented new evidence and that the continued hearing would be limited to that new information. The Chair added that it is up to the Planning Commission's discretion whether to allow a continuance. A request to hold the record open to allow for additional written testimony would be done upon request. Mr. Nudelman stated that seven days is not enough to do a study that addresses the parking situation. If the continuance is denied, he would request that the record be held open. Planning Manager Towne advised that any Planning Commission decision is appealable to the City Council. An appeal would be a de novo hearing which would allow any person an opportunity to present additional information.

Commissioner Howell said he would prefer to follow typical procedure and consider a continuance only if the applicant brought new information. There was no new information in this case. Commissioner Hann noted that Planning Commission decisions are made based on the applicable criteria and whether the applicant has proposed adequate compensating benefits for the proposed variances. He said he would not support a continuance.

The record will be held open until January 14, 2009, 5:00 p.m. for additional written testimony. Deliberations will be held on January 21, 2009.

M. Close the public hearing:

MOTION: Commissioner Saunders moved to close the public hearing. Commissioner Hann seconded the motion and it **passed** unanimously.

IV. MINUTES: There were no minutes for consideration.

V. OLD BUSINESS:

VI. NEW BUSINESS:

A. Planning Division Update:

Planning Division Manager Fred Towne called attention to the new meeting schedule on the back of the agenda. He advised that the LDC Text Amendments that the Planning Commission forwarded to the City Council have been appealed to LUBA by Mark Knapp. The appeal is limited to the items that Mr. Knapp raised at the Planning Commission; he did not provide testimony to the City Council on this matter.

Commissioner Bird asked that, in future staff reports, references to attachments include page numbers to aid Commissioners and the public in locating specifically referenced materials in the attachments.

VII. ADJOURNMENT: The meeting was adjourned at 11:00 p.m.

MEMORANDUM

K&D

PLANNING COMMISSION
TESTIMONY RECEIVED
JAN - 9 2009
Jack Burrell
NAME

K & D ENGINEERING, Inc.
276 NW Hickory Street
P.O. Box 725
Albany, Oregon 97321

TELEPHONE: (541) 928-2583
FAX NO: (541) 967-3458

DATE: January 7, 2009

TO: Chair and Commissioners of Corvallis Planning Commission

FROM: Jack Burrell

PROJECT NO.: 08-46

SUBJECT: Planning Commission Hearing— Storage Depot (PLD08-00008) Flood plain LOMR-F

I am speaking in behalf of the applicant and requesting that Condition No. 9 in the Staff Report be revised. It presently reads:

> ***Floodplain LOMA Letter - Prior to issuance of Building Permits, a LOMA from the Federal Emergency Management Agency shall be required to be submitted, demonstrating the entire development site is outside of the 100-year floodplain.***

We request that the condition be revised to read:

> ***Floodplain LOMA Letter*** *- Prior to issuance of the* ***Occupancy Permit,*** ~~***Building Permits,***~~ *a LOMA from the Federal Emergency Management Agency shall be required to be submitted, demonstrating the entire development site is outside of the 100-year floodplain.*

The foundation of this request is based on the following points:

1. The property has been filled in preparation for the building construction. The filling is authorized by the City under an open grading permit EXC04-00074. The grading permit has been reviewed and approved by the City based on compliance with Flood Plain standards in Chapter 4.5 of the Land Development Code.

ATTACHMENT A

2. Our surveyors have checked the elevation of the gravel pad.

    - 85 % of the pad is higher than the 100 Year Flood Plain

    - The remaining portion of the pad will require an average of 2 inches of additional material to be above the flood plain. The fill material is already on site.

    - See attached maps showing the results of the surveying.

3. The process for removing the storage units and internal driveways from the flood plain is by a LOMR-F application approved by FEMA. The turnaround time to receive approval is about 60 to 75 days after the packet is received by FEMA.

4. Our company works on many projects each year that are located in the Flood Plain. We typically prepare 3 or 4 LOMA and LOMR-F applications each year. The standard practice has always been to apply for the LOMR after the foundation and concrete slabs have been constructed. This allows FEMA to remove the physical structure from the Flood Plain.

5. During the construction process, minor regarding will be done with the setting and building of the foundations and slabs. Our surveyors will verify that the grades conform to the design.

6. As soon as the slabs and foundations are in place, the applicant will submit the LOMR application for approval by FEMA.

Our request to revise Condition No. 9 is intended to avoid up to a 3 month delay in receiving the Building Permit.

By granting this request, the site construction can start and the applicant can process the LOMR at the same time. The LOMR will be approved prior to receiving Notice of Occupancy.

We believe that all of the assurances required by the Land Development Code for building in the flood plain will remain intact.

Thank you for this opportunity to speak and for your consideration of our request.

Jack Burrell

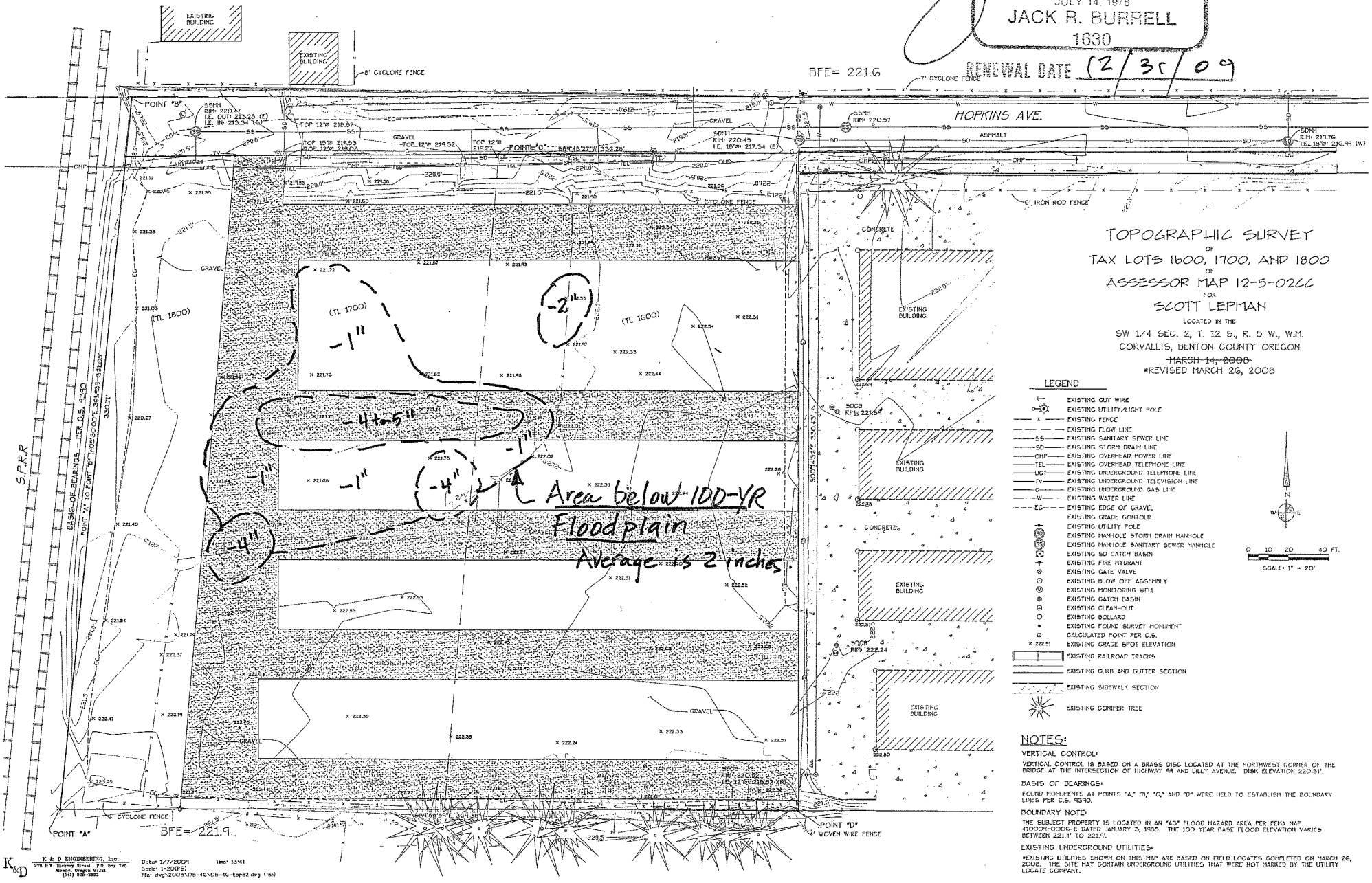
Jack Burrell, LS

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Jack R. Burrell

OREGON
JULY 14, 1978
JACK R. BURRELL
1630

RENEWAL DATE 12/31/09



TOPOGRAPHIC SURVEY
OF
TAX LOTS 1600, 1700, AND 1800
OF
ASSESSOR MAP 12-5-02CC
FOR
SCOTT LEPMAN

LOCATED IN THE
SW 1/4 SEC. 2, T. 12 S., R. 5 W., W.M.
CORVALLIS, BENTON COUNTY OREGON
~~MARCH 14, 2008~~
*REVISED MARCH 26, 2008

LEGEND

- EXISTING GUY WIRE
- EXISTING UTILITY/LIGHT POLE
- EXISTING FENCE
- EXISTING FLOW LINE
- EXISTING SANITARY SEWER LINE
- EXISTING STORM DRAIN LINE
- EXISTING OVERHEAD POWER LINE
- EXISTING OVERHEAD TELEPHONE LINE
- EXISTING UNDERGROUND TELEPHONE LINE
- EXISTING UNDERGROUND TELEVISION LINE
- EXISTING UNDERGROUND GAS LINE
- EXISTING WATER LINE
- EXISTING EDGE OF GRAVEL
- EXISTING GRADE CONTOUR
- EXISTING UTILITY POLE
- EXISTING MANHOLE STORM DRAIN MANHOLE
- EXISTING MANHOLE SANITARY SEWER MANHOLE
- EXISTING SD CATCH BASIN
- EXISTING FIRE HYDRANT
- EXISTING GATE VALVE
- EXISTING BLOW OFF ASSEMBLY
- EXISTING MONITORING WELL
- EXISTING CATCH BASIN
- EXISTING CLEAN-OUT
- EXISTING BOLLARD
- EXISTING FOUND SURVEY MONUMENT
- CALCULATED POINT PER C.S.
- × 222.51 EXISTING GRADE SPOT ELEVATION
- EXISTING RAILROAD TRACKS
- EXISTING CURB AND GUTTER SECTION
- EXISTING SIDEWALK SECTION
- EXISTING CONIFER TREE

N W E S

0 10 20 40 FT.
SCALE: 1" = 20'

NOTES:

VERTICAL CONTROL:

VERTICAL CONTROL IS BASED ON A BRASS DISC LOCATED AT THE NORTHWEST CORNER OF THE BRIDGE AT THE INTERSECTION OF HIGHWAY 99 AND LILLY AVENUE. DISK ELEVATION 220.81'.

BASIS OF BEARINGS:

FOUND MONUMENTS AT POINTS "A," "B," "C," AND "D" WERE HELD TO ESTABLISH THE BOUNDARY LINES PER C.S. 9390.

BOUNDARY NOTE:

THE SUBJECT PROPERTY IS LOCATED IN AN "A3" FLOOD HAZARD AREA PER FEMA MAP 410004-0006-E DATED JANUARY 3, 1985. THE 100 YEAR BASE FLOOD ELEVATION VARIES BETWEEN 221.4' TO 221.9'.

EXISTING UNDERGROUND UTILITIES:

*EXISTING UTILITIES SHOWN ON THIS MAP ARE BASED ON FIELD LOCATES COMPLETED ON MARCH 26, 2008. THE SITE MAY CONTAIN UNDERGROUND UTILITIES THAT WERE NOT MARKED BY THE UTILITY LOCATE COMPANY.

K&D X & D ENGINEERING, Inc.
275 N.W. Hickory Street P.O. Box 725
Albany, Oregon 97321
(541) 928-2053

Date: 1/7/2009 Time: 13:41
Scale: 1=20(PS)
File: dwg\2008\08-46\08-46-topo2.dwg (lan)

PLANNING COMMISSION
TESTIMONY RECEIVED

JAN - 9 2009

NAME

To the Members of the Planning Commission:

Thank you for this opportunity to provide this statement in the matter of PLD08-00012 and SUB08-00006 to be heard by Planning Commission on January 7, 2009, and for the opportunity to request that the Commission grant two procedural requests described below.

Strands Labs, Inc. is a software developer headquartered at 760 SW Madison, Ste 106, in Corvallis. We are tenants in the building owned by Stan Nudelman at 760 SW Madision, proximate to the Applicant's site. Strands develops technologies that enable people to discover products and services through computers, mobile phones, and other Internet-connected devices.

I. Request for Continuance

We urge the Planning Commission to continue the hearing on matter PLD08-00012/SUB08-00006, and to keep the record open until such time that all interested members of the public, and in particular all parties that would be negatively affected by the Applicant's request for a waiver of the LDC parking regulations to reduce its on-site parking, have had adequate time to respond to the Staff Report and the rest of the Application. The Planning Commission should grant this request because the final Staff Report was not made available to the public in sufficient time before the hearing on January 7, 2009, the Staff Report as published contains numerous factual errors and omissions, and the Applicant's request raises significant legal questions that are not adequately addressed in the Staff Report.

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The Staff Report was not published on the City's website until sometime after 4:00PM Wednesday, December 31, 2008 (New Year's Eve). After reviewing the Staff Report, we observed the deficiencies and submitted a public records request to the City at about 7:00PM on the 31st. The next business day, Thursday, was New Year's Day 2009, and the City Manager's Office and Planning Office were closed that day and also on Friday, January 2, 2009. It wasn't until midday Monday, January 5, 2009 that we were able to secure additional documents relevant to our concerns. We and the rest of the public have not been provided adequate time to review these documents and prepare for the hearing on January 7, 2009.

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This hearing should be continued because there are significant omissions in the Staff Report that undermine the ability of the Commission to make a reasoned decision about the proposed construction. Some of the omissions are:

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. Although the summary conclusions of a parking study by PTV are referenced in the report, the complete methodology and raw data that PTV, the Applicant, and the staff apparently relied on to reach those conclusions is not included in the report or the Applicant's original application. We requested any materials the City has available about the PTV study in our document request and we were told there are no materials in the City's possession except the Applicant's original application, and the PTV summary attached thereto and as Attachments H.83-H.85 to the Staff Report. Interested members of the public have a right to examine and contest this data.

. Summary conclusions of a parking study by Devco are also referenced and summarized in the report and in the Applicant's original application. As with the PTV report, the complete methodology and raw data that PTV, the Applicant, and the staff apparently relied on to reach those conclusions is not included in the report or the Applicant's original application. The Staff Report includes a single page attributed to the Devco report as Attachment H.86, which is also the single page of the Devco report included in the Applicant's original application as Attachment "N". Moreover, the Staff Report states the Devco report is included as Attachments H.98, H.99,

ATTACHMENT B

and H.103 on p.13, but there are no such attachments to the Staff Report.

The staff includes a map as Attachment B that is referenced as "Surrounding Uses." This map identifies religious institutions, multi-family residential uses, and government buildings, and the report references these uses and the associated parking needs. This map and report omit commercial uses on the 700 and 800 block of Madison, in immediate proximity to the Applicant's property.

Attachment B also omits mention of another church its parking requirements. This church is only one block away from another church that is identified on the map. The Devco map Attachment H.86, shows the Devco study included on street parking around this omitted church in its analysis of available on-street parking, but does not include equally numerous on street parking spaces around the church indicated on the map of Attachment B that is one block closer and in immediate proximity to the Applicant's property.

The staff cites selected provisions of the Comprehensive Plan from Articles 3, 5, 7, 9, 10, 11, 12, and 13 to support their recommendation that the application be approved and include citations of those provisions as Attachments J.29-J.32. However, they do not address the substance of two policy provisions they include in the attachments that suggest this application is not in compliance with the Comprehensive Plan. This is particularly true in view of the factual deficiencies cited above, and the response to the document request claiming that the City has no factual information about those studies or other parking data beyond the limited and incomplete summaries in cited in the report.

11.4.7: The City shall investigate opportunities for reducing minimum off-street parking in areas ***with adequate on-street or area parking facilities****. Factors such as good transit and pedestrian access should be considered.*

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The staff completely omits any analysis of this application for incompatibility with Article 8 of the comprehensive plan. Two policies from this article require:

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As already noted, the report and map in Attachment B make no mention of existing commercial activities in this zone, including Strands, which was started and is now headquartered in Corvallis, or the impacts of the Applicant's requested waiver for the parking needs of those businesses. The report also makes no mention of the fact that, although the Applicant currently only has certain regularly scheduled congregational activities during the business week, it has a full schedule of irregularly scheduled and one-time activities. In addition, the City will have a very limited ability to effect changes in schedule use or prevent increased usage by the Applicant for religious purposes after the proposed waiver of on-site parking requirements is granted, and provides no analysis of the likely consequences in the event the Applicant changes its scheduled activities.

We believe there are other relevant factual deficiencies in the report that we have not had time to fully investigate in the abbreviated period afforded us to review the Staff Report between it's release at the

end of the business day December 31, 2009 and the Planning Commission hearing January 7, 2009.

IV. Other Questions

The Historic Resources Commission has conditionally approved the Applicant's plan to expand the original historic area, which was designated in 1989, to include the area west of the church. As the Staff Report states, "The HRC also approved a Zone Change request to expand the existing HPO to include the area west of the Church buildings." The area west of the church buildings is the current parking lot. There is no historic structure requiring preservation in the area west of the church. The expansion of the HRO appears to have been done purely for the purposes of avoiding the violation of the parking requirement. Moreover, although the Staff Report concludes that the Applicant is currently in compliance with the parking requirements because its uses have evolved in a "legally nonconforming manner," it is unclear why past violations by the Applicant would justify ongoing violations. LDC 4.1.20(d), cited by the Staff Report as supposedly supporting the idea that the past violations are excusable, does not provide any support for that proposition.

V. Conclusion

For the reasons stated, the Planning Commission should grant this request for continuation of the hearings on this application until such time as interested members of the public have had adequate opportunity to examine the Staff Report. The Planning Commission should also leave the record open after they make any decision so interested members of the public have time to complete the record for any possible appeal.

Furthermore, the Commission should be aware that the Historic Resource Overlay previously granted to the Applicant is contingent on its approval of this application. That HRO would place constraints on the flexibility the City has for approving the architectural form of any on-site parking options, regardless of whether the Planning Commission grants a waiver to parking requirements in the LDC. Interested members of the public including Strands might want to address the question of alternate on-site parking options the City could require of the Applicant, and this is another reason the public should be afforded more time to review this application. The Planning Commission should keep the record open as long as it takes for the record to be completed.

MEMORANDUM

To: Planning Commission

From: Bob Richardson, Associate Planner RAR

Date: January 7, 2009

Subject: Written Testimony regarding the First Presbyterian Church application (PLD08-00012, SUB08-00006)

Enclosed is testimony received after release of the December 31, 2008, Staff report and before the January 7, 2009, Public Hearing.

HANDOUT AVAILABLE AT
01.07.09 HEARING

Richardson, Robert

From: David Dodson [dave@wvp.comcastbiz.net]
Sent: Wednesday, January 07, 2009 9:20 AM
To: 'Dave Mellinger'
Cc: Richardson, Robert
Subject: RE: swifts and the First Presbyterian Church expansion

Dave:

I just heard back from the project Architect and Engineer. They have informed me that the swifts nest in the brick boiler stack just south of the sanctuary. This brick chimney will not be affected by the proposed addition, which will be approximately 25-feet west of the chimney.

David Dodson
Willamette Valley Planning

-----Original Message-----
From: DavidDodson [mailto:dave@wvp.comcastbiz.net]
Sent: Wednesday, January 07, 2009 8:59 AM
To: 'Dave Mellinger'; davewvp@comcast.net
Cc: robert.richardson@ci.corvallis.or.us
Subject: RE: swifts and the First Presbyterian Church expansion

Dave & Bob:

I'm familiar with the Swift's sleeping habits, as there was a house with a chimney across the street where they spent the night for several years. We loved watching hundreds of them funnel into the chimney at dusk. I'll run this by the architect to see if and how the chimney might be impacted during construction.

David Dodson
Willamette Valley Planning

-----Original Message-----
From: Dave Mellinger [mailto:David.Mellinger@oregonstate.edu]
Sent: Tuesday, January 06, 2009 10:43 PM
To: davewvp@comcast.net
Cc: robert.richardson@ci.corvallis.or.us
Subject: swifts and the First Presbyterian Church expansion

Please forward this as needed if you are not the right person to address it.

Dear David Dodson,

A type of bird called the Vaux's Swift lives in the Corvallis area -- in fact, it is the only swift found much in the Willamette Valley. In spring and early summer it likes to roost and nest in chimneys, especially brick chimneys which make ideal roost sites, and sometimes thousands of individuals roost in chimneys during migration in spring and fall. Corvallis, especially OSU, used to have a lot of brick chimneys, but these chimneys have been greatly reduced in numbers in recent years and it is becoming more difficult for the swifts to find roosting and nesting places.

The First Presbyterian Church has a brick chimney that the swifts have used in the past and probably will use again in the future. Bird-watchers have estimated that 3000-6000 swifts have spent the night there during the fall migration. We are writing to ask if, in the course of the Church's expansion, it is possible to (1) leave the brick chimney as is, or at least undisturbed enough that swifts can still use it for a nesting and roosting site, and (2) not have construction happen during evening hours in May-September when the swifts might need to enter the chimney. September is especially important for the latter, as it is when thousands of swifts might use the chimney during the fall migration.

I suspect that someone at the Church has already considered the swifts' needs in planning the expansion, since people there have helped make the chimney a home for the swifts in the past. I'm writing now in case this hasn't happened yet -- to remind you of the swifts' needs and to kindly ask if the Church can continue their consideration of the birds during the expansion.

Thanks for listening,
Dave Mellinger, Conservation Chair
Audubon Society of Corvallis
757-7953

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JAN - 7 2009

Community Development
Planning Division

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Sincerely,

Mary Beth Hughes, People Operations Director
On Behalf of Strands, Inc.

Charla Van Koten, Ph. D.
Licensed Psychologist, Oregon & California

2842 NW Larkspur Pl.
Corvallis, OR 97330

(541) 753-8343

RECEIVED
JAN - 5 2009
Community Development
Planning Division

Dear Mr. Richardson,

I am a psychologist practicing at 223 SW. 8th St. Numerous patients have issues with health that prohibit walking blocks to see me. On many occassions as parking is now, my patients have had to circle & look for parking spaces for 5-10 minutes.

Please, I request that the First Presbyterian Church expansion not reduce the parking availability. It could be devastating for so many business & practices in our area.

Thank you for your consideration.

Sincerely, Charla Van Koten

Richardson, Robert

From: Debora Landforce [landforce_debora@comcast.net]
Sent: Friday, January 02, 2009 11:44 AM
To: Richardson, Robert
Subject: First Presbyterian Church project

Dear Mr. Richardson,

I have a counseling practice at 223 SW 8th Street, and as such, have clients coming and going all day. They typically need to park for a couple of hours near my office. In the three years I have been here, the parking availability has been minimally adequate. When the university is in session, there are really too few spaces available.
Since I personally do not have parking seniority, I usually have to park a couple blocks away from the office. I realize that for most working people, this would seem pretty average, but I pay a premium for this office space and the parking availability for myself and my clients is a major factor in my decision to rent at this location.
While I appreciate the fact that everyone needs to be more creative about using public or low-impact transportation, most of my clients come from out of town and this is not a possibility.

I understand that the church is planning a project which would eliminate a substantial number of parking spaces. This would certainly negatively impact those of us working in this area. I also have concerns about it's impact on people attending events at the library, and the Center for Humanities at 811 Jefferson. I encourage you to reconsider any decision to approve this project without further consideration for the parking ramifications.

Thank you for the work you have already done on our behalf, and please feel free to call if I can be of any assistance.

Sincerely,
Debora Landforce, M.S.
758-2202

DRAFT
Subject to review & approval by WMAC

Watershed Management Advisory Commission
MINUTES
November 19, 2008

Present
Jennie Cramer
Paul Berg
Michael Campana
Jeff McDonnell
Jacque Schreck
Matt Fehrenbacher

Absent
Aaron Wolf
Hal Brauner

Staff
Steve Rogers, Public Works
Tom Penpraze, Public Works
Mike Hinton, Public Works
Jon Boyd, Public Works

Visitors
Joel Hirsh, Ward 6 Councilor-Elect

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Introductions	X		
II. Approval of October 15 Minutes			Approved
III. Staff Reports	X		
IV. Public Comment • None			
V. Draft Management Guidelines for Peacock Larkspur On the Corvallis Forest, continued from October 15 discussion			Approved
VI. Harvest Slide Show	X		
VII. Commission Reports/Requests	X		
VIII. Public Comment Period	X		

CONTENT OF DISCUSSION

I. Introductions

Chair Cramer called the meeting to order at 5:30 p.m. Commissioners and staff provided self introductions.

II. Approval of October 15, 2008 Minutes

The October 15, 2008 minutes were unanimously approved.

III. Staff Reports

Mr. Rogers presented the 1st year status report from the Marbled Murrelet survey contractors, which summarizes protocols and results of the survey. A total of twenty surveys were conducted and no birds were detected. Mr. Rogers also presented a series of maps connected to the survey, including identified Marbled Murrelet habitat and a 726-foot buffer around that habitat. No executive summary was included with the survey materials. Mr. Rogers passed the report around and asked Commissioners to mark any pages that they found interesting. He will provide copies for Commissioners.

Mr. Penpraze reported that the Marys Peak Stewardship Groups plan to tour City watershed projects, as well as some projects on private property, on November 20th. If time permits, they will also go up to the top of the peak to look at a Forest Service project under development to reduce some encroachment on meadows.

Mr. Penpraze reported that the Public Works grant application to the Siuslaw National Forest for City watershed habitat restoration was approved by the Siuslaw Forest Supervisor. It will be sent on to the USFS Regional Office for their review. Staff will know by the first quarter of 2009 if the grant application is approved.

Mr. Penpraze raised the issue of setting potential dates for a public post-fish passage and post-harvest tour. Commissioner Schreck said that the Capital Improvement Program Commission would like to be included on the address list for that tour. Mr. Penpraze stated that the most likely time would be a Saturday in January or February-January 24th or 31st are looking like the best dates for the Commission. Mr. Rogers said that if it were to happen any later than February that it may be better to wait until spring and do just one tour.

Mr. Penpraze recognized Councilor-elect Joel Hirsh in the audience.

IV. Public Comment

None.

V. Draft Management Guidelines for Peacock Larkspur on the Corvallis Forest

Mr. Rogers handed out two maps that had been requested at the October meeting. The maps came from the Benton County Habitat Conservation Plan, developed by the Institute for Applied Ecology, who did surveys for peacock larkspur two years ago; the maps are based on those surveys. Mr. Rogers proposed attaching these maps to the Guidelines.

Commissioner McDonnell asked if a buyer is being investigated for this property. Mr. Rogers said that no buyer is being looked at, instead they are looking more to other government agencies to make an agreement to manage the property.

Commissioner Schreck moved to adopt the interim Guidelines for the peacock larkspur on Corvallis Forest; Berg seconded. The Commission unanimously approved the motion.

VI. Harvest Slide Show

Mr. Rogers reported on the recent timber harvest. While all of the exact board-footage numbers are not in yet, it appears that it will be 640,000 feet. The gross revenue will be about $350,000, which is approximately $100,000 above the estimate. The cost of the harvest was $144,000, about $50,000 more than was budgeted, but the increase in revenue more than makes up for the higher cost. The net revenue from the project will be about $200,000.

Mr. Rogers presented a slide show of approximately 20 before-and-after pictures from recent projects, including fish ladder construction, culvert replacement, and the timber harvest.

Mr. Penpraze reported that the critical time of the year for fish passage over the fish ladders is in May and June, when young fish are heading downstream and older fish are going upstream to spawn.

VII. Commission Reports/Requests

Commissioner Schreck mentioned that the Capital Improvement Commission, which she Chairs, completed a review of the proposed CIP projects on November 18, 2008 and there is a page in the plan that represents what the Commission is doing in the watershed.

Mr. Rogers was asked what will be done with $200,000 from the timber harvest. Mr. Rogers listed a few work tasks included in this year work plan, including an inventory of the watershed or beginning to put together the FY09-10 plan.

Commissioner Schreck asked for clarification that funds generated through watershed projects can only be used toward water fund projects. Mr. Rogers clarified that legally,

it could be used for any water fund activity, but the City Watershed Stewardship Plan specifies that the priority for these funds is for improvement in the watershed.

Chair Cramer requested that all email packets, both for Commission members and interested parties, include all materials rather than sending only minutes and agendas to interested parties. From now on, everyone will receive the same materials.

Mr. Rogers suggested that the Commission not meet in December. The Commission unanimously agreed.

Chair Cramer brought up commission request made at the last meeting regarding getting "up-to-speed" about the Benton County Habitat conservation plan, when it will become public, and what can be learned about it. Mr. Rogers responded that the draft is going public in December and a series of public meetings are planned, but little other information is currently available. Mr. Rogers suggested bringing a document to the Commission regarding the public process for the HCP, but Chair Cramer said that it would be helpful for members from the Institute for Applied Ecology to come in to give a small presentation about how the HCP will impact management and restoration of peacock larkspur populations on City property. Mr. Rogers will ask about setting something up for the January meeting.

Commissioner Wolf is expected to resign, having missed the last five meetings. Chair Cramer recommended the Commission start recruiting due to the amount of time it takes to appoint a new Commission member.

Mr. Penpraze noted that the US Forest Service letter to the City regarding their National Environmental Policy Act (NEPA) scoping of Forest Service watershed lands for future timber thinning projects was included in the Commissioners' packets. He mentioned that Pubic Works was monitoring their review process and project scoping as it also includes some potential road decommissioning on their property that may impact the US Forest Service (USFS) fire fighting capability and has a potential impact on the City's water supply. He also mentioned that the USFS is contemplating cutting some trees on top of Marys Peak to curtail encroachment on the Peak's meadow habitat, and that it may involve the City as the City owns the microwave site on top of the peak adjacent to USFS lands.

Mr. Rogers reported that the City is close to hiring a 0.25 FTE staff member to support the Commission.

VIII. Public Comment Period

None.

Meeting adjourned at 6:30 p.m.

NEXT MEETING: January 21, 2009, 5:30 p.m., Madison Avenue Meeting Room.

DRAFT
Subject to review & approval by WMAC

WATERSHED MANAGEMENT ADVISORY COMMISSION
MINUTES
January 21, 2009

Present
Jennie Cramer, Chair
Matt Fehrenbacher, Vice Chair
Jacque Schreck
Paul Berg
Michael Campana
Richard Hervey, Council Liaison

Absent
Jeff McDonnell

Staff
Tom Penpraze, Public Works
Steve Rogers, Public Works
Jon Boyd, Public Works

Visitors
Mark Miller, Trout Mountain Forestry
Ken McCall
Frank Davis, US Forest Service
Kim Nelson

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Introductions	X		
II. Approve November 19, 2008 Minutes			Approved
III. Staff Reports	X		
IV. Public Comment Period			None
V. Post-Harvest Report and Year-to-Date Financial Update	X		
VI. Forest Types and Inventory Project			The Commission decided to go forward with the inventory project
VII. Commission Reports/Requests			None
VIII. Public Comment Period	X		

CONTENT OF DISCUSSION

I. Introductions

Chair Cramer called the meeting to order. Commissioners, Staff and guests introduced themselves.

II. Approve November 19, 2008 Minutes

Commissioner Schreck moved to approve the November 19, 2008 minutes; the minutes were approved unanimously.

III. Staff Reports

Mr. Rogers reported on the calculation and projection of carbon that may be stored in the Watershed. Public Works has begun meeting with some organizations with expertise in carbon sequestration related to forested lands: EcoTrust and Pacific Forest Trust. Staff met with EcoTrust last week to discuss their approach. Pacific Forest Trust is scheduled for a meeting on February 9 to discuss the same topic. After that meeting, staff will bring a report to the Commission on potential future opportunities.

Mr. Boyd reported that, after two strong wind events, approximately twenty trees were blown down in the areas that were thinned this year. Very few of the down trees are in the more heavily thinned plantation area.

Mr. Penpraze reported that staff is interviewing for the one-quarter time Watershed Specialist position this week. He also reported that the February meeting will be in the Library Boardroom, as the Madison Avenue Meeting Room has been reserved for another meeting.

Mr. Miller received a call in November from the Siuslaw National Forest staff ecologist requesting input on the 80-acre piece of property on the west summit of Marys Peak which is owned by the City but outside of the Watershed Stewardship Plan. Approximately one-third of the property is meadow with the remainder forest of mostly Douglas Fir. The meadow is being encroached upon by trees, and the Forest Service is exploring a project to re-establish the size of the meadow based on historical photographs. This meadow has special significance in that it is designated a Botanical Area of Special Interest to protect some plant species that grow there. The Siuslaw National Forest and the Bureau of Land Management (the other land owner on the peak) held a meeting, which Mr. Miller attended as an interested citizen, to discuss a coordinated approach to meadow restoration.

Mr. Rogers said that there will be a presentation on the Benton County Habitat Conservation Plan at the next meeting.

Mr. Rogers also reported that the City was successful in getting a State of Oregon grant to do a feasibility study for hydroelectric power on the raw water intake line going into the Rock Creek plant.

IV. Public Comment Period

None.

V. Post-Harvest Report and Year-to-Date Financial Update

Mr. Miller discussed the 2008 Harvest Summary, which produced just under 660,000 board feet of lumber. For details, please see the Post Harvest Summary, which was sent with the January 21, 2009, WMAC packet.

Mr. Rogers handed out the most recent financial update and led a discussion on the details in the report. The document is attached.

VI. Forest Types and Inventory Project

Mr. Miller opened the discussion on the update of the City's forest resources (through an inventory), a project identified in this year's operational plan. He described proposed changes in the classification of stands in the watershed based on FCS standards. By adopting the FCS designations, the forest types would expand over the four types described in the Corvallis Forest Stewardship Plan.

Commissioner Schreck requested information detailing the FSC guidelines. Mr. Miller said he would send the Commissioners a link to the website where the information can be found.

Mr. Rogers summarized the discussion: The Commission agreed to move forward with the inventory and will come back to this discussion after the inventory is complete regarding modifying the forest type designations in the Stewardship Plan. The Commission wants to make sure that the public understands what changes are being proposed and the rationale behind the proposal. Methods for soliciting public input were discussed including tours, information meetings, public hearings, etc, as well as the information being made available at the public library and online.

Mr. Miller pointed out that the old (current) stand designations used twenty-year-old data that was based on 20-40 acre harvest blocks, while the proposed designations are based on actual forest land conditions with an ecological basis, and how it fits with the Commission's desired future conditions for the forest.

Mr. Davis stated that the peer review group that assisted the City in development of the Stewardship Plan be asked to review the proposed changes. The Commission took no action on his suggestion.

VII. Commission Reports/Requests

None.

VIII. Public Comment Period

Ms. Nelson raised a question regarding attachments to the packets sent out before meetings and not receiving some documents pertinent to topics listed on the Commission

meeting. Mr. Rogers responded that not all documents are included in those packets as some are presented at the meeting, and that the best way to make sure a citizen receives all documents is to attend the meetings, but they are also available through a public document request.

Mr. Davis mentioned that the bridge over Rock Creek at the main entry gate was inspected by US Forest Service staff and is in need of replacement. He said it may be into the eligible for some of the federal stimulus package funds.

Councilor Hervey suggested adding a spot at the end of the agenda for requests from the Commission to the City Council. Chair Cramer suggested adding this to the Commission Reports and Requests section.

NEXT MEETING: February 18, 2009 5:30 p.m., Corvallis Benton County Library Boardroom

MEMORANDUM

To: City Council Members

From: Charles C. Tomlinson, Mayor CCT

Date: February 11, 2009

Subject: Confirmation of Appointment to Watershed Management Advisory Commission

---

As you know, at our last regular meeting I appointed the following person to the Watershed Management Advisory Commission for the term of office stated:

Charlie Bruce
Term Expires: June 30, 2009

I ask that you confirm this appointment at our next Council meeting, February 17, 2009

1011

CORVALLIS
ENHANCING COMMUNITY LIVABILITY

MEMORANDUM

DATE: February 3, 2009

TO: Mayor and City Council

FROM: Ken Gibb, Community Development Director

SUBJECT: Schedule Public Hearing to consider an appeal of the First Presbyterian Conceptual and Detailed Development Plan, and Major Replat (PLD08-00012, SUB08-00006)

On January 21, 2009, the Planning Commission deliberated on, and approved, the above referenced application. On January 29, 2009, the Planning Commission decision was appealed. Staff request that the City Council schedule a public hearing on March 2, 2009, to consider the appeal of the Planning Commission's decision.

MEMORANDUM

From: Ken Gibb, Community Development Director

To: Mayor and City Council

Date: February 11, 2009

Re: Zoning Map Correction

I. Issue

In the October 2006 codification of the Land Development Code and its associated Official Zoning Map. Several mistakes were made in the zoning desginations for properties. The correct zoning for said properties was not carried forward from the official decision contained in Ordinance 2000-43. This memo is provided to inform the City Council regarding the correction of these errors.

II. Discussion

The Land Development Code adopted on October 16, 2006, and implemented on December 31, 2006, provides an administrative mechanism for correcting mapping errors.

> **Section 2.2.70 - Map Errors**
>
> **If the Land Development Hearings Board, Planning Commission, or City Council approves a Zone Change, but the Director discovers that the Official Zoning Map was not altered to accurately reflect the Zone Change, the Director shall correct the Official Zoning Map to comply with the Zone Change without any additional public review.**
>
> **The amendment shall not be corrected if the City Council subsequently approves a Zone Change affecting the initial approval. If the Director discovers an inconsistency between the Official Zoning Map and the Comprehensive Plan Map, the Director shall correct the Official Zoning Map to make it consistent with the Comprehensive Plan Map, without any additional public review. Map corrections made by the Director shall be reported to the Council and owner of the property receiving the correction by noting the correction as a consent item on a Council agenda following the correction, and by mailing the property owner notification of the correction.**

Although the properties identified in the table on the following page were shown as being zoned GI (General Industrial) on the Official Zoning Map dated October 2006 (Attachment A), the actual/correct zoning for them is MUE (Mixed Use Employment) as determined by Ordinance 2000-43. The properties are bounded by the Railroad tracks on the north, HWY 99W on the west, Bridgeway Avenue on the south, and the Millrace and the properties zoned MUT (Mixed Use Transitional) on the east. Based on Section 2.2.70, the Zoning Designation has been corrected for these properties.

MAP	TAXLOT	OWNER
12502CD	00300	LAUX RONALD K
12502CD	00400	CORVALLIS RENTAL SERVICE INC
12502CD	00202	CITY OF CORVALLIS
12502CD	00200	CRYSTAL LAKE PROPERTIES LLC
12502CD	00204	CORVALLIS RENTAL SERVICE INC
12502CD	00502	TRI W GROUP LIMITED PARTNER
12502CD	00290	WILT VIRGINIA
12502CD	01300	PACIFIC POWER & LIGHT CO

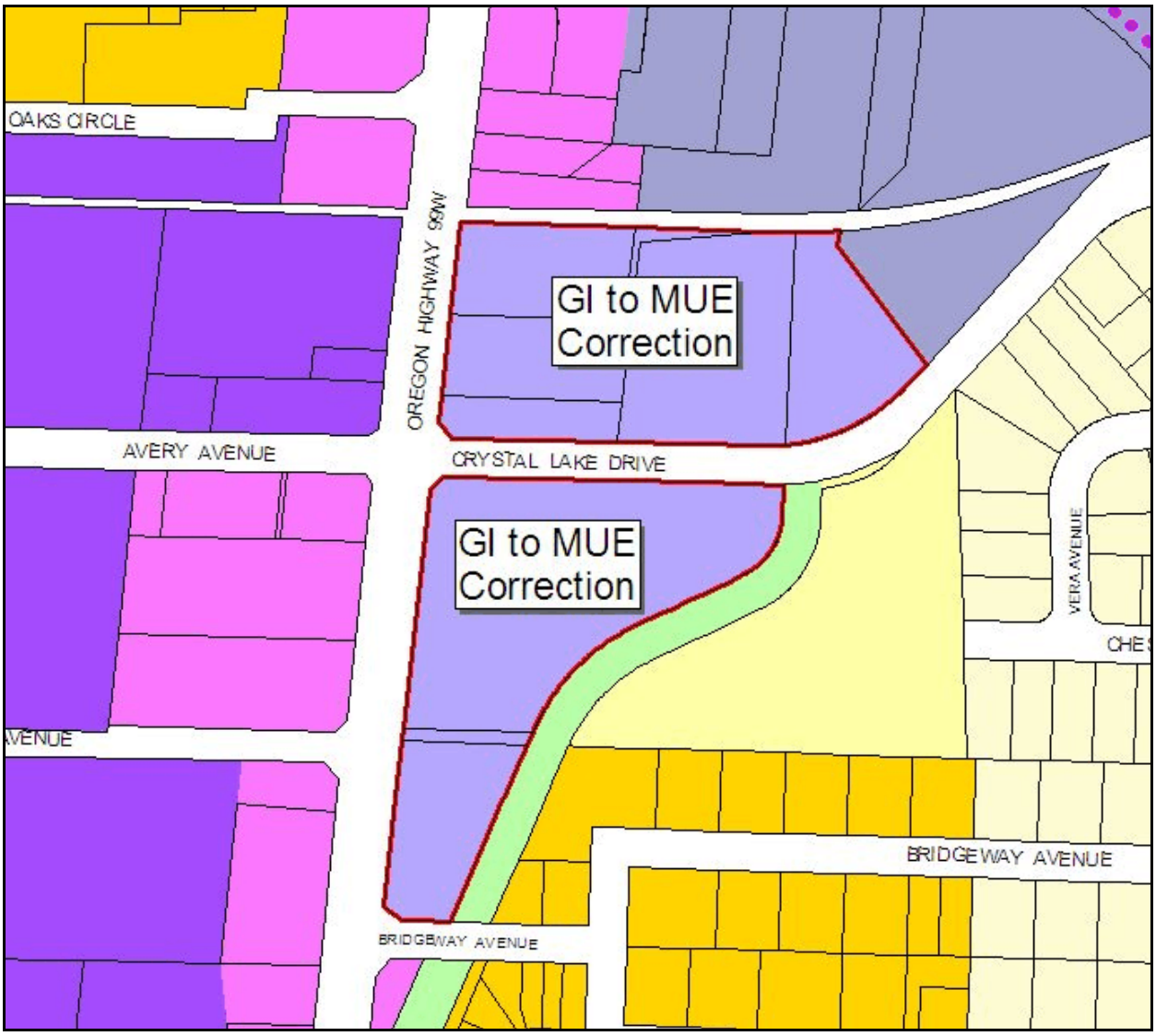
Also based on Section 2.2.70, the Zoning Designation has been corrected for the property identified on Assessor's Map 12-5-11CB as Tax Lot 1500. Although shown on the Official Zoning Map dated October 2006 as being zoned PD (GI), General Industrial with a Planned Development Overlay (Attachment B), the actual/correct designation for this property is PD(LI-O), Limited Industrial-Office with a Planned Development Overlay, as determined by Ordinance 2000-43.

Consistent with Section 2.2.70, the owners of the referenced properties have been informed of the correction.

III. Action

Consistent with LDC Section 2.2.70, this item is being presented in the consent agenda for your information only. No further action is required.

Attachment A



Attachment B

MEMORANDUM

TO: Mayor and City Council

FROM: Steve Rogers, Public Works Director

DATE: January 20, 2009

SUBJECT: Intergovernmental Agreement for NW 9th Street between NW Polk Avenue and NW Elks Drive

ISSUE

City Council authorization is needed to enter into an intergovernmental agreement with the Corvallis Area Metropolitan Organization (CAMPO) to develop conceptual plans for improvements on NW 9th Street.

BACKGROUND

CAMPO received a grant in the amount of $100,000 from the Oregon Department of Transportation (ODOT) to develop a strategy for improving operations on 9th Street for vehicles, pedestrians, bicyclists and transit services between NW Polk Avenue and NW Elks Drive. Project objectives are to develop a 9th Street Improvement Plan to guide future development and incorporate the Plan into the City's Land Development Code for implementation. The Project Advisory Committee includes CAMPO staff, Oregon Cascade West Council of Governments staff, City staff, active citizens and City Council members.

DISCUSSION

A traffic study will need to be completed as part of the Plan to determine the existing and future operation characteristics of the transportation system. The traffic study will be performed by a consultant at an estimated cost of $15,845. ODOT and CAMPO has allocated $8,345 for the traffic study. Subject to final approval by the City Council, the City agrees to contribute $7,500 toward the cost of the traffic study. The City's contribution is being funded through approved budget enhancement for traffic optimization and savings in engineering's operation budget. This will represent the City's maximum financial contribution toward the 9th Street Improvement Plan.

RECOMMENDATION

Staff recommends City Council approve the intergovernmental agreement and authorize the City Manager to sign the agreement and related amendments.

Review and Concur:

1/23/09

Jon S. Nelson
City Manager

Date

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is entered into by the Corvallis Area Metropolitan Planning Organization (CAMPO) and the CITY OF CORVALLIS, OREGON (CITY).

WHEREAS, CAMPO has received a grant from the Oregon Department of Transportation (ODOT) to develop a strategy/plan for improving the operations of the CITY's 9th Street and CITY desires certain improvements to 9th Street between Polk Avenue and Elks Drive;

WHEREAS, the CITY owns public right-of-way (ROW) along 9th Street;

WHEREAS, a conceptual plan for the improvements on CITY ROW on 9th Street is desired by both parties;

WHEREAS, the parties desire to share responsibilities related to the improvement plan as detailed below;

NOW, THEREFORE, the parties agree as follows:

1. This Agreement is effective as of the date of the last signature below and shall remain in effect for 24 calendar months following the date of the last signature below (the Term). Upon mutual agreement of the parties, the Term may be terminated.

2. CAMPO agrees to oversee development of the strategy/plan to improve operations of the CITY's NW 9th Street between Polk Avenue and Elks Drives as detailed in the scope of work that was approved by ODOT and attached hereto as Exhibit A (the PROJECT). The PROJECT includes, but is not limited to, the development of a strategy/plan for improving the operation of 9th Street for vehicles, pedestrians, bicyclists, and transit services. Strategies may include access management, transportation system management, construction of pedestrian/bicycle facilities, and some limited construction of roadway elements. The PROJECT will identify potential funding sources for recommended strategies and changes to the Corvallis Land Development Code to implement the strategies. The PROJECT will assure consistency between Corvallis' 9th Street Improvement Plan and other locally adopted plans and policies.

3. CITY authorizes CAMPO to oversee the advertising and bidding process necessary to secure consultants/contractors to perform the PROJECT. CITY also authorizes CAMPO and CAMPO agrees to provide PROJECT management, including administration.

4. The PROJECT will follow sound practices of engineering, including the City of Corvallis Standard Construction Specifications, when applicable.

5. CAMPO agrees that the PROJECT will be reviewed and approved by the CITY ENGINEER.

6. CAMPO agrees to initially pay all costs associated with the PROJECT.

7. CITY agrees to reimburse CAMPO in the amount of $7,500.00 for the cost of the traffic study portion of the PROJECT. CAMPO will document any such costs and submit them to CITY in order to secure reimbursement.

8. Neither party may assign this Agreement, and any attempt to assign the Agreement by either party will be void.

9. Both parties shall comply with all applicable federal, state and local laws, rules and regulations.

10. CAMPO may terminate this Agreement upon giving CITY 30 days' written notice of its intent to terminate. Charges incurred prior to termination are payable within 30 days following the termination date.

11. Modifications to this Agreement are valid only if they are made in writing and are signed by both parties.

12. CAMPO and CITY are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or will be construed to give or to provide, any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

13. THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE MADE SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. CAMPO, BY SIGNATURE BELOW, ACKNOWLEDGES THAT CAMPO HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

CITY OF CORVALLIS, OREGON		CORVALLIS AREA METROPOLITAN PLANNING ORGANIZATION	
Jon S. Nelson City Manager	Date	Ali Bonakdar Director	Date

Approved as to Form:

City Attorney 1/14/09 Date

Corvallis 9th Street Improvement Plan

Definitions

Agency/ODOT	Oregon Department of Transportation
CAMPO	Corvallis Area Metropolitan Planning Organization
City	City of Corvallis
IGA	Intergovernmental Agreement
OCWCOG	Oregon Cascades West Council of Governments
PAC	Project Advisory Committee
Project	Corvallis 9th Street Improvement Plan
TPAU	ODOT Transportation Planning Analysis Unit

Project Cooperation

Standard Boilerplate added by ODOT. If Project has Key Personnel, this is where they are listed.

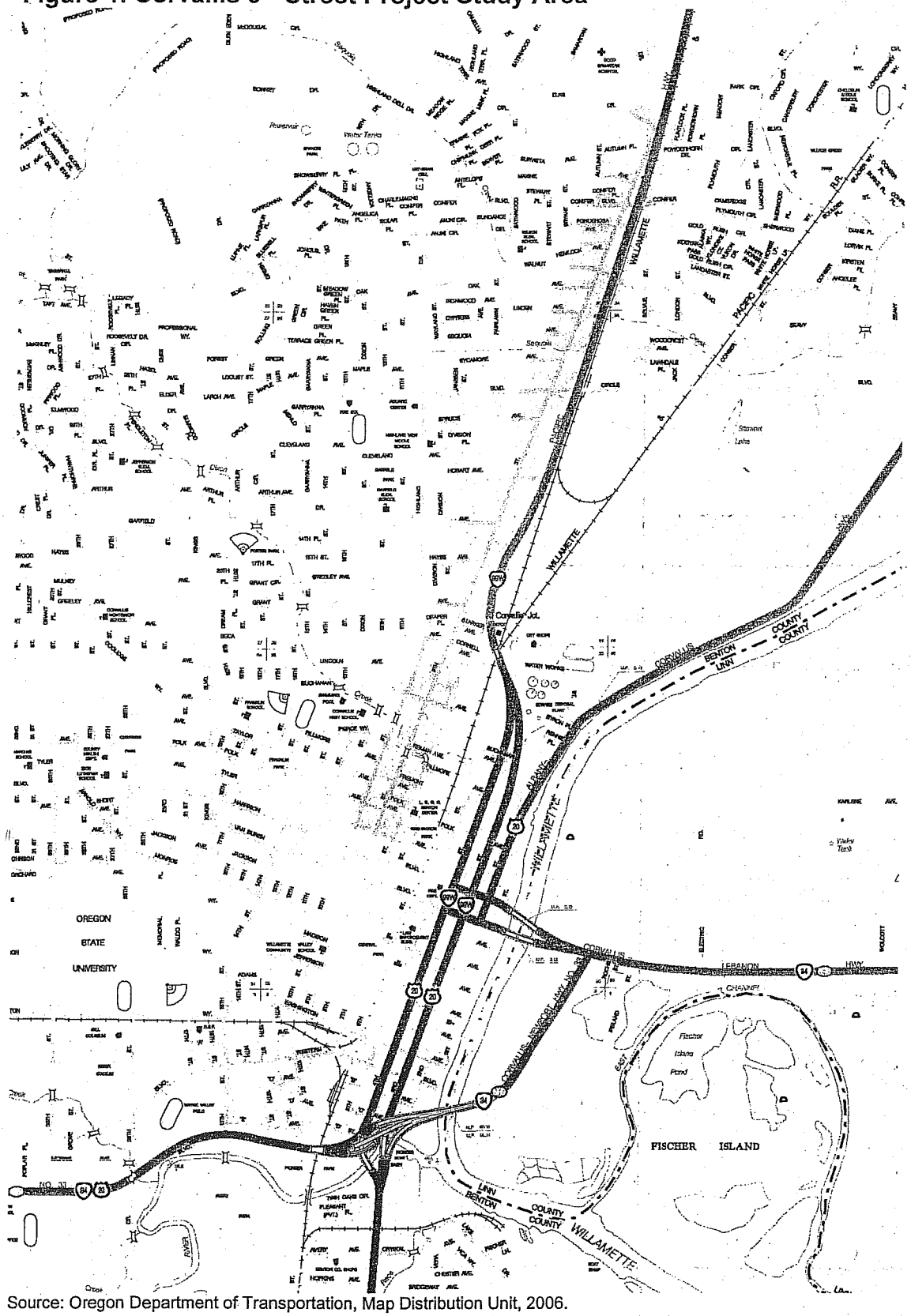
Project Purpose/Transportation Relationship and Benefit

The Corvallis 9th Street Improvement Plan project (Project) will develop a strategy for improving the operation of 9th Street for vehicles, pedestrians, bicyclists, and transit services. Strategies may include access management, transportation system management, construction of pedestrian/bicycle facilities, and some limited construction of roadway elements. The Project will identify potential funding sources for recommended strategies and changes to the Corvallis Development Code needed to implement the strategies. Project will assure consistency between the Corvallis 9th Street Improvement Plan (Plan) and other locally adopted plans and policies.

Project Study Area

The Project Study Area consists of 9th Street and adjacent transportation facilities and land uses from Polk Avenue in downtown Corvallis north to its terminus at Elks Drive. The shaded area in Figure 1 shows the approximate extent of the Project Study Area in Corvallis. The shaded area in Figure 1 appears to include a segment of Highway 99W. While the Project will consider the operation of 9th Street as part of a transportation network that includes Highway 99W, any recommendations for Highway 99W resulting from this project will be limited to improvements at intersections with facilities connecting Highway 99W to the portion of 9th Street included in the Project Study Area.

Figure 1. Corvallis 9th Street Project Study Area



Source: Oregon Department of Transportation, Map Distribution Unit, 2006.

Background

Traveling north in the Project Study Area, 9th Street quickly leaves the traditional development pattern of downtown Corvallis and turns into a commercial strip. Several generators of traffic are located in or near the Project Study Area, including Linn-Benton Community College, Good Samaritan Hospital, shopping centers, and large stand-alone stores. While the Study Area is almost fully developed, development of the one remaining vacant site and redevelopment will add to the demand for travel in the Study Area.

The Project Study Area exhibits many of the problems typically associated with commercial strip development: high traffic volume with closely-spaced access points creates traffic congestion and conflicts that increase accident rates, reduce the operational efficiency of transit service, and reduce safety for pedestrians and bicyclists using the corridor.

Simply widening 9th Street to address these problems is not feasible for a variety of reasons, primarily because it would require substantial expense for the acquisition of adjacent private property. This is why this Project will focus on management of the system and improvements that do not require additional right-of-way.

Project Objective

The objectives of the Project are:

1. To improve the operation of 9th Street for vehicles, pedestrians, bicyclists, and transit services.
2. To develop a 9th Street Improvement Plan that guides future developments.
3. To incorporate the 9th Street Improvement Plan into the City of Corvallis Development Code for implementation.

Management Roles and Responsibilities

This Intergovernmental Agreement (IGA) is between ODOT and the Corvallis Area Metropolitan Planning Organization (CAMPO), which is staffed by the Oregon Cascades West Council of Governments (OCWCOG). As an agreement between ODOT and CAMPO, the tasks in this IGA state that CAMPO shall be responsible for completing Project elements. Agency understands that some of this work may be conducted by OCWCOG staff or by the City of Corvallis (City). While this work may be conducted by OCWCOG staff or the City, CAMPO is ultimately responsible for seeing that this work is conducted in a manner that meets generally accepted standards for analysis and the terms of this IGA. An Oregon-registered professional engineer (Civil or Traffic) must perform or oversee all traffic analysis work.

CAMPO management responsibilities includes:

A. Regular communication with TGM Project Manager, City, and Project committees.
B. Preparation and tracking of project schedule.
C. Daily oversight and coordination of Project team.
D. Satisfactory completion of deliverables in accordance with project schedule.

E. Preparation of monthly progress reports and invoices.
F. Posting of project goal and objectives, progress status and other related material on the Project web page.
G. Recruit City staff, elected officials, and active citizens for Project Advisory Committee.
H. Meeting arrangements including scheduling, legal notice, and distribution of agendas and Project deliverables to participants in advance of the meetings.
I. Preparation of Project meeting minutes and distribution to Project Advisory Committee members.
J. Ensure involvement of City staff, Planning Commission, and Council members throughout the project (e.g., through periodic briefings) to help assure that final products have the City's support.
K. Scheduling and notice of adoption hearing(s).
L. Update the CAMPO Technical Advisory Committee and the CAMPO Policy Board on the progress of the Project, on a monthly basis.
M. Local contract management and administration, including reporting local match expenditures, invoices and quarterly report to TGM Project Manager.

Deliverables Overview

Project memoranda and meeting material must be developed in a manner suitable for its eventual incorporation as elements of the *9th Street Improvement Plan*.

Maps, aerial photos, and other graphic material prepared for Project memoranda and the Plan must be suitable for enlargement to create wall displays for Project meetings and presentations.

Wall displays for Project meetings must be large-format paper copies mounted on foamcore to allow display on an easel or wall. Display of graphics by projector only is not acceptable.

All written (text) and graphic deliverables must be submitted in electronic versions. Final versions of project memorandums, meeting presentation material, and the draft and final *9th Street Improvement Plan* must also be provided to the City of Corvallis and the TGM Project Manager in hard copy. Any deliverables specified for posting on the Project web site must be submitted in Adobe Reader (pdf) format.

Electronic versions of written (text) deliverables must be in Microsoft Word. Written deliverables must include the project name, a title that refers to the contract deliverable, draft number, and date of preparation.

Graphic deliverables must be developed in ArcMap, Adobe Illustrator, or PCMaps, as appropriate to the deliverable. Graphic deliverables submitted for review must be converted to Adobe Reader (pdf) format or inserted in a Microsoft Word document for readability. Electronic files of final graphics submitted to the City and Agency may be in the native application but must also be converted to Adobe Reader (pdf) format or inserted into a Microsoft Word document.

All graphic deliverables must be well documented, with project name, a title that corresponds to the contract deliverable, draft number, a legend, and the date of preparation.

Electronic versions of base and plan maps must be in color. Display-sized maps must be printed in color when important to public comprehension, but all deliverables must be readable when reproduced in black and white.

Unless otherwise stated in the tasks, below, CAMPO shall send Project memoranda, meeting materials, plan elements and other materials electronically to the City, TGM Project Administrator, members of the Project Advisory Committee (PAC), and interested parties for review. Project materials for distribution by e-mail must be in Microsoft Word or Adobe Reader format.

Contractor must prepare "adoption-ready" plans, plan amendments, and code amendments. Plans, plan amendments, and code amendments must be stated as final policy statements of the local government and shall not include language such as "it is recommended ..." or "City should ...." Final plan, plan amendments, code, and code amendments must include all necessary amendments or deletions to existing City plans or code to avoid conflicts and to enable full integration of proposed plan with existing City documents.

All meetings formally specified in this IGA/WOC must occur in Corvallis and must be attended in person by lead Project staff from CAMPO, OCWCOG, and City. Participation by Agency staff in formal Project meetings may be in person or by phone. Additional informal meetings may be necessary to review Project deliverables or progress. Participation in these informal Project meetings by staff from CAMPO, OCWCOG, City, and Agency may be in person or by conference call.

Statement of Work

Task 1: Project Reconnaissance and Kickoff

Objective

To develop an understanding of transportation issues in the Project Study Area and begin the exchange of information between Project staff and community.

Subtasks

1.1 Project Advisory Committee Meeting #1

CAMPO shall take the lead in formation of a Project Advisory Committee (PAC). The PAC must consist of lead Project staff from CAMPO, OCWCOG, City, and Agency, as well as representatives of property or business owners in the Project Study Area. The TGM Project Manager will coordinate inclusion of Agency staff on the PAC. CAMPO shall provide PAC roster to City and TGM Project Manager.

CAMPO shall lead and facilitate PAC Meeting #1 in Corvallis to:

a. identify the range of issues, problems, deficiencies, and potential improvements that may be considered in this Project;
b. establish goals and objectives for the Project, and criteria for evaluating alternatives considered during the Project;
c. identify regulatory requirements and guidelines;

d. review the Project scope, schedule, and methods of public participation; and
e. discuss other issues related to the Project.

PAC Meeting #1 will include a tour of Project Study Area with CAMPO and PAC members to visit key sites that illustrate issues that will need to be addressed in the Project.

1.2 Draft Project Memorandum #1: Conditions, Deficiencies, and Needs

CAMPO shall prepare Draft Project Memorandum #1: Conditions, Deficiencies, and Needs that summarizes the methods, data, and conclusions of the analysis in this subtask. Draft Project Memorandum #1 must consist of four sections that are suitable for eventual incorporation into the *9th Street Improvement Plan*:

A. Background

A summary of transportation-related issues in the Project Study Area, the Project objectives, an outline of Project tasks to achieve the objectives, and general methods of analysis.

B. Existing Conditions

The Existing Conditions element must include maps, graphics, data, and text that describes the existing condition of transportation services in the Project Study Area, including:

- An inventory of transportation facilities in the Project Study Area, including streets, traffic controls, sidewalks, pedestrian marked crossings, corner curb ramps, transit stops, public parking, and pedestrian/bicycle routes and paths.
- The location of major activity centers in the Project Study Area (identified by CAMPO and reviewed by City).
- Employment, population, and other demographic and economic factors that affect the demand for transportation services in the Study Area.
- The location and legal status of street and driveway access points on the portion of 9th Street in the Project Study Area, and the existence or potential for reasonable alternate access to subject properties.
- A summary of existing operational characteristics of transportation systems in the Study Area, including traffic volumes, accident rates, transit ridership, measures of congestion, trip generation by major activity centers, and other available data that describes the characteristics of transportation service in the Study Area.
- Existing traffic volumes at arterial and collector intersections on 9th Street in the Study Area based on counts taken within the last 5 years, and adjusted to reflect the 30th highest hour volumes in the current year using methods in the *Transportation Analysis Procedures Manual* (http://www.oregon.gov/ODOT/TD/TPAU/A_APM.shtml).
    - Intersection counts shall be 14-16-hour manual classification turning movement counts. Counts are required for all arterial and collector-level

intersections within the Study Area and nearby intersections on Highway 99W, including :

1. 9th Street & Elks Dr
2. 9th Street & Conifer Blvd
3. 9th Street & Walnut Blvd
4. 9th Street & Circle Blvd
5. 9th Street & Garfield Ave
6. 9th Street & Grant Ave
7. 9th Street & Buchanan Ave
8. OR 99W & Walnut Blvd
9. OR 99W & Circle Blvd

- The last three to five years of available crash data shall be analyzed for 9th Street and intersecting roadways in the study area. The crash analysis should identify the crash rate, any crash patterns, and suggested countermeasures.

C. Future Transportation Conditions

CAMPO shall develop an analysis of future transportation demand, system capacity, and resulting transportation conditions in the Project Study Area in 2030. The analysis of future demand, capacity, and conditions will be completed by using information and data obtained during the assessment of existing conditions, consideration of planned transportation improvements in the Study Area included in the *Corvallis Transportation Plan*, and adopted population and employment forecasts for Corvallis.

The project area is covered under the Corvallis MPO travel demand model. This model shall be used to conduct this analysis. ODOT TPAU shall conduct two runs of the Corvallis MPO travel demand model to forecast future conditions in a "no build" scenario that includes planned transportation improvements in the Corvallis Transportation Plan but none of the improvements or policies that will be considered in this Project. One model run shall be based on assumptions used for the preferred alternative from recent system analysis, and the second shall be based on an assumption of additional employment growth in the Study Area to establish a reasonable range of potential future conditions. Model results must be post-processed to develop peak hour volumes based on acceptable methods outlined in the Transportation Analysis Procedures Manual. As part of the post-processing of model results, CAMPO shall use additional models suitable for reporting intersection levels of service , v/c ratios, and 95th percentile queues following methodology in the Analysis Procedures Manual.

D. Deficiencies and Needs

CAMPO shall identify deficiencies of the transportation system based on analysis of existing conditions and future conditions modeled in this subtask. The analysis of deficiencies and needs on state facilities must utilize methods in the ODOT *Transportation Analysis Procedures Manual*. Deficiencies are defined as the difference between an existing transportation system characteristic and applicable standards for that characteristic. Examples include:

- Access spacing that exceed applicable standards for segments of 9th Street in the Project Study Area.
- Streets, sidewalks, and pedestrian/bicycle routes and paths that do not meet applicable standards for such facilities.
- The lack of sidewalks or pedestrian/bicycle routes and paths where applicable standards would call for these facilities.
- Level of Service that is close to, or exceeds, applicable standards for local streets or v/c ratios for the state highway intersections.
- Crash rates that are close to, or exceed, city or statewide averages.
- Warrants for signals or turn lanes
- Traffic queuing issues

For city facilities, applicable standards are facility and operational standards adopted by the City of Corvallis. For state facilities, traffic operational standards for existing and future no-build conditions need to be based on the 1999 Oregon Highway Plan volume-to-capacity ratios. In the absence of City standards, CAMPO shall work with the PAC to determine which standards are most appropriate, drawing on standards published by ODOT and transportation organizations including the American Association of State Highway and Transportation Officials (AASHTO), Institute of Transportation Engineers (ITE), or the American Public Transportation Association (APTA).

The Deficiencies and Needs element must identify Key Intersections where detailed analysis is needed in future tasks. Key Intersections shall be identified based on existing conditions that indicate an existing or future deficiency that should be addressed, such as high accident rate, low Level of Service, or proximity to major activity centers. Project Memorandum #1 must identify deficiencies on 9th Street and at Key Intersections, and the general types of improvements needed to address these deficiencies.

Needs are defined as the general type of transportation measure required to resolve or mitigate a deficiency. Examples include:

- Consolidation or elimination of access points to bring access spacing within applicable standards.
- Development of shared driveways and cross-easements to allow multiple properties to share accesses.
- Construction of medians and channelization to improve the volume/capacity ratio or Level of Service to an acceptable level.
- Traffic signal improvements to improve traffic flow or reduce accidents.
- Local street extensions and connections to improve circulation and mobility in the corridor.
- Construction or improvement of pedestrian and bicycle facilities to increase connectivity of the transportation system and meet applicable standards.

CAMPO shall identify the general type and location of potential improvements needed to address transportation deficiencies in the Project Study Area. Any deficiencies or needs identified for State facilities or that have connections to State facilities must meet applicable standards and policies including the *Oregon Highway Plan, Highway Design Manual*, and *ODOT Traffic Manual*.

Draft Project Memorandum #1 must be developed in a manner suitable for the eventual incorporation of elements into the *9th Street Improvement Plan*. Maps, aerial photos, and other graphic material prepared as part of Draft Project Memorandum #1 should be suitable for enlargement to create wall displays for Project meetings as well as for inclusion in the *9th Street Improvement Plan* document.

CAMPO shall provide PAC members with Draft Project Memorandum #1 for review and comment at least two weeks before PAC Meeting #2.

1.3 PAC Meeting #2

CAMPO will lead and facilitate PAC Meeting #2 for review and comment on Draft Project Memorandum #1 and material prepared for Open House #1in Task 1.4.

CAMPO shall respond to comments and edits on Draft Project Memorandum #1 and Open House material received within one week of PAC Meeting #2.

1.4 Open House #1

CAMPO shall facilitate Open House #1 to present information about Project objectives, tasks, schedule, and conditions, deficiencies, and needs, and to solicit input from citizens about transportation-related issues in the Study Area.

CAMPO shall prepare presentation materials for Open House #1 that include display-sized maps or aerial photos developed in Task 1.2 that illustrate key Draft Project Memorandum #1 information and findings, an overview of Project objectives, and a schedule showing Project tasks by month and tentative dates for public meetings and deliverables related to the Project.

CAMPO shall also have handouts of presentation materials and a summary of Draft Project Memorandum #1 in a sufficient quantity for the anticipated number of Open House participants, and at least six full copies of Draft Project Memorandum #1 for Open House #1 participants that request a copy. CAMPO shall provide Open House #1 materials to the PAC one week prior to PAC Meeting #2 and revise materials based on comments received prior to Open House #1.

CAMPO shall provide a way for Open House #1 participants to submit their comments during or after Open House #1, with a deadline for comments received after Open House #1. CAMPO shall prepare a summary of comments received at Open House #1and provide that summary to PAC members.

CAMPO shall be responsible for meeting logistics, including reserving a suitable location, advertising the meeting, and mailing notice of Open House #1 to residents, property owners, and businesses in the Project Study Area. Notice of Open House #1 must include reference to the Project web site where the Project objectives, schedule, and deliverable products must be posted.

1.5 Final Project Memorandum #1

CAMPO shall prepare and provide City and TGM Project Manager with Final Project Memorandum #1 that responds to Agency and City comments and concerns and reflects comments from participants at Open House #1.

Deliverables

A. PAC Meeting #1
B. Draft Project Memorandum #1
C. PAC Meeting #2
D. Open House #1
E. Final Project Memorandum #1

Task Schedule

Months 1-5

Task 2: Develop Transportation Improvements and Assess Alternatives

Objective

To refine potential transportation needs into specific improvements or, where applicable, a range of alternative improvements to address transportation deficiencies in the Project Study Area.

Subtasks

2.1 PAC Meeting # 3

CAMPO shall meet with the PAC to review the transportation issues, deficiencies, and needs in the Project Study Area, and to facilitate a discussion to solicit guidance on a range of alternative transportation improvements for CAMPO to evaluate in Task 2.

2.2 Draft Project Memorandum #2: Potential Transportation Improvements

CAMPO shall prepare Draft Project Memorandum #2, that refines transportation needs identified in Task 1 into specific improvements or, where applicable, a range of alternative improvements to address transportation deficiencies in the Project Study Area. At a minimum, improvements must be identified as short-term or long-term to address existing and future deficiencies. Where a range of potential improvements is possible to address deficiencies in a segment of the Project Study Area, CAMPO shall work with the PAC to identify the specific improvements for further evaluation.

Improvements must be designed to effectively address transportation-related issues in the Project Study Area and to bring existing or future transportation conditions in the Project Study Area within or closer to limits established by applicable plans, policies, and standards. CAMPO shall work with TPAU to determine how to best utilize the Corvallis MPO transportation demand model to assess potential improvements and policies for improving the operation of 9th Street. CAMPO shall work with TPAU to determine the number of model runs needed and the set of potential improvements and policies that are reasonably feasible to include in each model run. TPAU shall conduct up to three additional runs of the Corvallis MPO travel demand model to assess potential improvements and policies that will be considered in this Project.

As part of this analysis, CAMPO shall use post-processing models suitable for reporting key intersection levels of service, v/c ratios, and 95th percentile queues following methodology in the Analysis Procedures Manual.

Analysis of alternatives that affect state facilities must use methods in the ODOT *Transportation Analysis Procedures Manual*. Any designs that affect state facilities need to be consistent with ODOT's *Highway Design Manual* including the v/c ratios. If options are proposed that change traffic flows on a state facility, the impacts to that facility must be analyzed. Consultant shall coordinate with Region 2 Traffic to determine viability of proposed changes to state highway facilities.

Draft Project Memorandum #2 must describe proposed improvements, how these improvements will address transportation deficiencies, order-of-magnitude estimates of total construction and annual maintenance costs associated with each improvement, and how well these improvements meet the Project objectives established in Project Memorandum #1.

Draft Project Memorandum #2 must include maps and graphics showing the proposed improvements overlaid on existing development and transportation facilities.

CAMPO shall provide PAC members with Draft Project Memorandum #2 for review and comment at least one week before PAC Meeting #4.

2.3 PAC Meeting #4

CAMPO shall meet with the PAC to review the alternative transportation improvements in Draft Project Memorandum #2 for their conformance with applicable plans, policies, and guidelines; effectiveness at addressing deficiencies in the Study Area; and acceptability with property owners, businesses, residents, and City officials. The PAC shall give CAMPO guidance on the range of alternative transportation improvements to include in the Plan and to discuss at Property/Business Owner Meetings in Subtask 2.4.

CAMPO shall respond to comments and edits on Draft Project Memorandum #2 received at least one week before the first scheduled Property/Business Owner Meetings.

2.4 Property/Business Owner Meetings

CAMPO shall attempt to contact property owners and business owners of parcels in the Project Study Area to invite them to meetings on Project-related access management issues. CAMPO shall attempt to contact these property owners and business owners no fewer than two times each, documenting each attempt. To the extent possible, CAMPO shall schedule Property/Business Owner Meetings in one hour blocks of time, over several days if necessary, to accommodate interested property and business owners.

At Property/Business Owner Meetings, CAMPO shall facilitate discussions of access management and other Project-related improvements, plans, and policies that may affect property and business owners at the meeting. CAMPO shall prepare meeting minutes that summarize participant's comments and concerns about the Project and provide those minutes to PAC members at least three days before PAC Meeting #5.

2.5 Open House #2

CAMPO shall lead Open House #2 to present proposed improvements and alternatives to address transportation conditions and deficiencies in the Project Study Area. CAMPO shall seek participant

suggestions and concerns with specific improvements and alternatives in Draft Project Memorandum #2.

CAMPO shall use presentation material prepared for Open House #1 as appropriate and prepare additional presentation materials for Open House #2, including diagrams of Project Study Area segments showing specific improvements or alternative improvements to the transportation system overlaid on aerial photos or maps showing existing development and transportation facilities.

CAMPO shall also provide handouts of Open House #2 presentation material in a sufficient quantity for the expected number of Open House participants.

CAMPO shall provide a way for Open House #2 participants to submit their comments at Open House #2 or after, with a deadline for comments received after Open House #2. CAMPO shall prepare a summary of comments received at Open House #2and provide that summary to PAC members at PAC Meeting #5.

2.6 PAC Meeting #5

CAMPO shall meet with the PAC to discuss Draft Project Memorandum #2 and comments received at the Property/Business Owner Meetings and Open House #2. CAMPO shall seek direction from PAC members for selecting preferred alternatives for improvements in the Project Study Area based on input received from property/business owners and participants in Open House #2.

CAMPO shall respond to any additional comments and edits on Project Memorandum #2 that are received within one week of PAC Meeting #5.

2.7 Final Project Memorandum #2: Preferred Transportation Improvements

CAMPO shall provide City and Agency with Final Project Memorandum #2 that reflects direction from Agency, City, and PAC and input from participants in Property/Business Owner Meetings and Open House #2.

Deliverables

A. PAC Meeting #3
B. Draft Project Memorandum #2
C. PAC Meeting #4
D. Property/Business Owner Meetings
E. Open House #2
F. PAC Meeting #5
G. Final Project Memorandum #2

Task Schedule

Months 5-8

Task 3: Develop Implementation Strategy

Objective

To assist the City with implementation of preferred transportation-related improvements, plans, and policies in the Project Study Area by identifying public and private sources of funds for improvements, developing a strategy that the City can follow to implement planned improvements, and identifying amendments needed to the Corvallis Development Code and adopted plans to implement preferred improvements.

Subtasks

3.1 Draft Project Memorandum #3: Implementation Strategy

CAMPO shall prepare a Draft Project Memorandum #3: Implementation Strategy. Draft Project Memorandum #3 must include:

a. Planning-level estimates of annual operating and total construction costs for recommended improvements in the Project Study Area.
b. Annual funding available from existing and potential new sources for Project improvements, including contributions from private parties to mitigate impacts of development.
c. A strategy the City can employ to pursue funding, financing, and private contributions to implement Project improvements, including potential amendments to the City's Transportation System Plan, Land Development Code/Zoning Ordinance, and other plans and codes.

CAMPO shall review existing City plans, policies, and codes to identify areas where refined language is needed and inconsistencies with the Implementation Strategy that must be resolved. CAMPO must prepare potential amendments to plans, policies, and codes in underline-strikeout format showing the original text with underlined text for additions and strikeout text for deletions. Potential amendments in Draft Project Memorandum #3 must focus on plan and code amendments needed to:

- resolve inconsistencies between recommended improvements for the Project Study Area and existing Plan and Code elements,
- add preferred alternatives to the City's Transportation System Plan,
- implement recommended improvements in the Project Study Area,
- require mitigation of traffic impacts from development, and
- fund recommended improvements in the Project Study Area.

To limit the range of potential new funding sources, CAMPO shall focus on the range of funding sources that can be legally implemented by the City and that are used by other municipal governments to fund transportation needs.

CAMPO recommendations for amendments to the Corvallis Land Development Code/Zoning Ordinance may utilize the TGM publication *Smart Development Code for Small Cities* (http://www.oregon.gov/LCD/TGM/docs/modelCode05/pdf/guide.pdf).

CAMPO shall provide PAC members with Draft Project Memorandum #3 for review and comment at least one week before PAC Meeting #6.

3.2 PAC Meeting #6

CAMPO shall present a summary of the implementation strategy developed in Draft Project Memorandum #3 at PAC Meeting #6, with a focus on funding, requirements for impact mitigation, and recommended plan and code amendments.

CAMPO shall respond to any comments and edits on Draft Project Memorandum #3 recieved within one week of PAC Meeting #6.

3.3 Final Project Memorandum #3: Implementation Strategy

CAMPO shall provide PAC members with a final Project Memorandum #3 that reflects direction from PAC review of the draft memorandum.

Deliverables

A. Draft Project Memorandum #3
B. PAC Meeting #6
C. Final Project Memorandum #3

Task Schedule

Months 8-10

Task 4: Support Plan Adoption

Objective

To present the *9th Street Improvement Plan* to the Corvallis Planning Commission and City Council and respond to their questions and concerns in support of Plan adoption.

Subtasks

4.1 Draft *9th Street Improvement Plan*

CAMPO shall prepare the Draft *9th Street Improvement Plan* (Plan) for review by the Corvallis Planning Commission and potential adoption by the Corvallis City Council. The Draft Plan must be developed from the Project Memoranda 1-3 prepared for this Project, with an emphasis on text and graphics that present key findings. Project Memoranda 1-3, including proposals that were not included in Plan recommendations, shall be included as appendices to the Draft Plan.

The Draft Plan shall be organized into eight sections:

1. Executive Summary
2. Background
3. Methods
4. Plan and Policy Framework
5. Transportation Conditions and Deficiencies in the Study Area
6. Recommended Transportation Improvements
7. Funding Strategy

8. Development Code and Plan Amendments

CAMPO shall provide PAC members with draft Plan for review and comment at least one week before PAC Meeting #7.

4.2 PAC Meeting #7

CAMPO shall attend PAC Meeting #7 to present the Draft Plan and respond to Committee questions and concerns.

CAMPO shall prepare a Revised Plan to reflect comment and edits from PAC members received within one week of PAC Meeting #7. CAMPO shall work with the City and TGM Project Manager to resolve any conflicts or inconsistencies in comments and edits received from PAC members for preparation of the Revised Plan.

4.3 Corvallis Planning Commission Meeting

City shall seek Planning Commission endorsement of the Revised Plan in support of its adoption by the Corvallis City Council.

CAMPO shall attend a meeting of the Corvallis Planning Commission to present the findings from the Revised Plan and respond to Corvallis Planning Commission questions and concerns.

4.4 Final Plan

CAMPO shall prepare Final Plan to reflect direction from City based on comments received from members of the Corvallis Planning Commission.

CAMPO shall provide City and Agency with an electronic copy of the Final Plan at least two weeks before the Corvallis City Council meeting at which the Final Plan will be presented by CAMPO.

4.5 Corvallis City Council Meeting

CAMPO shall seek adoption of the Final Plan or Plan elements by the Corvallis City Council. At a minimum, CAMPO shall recommend that improvements identified by the Plan should be adopted into the *Corvallis Transportation Plan.*

CAMPO shall attend a meeting of the Corvallis City Council to present the findings from the Final Plan and respond to Corvallis City Council questions and concerns.

Deliverables

A. Draft Plan
B. PAC Meeting #7/Revised Plan
C. Corvallis Planning Commission Meeting
D. Final Plan
E. Corvallis City Council Meeting

Task Schedule

Months 10-12

Task 5: Contingent Review and Revision of Project Deliverables

Objective

To provide flexibility for CAMPO to conduct additional round of analysis, meeting, and revision needed to ensure City, Agency, and public support for the *9th Street Improvement Plan.* This contingent task is to be use when one review of a draft Project deliverable by the Project Advisory Committee, City, or Agency is not sufficient to resolve all outstanding issues.

Subtasks

5.1 Contingent PAC Meeting I

With approval from TGM Project Manager, CAMPO shall lead one additional PAC meeting to review a Project deliverable. PAC members must provide their comment on the Project deliverable within one week of Contingent PAC Meeting I.

5.2 Contingent PAC Meeting II

With approval from TGM Project Manager, CAMPO shall lead one additional PAC meeting to review a Project deliverable. PAC members must provide their comment on the Project deliverable within one week of Contingent PAC Meeting I.

5.3 Contingent Revision of Project Deliverable I

With approval from TGM Project Manager, CAMPO shall conduct one additional revision of Project deliverables to respond to comments by the PAC, City, OCWCOG, or Agency. Contingent revision of project deliverables can include further investigation of issues or additional analysis to address items not covered in the initial draft deliverable.

5.4 Contingent Revision of Project Deliverable II

With approval from TGM Project Manager, CAMPO shall conduct one additional revision of Project deliverables to respond to comments by the PAC, City, OCWCOG, or Agency. Contingent revision of project deliverables can include further investigation of issues or additional analysis to address items not covered in the initial draft deliverable.

Deliverables

A. Facilitation of Contingent PAC Meeting I
B. Facilitation of Contingent PAC Meeting II
C. Revision of Project deliverable I
D. Revision of Project deliverable II

Schedule

As needed. Use of contingent tasks does not automatically extend the project schedule.

Project Schedule

Corvallis 9th Street Improvement Plan: Project Schedule

Task	Month											
	1	2	3	4	5	6	7	8	9	10	11	12
Task 1: Project Reconnaissance and Kickoff												
Task 2: Develop Transportation Improvements and Assess Alternatives												
Task 3: Develop Implementation Strategy												
Task 4: Support Plan Adoption												

Summary of Project Deliverables

This section summarizes Project Deliverables in this WOC.

Task 1: Project Reconnaissance and Kickoff

A. PAC Meeting #1
B. Draft Project Memorandum #1
C. PAC Meeting #2
D. Open House #1
E. Final Project Memorandum #1

Task 2: Develop Transportation Improvements and Assess Alternatives

A. PAC Meeting #3
B. Draft Project Memorandum #2
C. PAC Meeting #4
D. Property/Business Owner Meetings
E. Open House #2
F. PAC Meeting #5
G. Final Project Memorandum #2

Task 3: Develop Implementation Strategy

A. Draft Project Memorandum #3
B. PAC Meeting #6
C. Final Project Memorandum #3

Task 4: Support Plan Adoption

A. Draft Plan
B. PAC Meeting #7
C. Corvallis Planning Commission Meeting
D. Final Plan
E. Corvallis City Council Meeting

Task 5: Contingent Review and Revision of Project Deliverables

A. Contingent PAC Meeting I
B. Contingent PAC Meeting II
C. Contingent Revision of Project Deliverable I
D. Contingent Revision of Project Deliverable II

Project Budget

This WOC is part of an Intergovernmental Agreement between ODOT and CAMPO. Payment will be made in the fixed amounts shown in Table 1 upon completion of deliverable products to the satisfaction of the TGM Project Manager. Billings for time and materials cannot exceed overall Project budget established by TGM Program. CAMPO will be responsible for completing Project tasks in this WOC even if work remains after the grant amount is fully expended.

Table 1: Corvallis 9th Street Improvement Plan Project Budget

Task / Subtask	**Amount per Task**
Task 1: Project Reconnaissance and Kickoff	**$25,500**
1.1 PAC Meeting #1	$1,000
1.2 Draft Project Memorandum #1	$10,000
1.3 PAC Meeting #2	$2,000
1.4 Open House #1	$7,500
1.5 Final Project Memorandum #1	$5,000
Task 2: Develop Transportation Improvements and Assess Alternatives	**$33,000**
2.1 PAC Meeting #3	$1,000
2.2 Draft Project Memorandum #2	$10,000
2.3 PAC Meeting #3	$2,000
2.4 Property/Business Owner Meetings	$3,000
2.5 Open House #2	$5,000
2.6 PAC Meeting #5	$2,000
2.7 Final Project Memorandum #2	$10,000
Task 3: Develop Implementation Strategy	**$22,000**
3.1 Draft Project Memorandum #3	$12,500
3.2 PAC Meeting #6	$2,000
3.3 Final Project Memorandum #3	$7,500
Task 4: Support Plan Adoption	**$12,500**
4.1 Draft *9th Street Improvement Plan*	$5,000
4.2 PAC Meeting #7	$1,000
4.3 Corvallis Planning Commission Meeting	$2,000
4.4 Final *9th Street Improvement Plan*	$2,500
4.5 Corvallis City Council Meeting	$2,000
Task 5: Contingent Review and Revision of Project Deliverables	**$7,000**
5.1 Contingent PAC Meeting I	$1,000
5.2 Contingent PAC Meeting II	$1,000
5.3 Contingent Revision of Project Deliverable I	$2,500
5.4 Contingent Revision of Project Deliverable II	$2,500
PROJECT TOTAL	**$100,000**

CORVALLIS
ENHANCING COMMUNITY LIVABILITY

MEMORANDUM

DATE: February 12, 2009

TO: City Council

FROM: Ken Gibb, Community Development Director

SUBJECT: **Deer Run Park Subdivision** - Additional Testimony and Final Written Arguments Received (cases PLD08-00013 and SUB08-00007)

On February 2, 2009, the City Council held a public hearing on the above referenced cases. Testimony submitted by citizens at the public hearing included a request to hold the written record open for 7 additional days (February 9, 2009). Additional written testimony, both in favor of and against the application was submitted, and is included with this memorandum as **Attachment A**.

The applicant waived their right to have seven additional days to provide final written arguments, and submitted final written arguments on February 9, 2009. The applicant's final written arguments are included as **Attachment B** to this memorandum. These items are for your consideration for the upcoming City Council deliberations on February 17, 2009.

Additionally, City Council asked staff to respond to specific questions concerning the application. Those questions, and a staff response are included as **Attachment C** to this memorandum.

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FEB - 2 2009

Community Development
Planning Division

My Name is John D. Price

I live at 4670 N.W. Rosemarie Place
My House is bordered BY: N.W. Ponderosa,
N.W. Acacia Dr. , and N.W. Rosemarie Place

I live at the tip of the traffic funnel, and, without exception, all traffic on Ponderosa west, of N.W. Acacia passes by my house.

By using County Maps: 11520DC, 11529AA and 11529AB, There are approximately 169 homes in the Ponderosa West Community. This does not include the home sites north of Ponderosa outside of the city.

All traffic and households on N.W. Ponderosa, West of Acacia St., are trapped into only one choice for travel, BY MY HOUSE, to and from the city. Until they go East to N.W. Acacia, which it allows them to get to N.W. Glenridge Going North., OR N.W. Audine, going south which gives them access to Walnut.

Someone in there infinite wisdom in years gone by, decided that N.W. Dear Run St. SOUTH OF Ponderosa should not or would not be finished. Why was this not completed ?

The N.W. Fair Oaks Dr Extension shown on Benton County map #11528 Was planed, but never completed. It was to connect the Skyline area to Walnut street.

In my opinion, All CONSTRUCTION SHOULD BE HALTED, until, another Access road is furnished, and Fire and Water mains are extended to all the city development west of Acacia St.

The last fire, that occurred west of Acacia St. Necessitated water Tanker trucks to use the Hydrants at N.W. Acacia and N.W. Rosemarie streets. This Blocked all traffic on Ponderosa, west of Acacia until they finished fighting the fire.

The council needs to get the Fire Department's input on this matter.

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Community Development
Planning Division

OREGON CHAPTER SIERRA CLUB

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Community Development
Planning Division

January 20, 2009

Testimony before the Mayor and Members of the Corvallis City Council

Re: Appeal of the Corvallis Planning Commission Decision of November 19th, approving the Deer Run Park Conceptual and Detailed Development Plan and Tentative Subdivision plat.

From: Marys Peak Group - Sierra Club
Barry Wulff, Chair
P.O. Box 863
Corvallis, OR 97339

The Marys Peak Group recommends denial of the proposed Deer Run Park Conceptual and Detailed Development Plan, thereby reversing the Planning Commission's decision.

The Marys Peak Group is no stranger to land use issues and strongly believes that wise planning is a gift to the future. Our 1,300 members in the area are probably more familiar with the nooks and crannies of the City of Corvallis than many a surveyor. They are walkers, hikers, bikers, young and old, singles and families – and all care about our community's future.

We have three areas where we have objections.

Section 2.5.40.04 of the Land Development Code states that a variation from a standard of the NATURAL HAZARD AND HILLSIDE DEVELOPMENT provisions: Significant Vegetation, Riparian Corridor and Wetlands Chapters "shall provide protection equal to or better than the specific standard requested for variation." It further states that the variation "shall involve an alternative located on the same development site where the specific standard applies." The same section of the Code allows "Compensating Benefits" for variations being requested as a criterion.

The number of variations being requested to "specific standards" in the Deer Run proposal is 9. The number of "conditions" required by the Planning Commission for approval of the proposal is 35.

This tiny 2.55 acre site bordered to the west by an open drainage way was annexed as a part of a larger 141 acre parcel in 1984. The City Planning Commission placed "Special Requirements and Conditions" on the requested Planned Development Overlay for the parcel proposed for annexation, noted as: "CONDITIONS OF APPROVAL FOR THE DISTRICT CHANGE UPON ANNEXATION". One of those conditions requires "dedication [to the City] of open drainageways as adjacent areas are approved for development." That drainage way is Deer Run Creek, a tributary to Dixon Creek. The property today is zoned with the Planned Development Overlay – just as annexed.

The site is mapped by the City for protection of a Highly Protected Riparian Corridor (75 feet from top-of-the-bank of Deer Run Creek). The site is also mapped for Steep Slopes, Landslide Runout Hazards and is within the 500-foot buffer area of another mapped Landslide area, off-site. Much of the site has slopes exceeding 15% with areas 35% or greater.

Variations to specific standards requested by the applicant are justified by "compensating benefits." A variation to the requirement that "parking lots should be located to the rear of buildings" is justified by the benefit of "fully" protecting the Riparian Corridor. This already *is* fully protected. [Staff Report. p. 12, TABLE A]. The Staff Report notes that "Swapping the locations of the parking and dwellings allows the limits of grading to be moved further north (to between 24 feet and 40 feet of the 75-foot Riparian Corridor line).

Another requested variation from the required 25 foot maximum front yard setback also cites compensating benefits as "greater protection of the Riparian Corridor "from the effects of fill necessary to support vehicle driveway and parking areas." [Staff Report p. 12, TABLE A] The **Riparian Corridor has specific constraints as to fill.** The site in general has already suffered from fill, none authorized for building construction: approximately 200 cubic yard of fill, a maximum of 2,000 cubic yards of loose fill, 9,440 cubic yards of compacted fill, 2-3 hundred yards in the street. [Case Number EXC99000018, EXC92-00001, VIOO6-00138, corvallispermits.com]

LDC 4.0.30.a.2 requires a twelve-foot wide buffer to safely separate pedestrians from high-speed vehicular traffic on Collector streets. The variation requested [Staff Report, pp. 14-15, TABLE A] proposes to provide buffers only on the south side of the common sidewalk. The compensating benefit is providing "additional protection for the Riparian Corridor." The Riparian Corridor is already protected under Phase III of the Natural Features and Hazards Section of the LDC.

The Code requires eight-foot Standard and Terracing in proposing fills. The extenuating provisions for variations to the eight-foot standard, according to staff, do not apply. [Staff Report, p. 15.] Compensating benefits are described as moving the development to the north half of the site (requiring the variation), which would more "fully" protect the Highly Protected Riparian Corridor. But again, there is no proposed protection beyond what is already required by code.

The Land Development Code "strongly" discourages development for sites with slopes equal to or greater than 10%. Much of the site proposed for residential use is between 15 and 35% and some greater than 35%. Topographical and hydrological changes to the slopes with development are presumed minimized through the assurance of a geotechnical engineer's report and subsequent monitoring. It is not specified in the conditions whether building can be stopped or must just be monitored and re-engineered if greater risk is identified.

LDC 2.5.20.h states that one of the purposes of a Planned Development is to "Provide benefits within the development site that compensate for the variations from development standards such that the intent of the development standards is still met."

The Sierra Club does not believe that the benefits stated meet this test in terms of equity to the resource impacted or in meeting the intent of the development standards. Avoiding a development impact does not increase protection per se. **A compensating benefit should have some relationship to the resource affected or lost.**

The Sierra Club recommends that you deny the Deer Run Park application, considering the environmental impacts of this proposal – particularly considering the limited area remaining within the City in the Dixon Creek watershed – and the extent of variations from the City of Corvallis Land Development Code, which was developed with the help of many, many citizens.

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CITY MANAGERS OFFICE

FROM: Michael Papadopoulos -- Appellant's presentation -- February 2, 2009

APPEAL FROM DECISION

PLD08-00013/SUB08-00007

SUBJECT: Corvallis Land Use Code: Effect of Landslide Hazards on Nearby Construction.

INTRODUCTION

The Applicant is required to required to prepare and to file a Site Assessment and Geotechnical Report whose content must meet stated criteria both about the subject property and about neighboring areas. The Applicant has not submitted the Site Assessment and Geotechnical Report stating facts specific to areas outside the subject property. The City lacks authority to second-guess as to the contents of an unsubmitted Geotechnical Report for such areas North of the subject property but within the "landslide Buffer Zone".

Exhibit III - ATTACHMENT E -Landslide Hazard Map

(page 102/395 of Exhibit III-Staff Report to PC - 09/07/2008 -- *slightly modified by the appellant*)

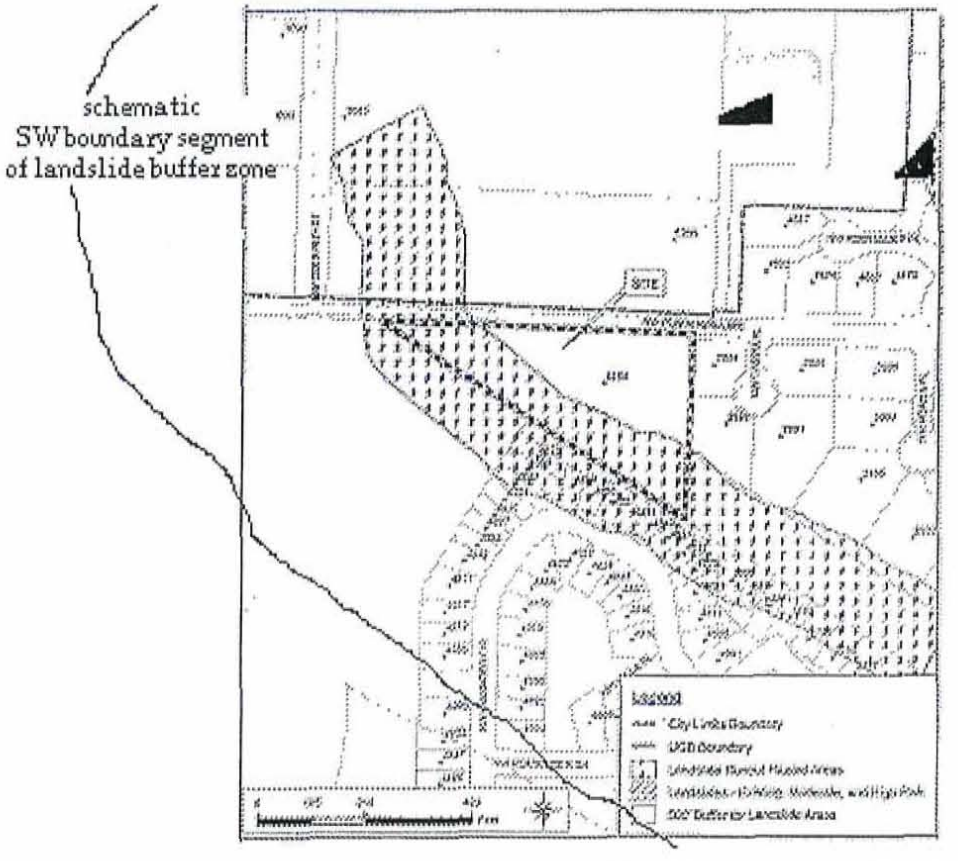

Diagram showing the three designated LANDSCAPE HAZARDS found to affect development of the subject property. (The black areas depict mapped sites of "Landslides -- Existing, Moderate, and High Risk" in accord with Corvallis designations) Appellant introduces the phrase "LANDSLIDE BUFFER ZONE" to name the area defined in LDC 4.5.70.02 as an area comprising all points less than 500 feet from any of those hazards. The greater part of the Buffer Zone designated for the subject property lies within and downstream from the Corvallis Urban Growth Boundary.

1: Excerpted Comprehensive Plan Language relating to Landslides

As to LANDSLIDES the 2006 Corvallis Comprehensive Plan includes the following:

Article 4. Natural Features, . . .

4.2 General Natural Features . . .

POLICIES

4.2.2 Natural features ... shall be preserved, or have their losses mitigated, and/or reclaimed. The City may use conditions placed upon development of such lands, private nonprofit efforts, and City, State, and Federal government programs to achieve this objective.

4.6 Hillsides

FINDINGS .....

4.6.d There are hillside areas within the Urban Growth Boundary that are prone to landslides. These areas are also associated with poor drainage, shallow subsurface flow of ground water and springs, and high susceptibility to erosion. Landslides can destroy roads and buildings and wildlife habitat, and adversely affect water quality and fishery potential within and downstream of the Urban Growth Boundary. Mass movement has not resulted in any major loss of life or property thus far, because there has not been significant development in hillside areas susceptible to problems.

4.6.i Slide scars are hazardous areas on which to build and with geological investigation, can be identified.

4.7.a In 1979, the Oregon Department of Geology and Mineral Industries studied Corvallis and the surrounding area for natural hazards. The Department's study provides a general data base for the consideration of natural hazards as they relate to land use decisions..

4.7.b The majority of vacant land within the Urban Growth Boundary has at least one characteristic which is a constraint for urban development. The characteristics include, but are not limited to: flood plains and wetlands; steep slopes; unstable soil characteristics; and other combinations of characteristics which create hazards, such as earthquake soil liquefaction, landslide, and flood.

4.7.c Due to the general nature of soils and geologic mapping, site-specific analysis is often necessary to determine the presence of geologic hazards and the severity of soil problems which are constraints to development. Such geologic hazards exist when certain combinations of slope, soil, and bedrock combinations, and moisture conditions render land unstable.

POLICIES ....

4.6.2 Development on hillsides shall not endanger life and property nor land and aquatic resources determined to be environmentally significant.

4.6.12 It is necessary to identify "slide scars" within the Urban Growth Boundary and, if needed, establish special provisions affecting development on or near these sites.

4.7 Natural Hazards

POLICIES ....

4.7.3 Prior to development, the City of Corvallis may require site-specific soil surveys and geologic studies where potential hazards are identified based upon available geologic and soils evidence. When natural hazards are identified, the City shall require that special design considerations and construction measures be taken to offset the soil and geologic constraints present in order to protect life and property, and to protect environmentally hazardous areas.

2: Protecting against Landslide Hazards is a Public Safety matter; the City requires geologic and soil investigations - with data and analysis to be filed and to meet stated factual criteria as an irrevocable condition for approval of regulated activities.

In any area designated for "further review " ORS 195.250 to 195.260 requires the City to reduce the risk of serious bodily injury or death resulting from "rapidly moving landslides" by making sound decisions to mitigate rapidly moving landslide hazards and risks. This is in respect to the siting or construction of homes or other structures, also in respect to conducting land management activities that may adversely alter the susceptibility of land to rapidly moving landslides. ORS 195.250 to 195.260 also requires that such areas be mapped. Such mapping is intended to indicate the susceptibility of land to rapidly moving landslides. The City of Corvallis has adopted a Natural Hazards map under these requirements and it has adopted provisions relating to landslides both in its Comprehensive Plan and in its Land Use Code. (See e.g. Comp. Plan Art 4 Hillsides 4.6d)

According to the above Comprehensive Plan Findings and Policies, the 2006 Corvallis Comprehensive Plan allows the City of Corvallis to require filing of geologic and soils study reports to protect against landslide destruction of roads and buildings and wildlife and also to protect against adverse affects on water quality and fishery potential lands -- within and downstream from the Corvallis Urban Growth boundary. LDC 4.5.70 defines certain areas in which approval of development requires the filing of geologic and soils investigation studies to meet stated criteria.

By LDC 4.5.70 the City designates areas for which "further review" is required prior to grant of construction permits. Appellant describes such designated areas by the phrase "LANDSLIDE BUFFER ZONE". That phrase describes areas comprising all points less than 500 feet from any portion of the Natural Hazard area as mapped on the Natural Hazards Map adopted by the City under ORS 195.260.4(A)(a). The "LANDSLIDE BUFFER ZONE" is also restricted to lands lying "within and downstream" from the Urban Growth Boundary. Comprehensive Plan Art.4.6d. The Natural Hazards map is intend to designate areas susceptible to rapidly moving landslides.

LDC 4.5.70.01 states that the class of "Landslide Hazard Areas" includes
High Landslide Risk areas,
Existing Landslide areas, and
Landslide Debris Runout areas.
These areas are mapped on the Natural Hazards Map."

LDC 4.5.70 recognizes neither jurisdictional nor property boundaries other than the Urban Growth Boundary. Under LDC 4.5.70 all Landslide Hazard areas within a prescribed "landslide buffer zone " and within the Urban Growth Boundary are treated identically regardless of whether located inside or outside the subject property or inside or outside the City of Corvallis boundary .

The subject property lies within a specific "Landslide Buffer Zone" defined in association with three, and only three, specific Natural Hazard Areas mapped on the Natural Hazards Map. The identical "Landslide Buffer Zone" contains areas having slopes of 25% or greater which are also mapped on the Natural Hazards Map.

In Corvallis the default standard (LDC 4.5.70.02) is that Applicant must file the results of geologic and soils studies which satisfy stated criteria before being permitted to engage in regulated activities which include
(i) Excavation,
(ii) Fill, and
(iii) Construction . . . of any building or structure for which permission is required pursuant to this Code, or the adopted Building Code --
because Applicant's property lies within the associated with the subject property.

The "landslide buffer zone " -- relating to the three and only three designated Landslide Hazard Areas relevant to the subject property -- includes the whole of the subject property. It contains private properties not owned by the Applicant, some within the City of Corvallis on the East, South and West sides of the subject property and some outside the urban boundary on the North side but within the Urban Growth Boundary. It also contains the publicly owned -- and maintained -- segment of NW Ponderosa Ave adjacent to the subject property. The "landslide buffer zone " also contains areas outside the subject property having slopes of 25% or greater.

LDC 4.5.70.02 mandates the preparation and filing of a Site Assessment and Geotechnical Report for lands within a Landslide Buffer Zone as a prerequisite for permitting regulated activities. The Geotechnical Report must be completed and stamped by a Licensed Civil Engineer, licensed in the Specialty of Geotechnical Engineering by the Oregon State Board of Engineering Examiners.

3: By not preparing and filing a Geotechnical Report for lands outside the subject property but within the Landslide Buffer Zone, applicant has left open the question of whether such lands are susceptible to rapidly moving landslides. On this record, Applicant has not met the standards required by LDC 4.5.70.03 by which regulated activities on the subject property may be permitted

LDC Sections 4.5.70.02 and 4.5.70.03 require applications for development on properties within a Landslide Buffer Zone to include a Site Assessment and Geotechnical Report meeting the criteria identified in sections 4.5.60.04 and 4.5.60.05. LDC 4.5.70 contains no mention of boundaries either of jurisdiction or of property. Those criteria certainly require a "field investigation of the site and vicinity " which in turn requires a filed report on geologic and soils investigation both inside and outside the subject property. The code does NOT limit that requirement to the "immediate vicinity" of the subject property; that requirement must apply to the whole of the "landslide buffer zone" within and downstream of the Urban Growth Boundary.

Applicant submitted a draft Geotechnical Investigation dated June 21, 2007, [ATTACHMENT N of Staff Report submitted to CPC (page 3/24)] containing evidence and results of field exploration limited to the subject property. That draft was filed on Feb. 11, 2008 as part of the present application. Applicant's proposed activities involve excavation, fill, construction of buildings as well as construction or expansion of utilities, streets, driveways, or other accessways.

The Planning Department required the Applicant to supplement the submitted Geotechnical Investigation [see ATTACHMENT N of Staff Report submitted to CPC (page 1/24)] by asking "(t)hat the Geotechnical report address the geologic conditions ... within the <u>immediate</u> vicinity of the site. " (emphasis supplied)

In response the applicant submitted a Memorandum which provided no additional evidence of field exploration outside the boundary of Applicant's property. Indeed, at
paragraph 4 of page 1/24, [ATTACHMENT N of Staff Report submitted to CPC] the author states:

> "It should be clearly understood that Foundation Engineering Inc. (FEI) did not conduct site-specific investigations of properties to the north and south of the subject parcel."

Applicant's draft Geotechnical Investigation includes no field exploration results in regard to public lands owned by Benton County. Where LDC 4.5.60.04 states, " (at) a minimum, the Site Assessment shall include the following elements .... A field investigation of the site and vicinity" -- the record contains no evidence of field exploration on the segment of NW Ponderosa Ave. adjacent to the subject property.

In addition Applicant's draft Geotechnical Investigation includes no field exploration results in regard to private lands outside the subject property and within the Landslide Buffer Zone and therefore within the Urban Growth Boundary.. Where LDC 4.5.60.04 states, " (at) a minimum, the Site Assessment shall include the following elements .... A field investigation of the site and vicinity" -- the record contains no evidence of field exploration required on lands outside the subject property.

The Planning Department lacks the authority to reduce the LDC 4.5.60.04 (a)(2) requirement that the application contain at a minimum a Site Assessment which includes "(a)t a minimum .... 1. A field investigation of the site and vicinity;" to one requiring Applicant to provide a Geotechnical report address(ing) "the geologic conditions ... within the immediate vicinity of the site."

4: The record contains no FINDING that the criteria stated in LDC 45.5.60.05 are met for lands in the "landslide buffer zone" which defines the vicinity of the subject property.

LDC 4.5.60.05 requires the filing of a Geotechnical Report "... in conjunction with development proposals in landslide hazard areas (as stipulated in Section 4.5.70 of this Code. " A Geotechnical Report is intended to include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures, including buttress fill, when necessary, and opinion on the adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes. ...."

Applicant has filed no such report "... in conjunction with development proposals in landslide hazard areas including data "regarding the nature, distribution and strength of existing soils" including data "regarding the nature, distribution and strength of existing soils" on lands located outside the subject property but within the "landslide buffer zone."

Applicant has filed no such report "... in conjunction with development proposals in landslide hazard areas including data "regarding the nature, distribution and strength of existing soils" including data "regarding the nature, distribution and strength of existing soils" on lands located outside the subject property but in its vicinity

Applicant has filed no such report "... in conjunction with development proposals in landslide hazard areas including data "regarding the nature, distribution and strength of existing soils" including data "regarding the nature, distribution and strength of existing soils" on lands located outside the subject property but in its "immediate vicinity"

Where the record of this proceeding contains no Site Assessment and no Geotechnical Report in relation to any land outside the subject property, there can be no Finding that Applicant has met the requirements stated in LDC 4.5.70.03.

Where Applicant has submitted no Site Assessment and no Geotechnical Report in relation to any land outside the subject property , there can be no Finding that the criteria separately stated in LDC 4.5.60.04 and LDC 4.5.60.05 have been met.

CONCLUSIONS

The City lacks authority to second-guess as to the contents of an <u>unsubmitted</u> Geotechnical Report for areas North of the subject property but within the "landslide Buffer Zone"

The City of Corvallis has no authority to find that the application meets the criteria required.

This appeal should be therefore be granted and the application denied

Respectfully submitted

/sgd/ Michael Papadopoulos

5370 NW Lawrence Ave.
CORVALLIS, OR 97330

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FEB - 6 2009

Community Development
Planning Division

February 6, 2009

City of Corvallis

RE: Wayde and Frankie Kent
Ponderosa Blvd project

To Whom It May Concern:

I am writing this to voice my support of the project offered by Wayde and Frankie Kent on Ponderosa Blvd., Corvallis, Oregon.

For the last four or five years, I have watched the Kent's work on this project. They have hired every "expert" required by the City of Corvallis to determine any issue that may arise as a result of construction on this parcel of land. They have hired "experts" not required by the City of Corvallis, but the Kent's thought they might guide them in the right direction to make this a quality project.

I was personally involved with the Kent's, the planner and engineer for several years while I was a licensed Real Estate Agent in the State of Oregon. I was, and still am, enthusiastic about the project and hope to see it become a viable project in our community. I am currently retired and out of the area for a period of time, but Corvallis has been my home for over 35 years and I have my personal residence there as well as commercial property downtown. I believe this to be a good project for our city.

When Frankie and Wayde bought this property, it was 2.5 acres zoned as R6 and this was verified with the City of Corvallis before the purchase was made. Now the portion of this property that is usable for construction is approximately ¾ acre with the balance of the land being left to natural habitat.

I believe this project should be approved for a platted subdivision as presented by Frankie and Wayde Kent and the many experts that have worked to ensure that this will be a well planned, visually pleasing project that will be a family friendly addition to the neighborhood.

Very truly yours,

Margie Holland
5800 NW Highland Pl
Corvallis, OR 97330

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FEB 09 2009

CITY MANAGERS
OFFICE

Corvallis City Council
Re: Deer Run Park & Subdivision

February 08, 2009

Dear Corvallis City Council,

My name is Alicia Parsons, I attended the city council hearing on February 2nd 2009. The Geo Tech, Planner and Engineer that had presented their findings seemed to address all of the issues of opposition. Therefore, I am in favor of the applicant's plan of development.

Sincerely,

Alicia L. Parsons

Alicia L. Parsons

2.

WAYDE & FRANKIE KENT

2485 NE Strawberry Ln.
Corvallis, OR 97330

(541) 752-3884 (home)

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FEB 09 2009

CITY MANAGERS
OFFICE

2/06/09

Mayor Tomlinson and City Council
City of Corvallis

Re: Deer Run Park and Subdivision

I would have testified at the hearing but felt very nervous & shy. I did feel confident my consultant covered the bases. I haven't the luxury of having my husband at my side through all of this, due to severe health issues., The stress involved in the 2 year long planning and engineering process has been very grueling and financially exhausting.

We were very concerned about one Councilor's statement that we had three previous plans denied. This was not the case. We received three formal staff letters evaluating our plans, and each time we came back with better plans requiring less exception to the code. The only decision we received so far was Commissions approval.

It's unfortunate that more work, stress, and expense is jeopardized by appeals based on issues that the City staff and planning commissioners have determined to be satisfied according to the city's requirements for planned development. This increases stress associated with the whole process.

Our plan provides much greater protection for natural resources that are normally required.

Natural resources seemed to be the opponent's concern, had they done their homework, they would have found every "i" was dotted and every "t" was crossed above and beyond the City's most strict requirements.

I want to express my thanks to our consultant and City staff for helping me through this.

I pray for an approval.

Thank You,

Frankie L. Kent

Frankie L. Kent

RECEIVED

FEB 09 2009

CITY MANAGERS OFFICE

RE: Deer Run Park and Subdivision

February 8th, 2009

Dear Corvallis City Council,

My name is Bob Gunn and I attended the hearing on February 2nd 2009. I understood that every point of the opposition was rebutted well by the expert testimony from their testing and engineering hired by the applicants. I am in favor of the approval of this plan.

Thank you,

Bob Gunn

Bob Gunn

City of Corvallis

Deer Run Park & Subdivision

February 7th, 2009

RECEIVED

FEB 09 2009

CITY MANAGERS
OFFICE

Dear Sirs.

I attended the hearing on February 2nd. The city did a good job presenting the applicants proposed plan of development and along with the hired testimony's of their consultants, they seemed to address every issue the opposition was trying to make, I am in favor of the applicants approval.

Thank you,

Sara Gilmour

Sara Gilmour

RECEIVED

FEB 09 2009

CITY MANAGERS
OFFICE

PENCE / KELLY
CONCRETE, LLC
2747 Pence Loop SE - Salem, OR 97302-1153
Ph: 503.399.7223 - **Portland:** 503.224.8681 - **Fx:** 503.585.7477
CCB#146525

Corvallis City Council

February 08, 2009

Re: Deer Run Park & Subdivision

My name is Robert Parsons; I am the son in-law of the applicants Wayde and Frankie Kent. I have lived in Corvallis for over 30 years and have been in the construction industry for over 30 years as a carpenter, home builder and developer. I am currently employed with Pence/Kelly Concrete as their Lead Estimator. I have experience in developing properties myself and while witnessing the applicants struggle during this property's acquisition phase is to the say the least , an up-hill battle filled with many pot-holes and hidden conditions along the way. I attended the hearing that was on February 2nd 2009 and I am in full favor of the approval of the applicant's proposal.

The hearing revealed to me two challenges.

- Riparian area is located in the entire length of hypotenuse portion of the property consisting of approximately 67% of the land. The proposed plan clearly demonstrates the precautionary measures taken by the developers with the least amount of impact to this area.
- Land is located within 500' of slide zone. On this Issue I agree with the statement the Geo Technical Engineer Dave Runing made, in that the location of this slide zone is not within a slide path related to this property and its proposed structures, making this slide zone irrelevant to this property.

I am convinced that all the necessary geographic testing, planning and engineering criteria has been met with favorable results.

In summary I strongly believe that the applicants, over the last 5 years have made every necessary change to follow the outline of the City's codes, requirements and building restrictions related to their project , therefore I believe this application should be approved.

Sincerely,

Robert L Parsons

RECEIVED
FEB 09 2009
CITY MANAGERS OFFICE

M.T. DEVELOPMENT, LLC

18555 Innes Mkt. Rd.
Bend, OR 97701

(541) 317-4600
(541) 317-4100 (fax)

2/07/09

We are Marty and Teri Kent, the son and daughter-in-law of Wayde and Frankie Kent. Our business is excavation, so we are familiar with cuts and fills, compaction tests, sewer lines, trenching for utilities, ect. I (Marty) have walked the property in question and know the plans exceptions reduce the risk of slope failure by reducing fills and cuts placing cars and driveways farther up slope where the land is not as steep, and away from the protected riparian zone. I don't see that the number of units proposed has any effect on the location of buildings, driveways and parking, or the other requested modifications. They aren't even proposing to come close to the maximum density allowed in RS-6.

We very much support the approval of this application.

Sincerely,

Marty & Teri Kent

Teri Kent

RECEIVED

FEB 09 2009

CITY MANAGERS
OFFICE

February 7, 2009

Corvallis City Council

Re: Deer Run Park & Subdivision

Dear City Council:

I am writing in favor of the application of Deer Run Park & Subdivision. I have been in business in Corvallis for 30 years. I have observed on many occasions the city stop growth and/or improvement after all requirements were met. It is my understanding that the applicants have met all requirements for the above named park and subdivision. Other than giving in to a few complaining about the size of the lots or the traffic flow, there should be no other reason for denial. The size of the lots is inconsequential and the traffic flow concerns are completely resolvable. Given our present economy, an addition such as this should be gladly embraced.

Please consider approval of this application.

Respectfully,

Dr. Rodney V. Holland
929 NW Grant Ave.
Corvallis, OR 97330

Corvallis City Council
RE: Deer Run Park & Subdivision

February 06, 2009

RECEIVED
FEB 09 2009
CITY MANAGERS OFFICE

Jackie Parsons
2481 NE Strawberry Ln.
Corvallis, OR 97330

Dear Corvallis City Council,

My name is Jackie Parsons and I am the daughter of the applicants Wayde and Frankie Kent. I attended the hearing that was held on February 2nd and I am now writing in favor of the approval of this application. I would like to address a couple of the issues that is apposing this application. First of which is the concern of the useable yard issue. I believe that the yard and/or side yards would be adequate for the units themselves along with the right to enjoy the riparian zoned areas. The people that would agree to occupy these units would obviously realize the size of the yards before deciding to reside there. I know that there are a lot of people that are not able to or in some cases not willing to take care of average to large sized yards, therefore would appreciate smaller yards with the option to use the riparian zoned areas - it seems to be the best of both worlds. The second issue I would like to address is the concern of the number of units and the safety issue of the current traffic flow in that area; that area is zoned RS-6 by the City of Corvallis, the applicants have the right to build the number of units proposed.
If the neighbors are concerned about the current speed and the current amount of traffic flow they should try to come up with a plan to present to the city to install speed bumps, instead of placing the total burden and blame on the applicants by trying to keep them from building the number of units this property is zoned for.
The applicants have tirelessly worked for the first 3 years of this 5 year process with the City Engineering and planning themselves. The applicants then was advised by the City 2 years ago to hire a engineer, planner and a geo-tech to perform all the necessary testing and development planning, together working in a team effort to try and come up with a reasonable plan that would satisfy the challenging environmental and physical constraints of this property. The applicants have done everything the City has instructed them to do in order to come up with a reasonable plan for approval. During this long and drawn out process the applicants have exhausted all of their financial resources and retirement monies which has been well over $65,000.00 for the professional services hired while still owing over $15,000.00 to date and will continue to accumulate until a final approval is granted, not to mention the purchase price of this property and 5 years worth of the loan payments. At the ages of 74 and 75 and with Mr. Kent having major health problems this process has put a huge financial burden and physical stress on them both. I would like to encourage the Corvallis City Council to approve this application (that has already met all of the City's criteria), so that they can try to salvage a little of their investment.

Sincerely,

Jackie Parsons

Jackie Parsons

Eric Bracht 4070 NE Pin Oak Street Corvallis, OR 97330

RECEIVED
FEB 09 2009
CITY MANAGERS OFFICE

To: Corvallis City Council
Date: February 7, 2009
RE: Deer Run Park & Subdivision

Dear Councilors,

I attended the February 2, 2009 hearing about the subject property development and testified in favor of the applicant. Prior to that, I obtained permission from the owners to visit the property. I walked through the length and breadth of this plot to prepare myself for the arguments against this development. The applicant has complied with the city requirements for this development with some requested variances. The maximum number of units allowed are not being placed on the property, and over a third of the property is in effect being given to the city as a protected, riparian area. The applicant's attention to the sensitive areas of the property and his attempt to minimize the footprint of the proposed development on that area are noteworthy.

The opposition offered many arguments against this development, but one common thread was revealed: they all disagree with how the city has zoned the use of this property. In my opinion, their complaint should have been levied before the property was sold as zoned. It is unfair to impose on the rights of these owners.

In opposition, Mr. Papadopoulos presented a concern about landslides. After visiting the property again today, I could not see this landslide concern within 500 feet of the plot boundary. There are much steeper slopes and neighborhoods across Ponderosa Avenue that would be more directly endangered-- Mr. Papadopoulos' claim only showed that the area was north of the Deer Run site. Without looking at a topographical map, it is difficult to know if the slide could actually move in the direction of the proposed development. It is possible that the slide area is located nearer one of the steeper slopes to the east or west, which would threaten the previously mentioned neighborhoods in the event of a slide but not the site in question. The requests that further investigation, including core drilling, be performed to assess the entire region's soil capacity is unreasonable. Sufficient geotechnical analysis of the region appears to have been performed. The assumption that any work at the proposed site would have a destabilizing effect on adjacent slopes is not supported.

The way I see it, the city of Corvallis can pursue one of two paths:

1) allow the applicant to proceed with the plan developed in conjunction with city staff and within the zoning rules
2) purchase the plot from the owners for a fair price or perhaps aid the opposition in doing so

Sincerely,

Eric Bracht

RECEIVED

FEB 09 2009

CITY MANAGERS
OFFICE

RE: Deer Run Park and Subdivision

To The Corvallis City Council,

I attended the hearing on February 2nd and I am astounded at the opponent's lack of ability to understand that their complaints had already been addressed in the Geo-Tech's and Engineer's reports. Mr. Towne's presentation clearly revealed that the owners followed the codes and requirements completely and had retained the expert testing to satisfy the city. I am definitely in favor of the applicant's approval of this plan.

Thank you,

Johnny Gilmour

Johnny Gilmour
J.Gilmour Farms

RE: Deer Run Park & Subdivision

February 7th, 2009

RECEIVED

FEB 09 2009

CITY MANAGERS
OFFICE

Dear City Council,

I was able to attend the hearing on February 02, 2009. I find that the people that opposed were complaining about things that have already been tested and the reports were in total compliance with the cities requirements. These people do not seem to care about the amount of time and the expense it has taken to come up with this plan so far. I am in favor of the approval for the application

Thank you,

Carla R. Smith

Carla R. Smith

RECEIVED
1-9-2009
Planning Division

Date: February 9, 2009
From: Mark Knapp
To: Corvallis City Council
Subject: Deer Run Park

I support the testimony of the appellants in this case. The proposal to squeeze nine townhouses on one acre along Ponderosa Avenue is not sustainable, not compliant, and not in the public interest.

In particular, a key part of the reasoning in support of the application is unsound.

Compliance with codes that require protection of the Riparian Corridor is not a compensating benefit for the loss of pedestrian safety. The unreasonable proposition of the application is to pit compliance with one code against compliance with another. But it is entirely unacceptable to hold hostage the application's compliance with Riparian Corridor protections, in an attempt to extort waivers from compliance with other codes.

It reminds me of a robber who points his gun at his victim's kneecap and demands a wallet. When the victim asks why, the robber explains, "Your compensating benefit will be full protection of your leg."

If the project is built as proposed, the project will fail to comply with LDC codes that require a 12-foot buffer between sidewalks and a Collector Street. There will be no compensating public benefit for the loss of safety for pedestrians.

The risk to pedestrians is supported by data from NHTSA (attached). Cities like Phoenix also require pedestrian buffers for safety (attached).

Traffic Safety Facts

2007 Data

www.nhtsa.gov

NHTSA

DOT HS 810 994

Pedestrians

"In 2007, 4,654 pedestrians died in traffic crashes — a 13-percent decrease from the number reported in 1997."

A pedestrian is defined as any person not in or upon a motor vehicle or other vehicle.

In 2007, 4,654 pedestrians were killed in traffic crashes in the United States — a decrease of 13 percent from the 5,321 pedestrians killed in 1997.

On average, a pedestrian is killed in a traffic crash every 113 minutes and injured in a traffic crash every 8 minutes.

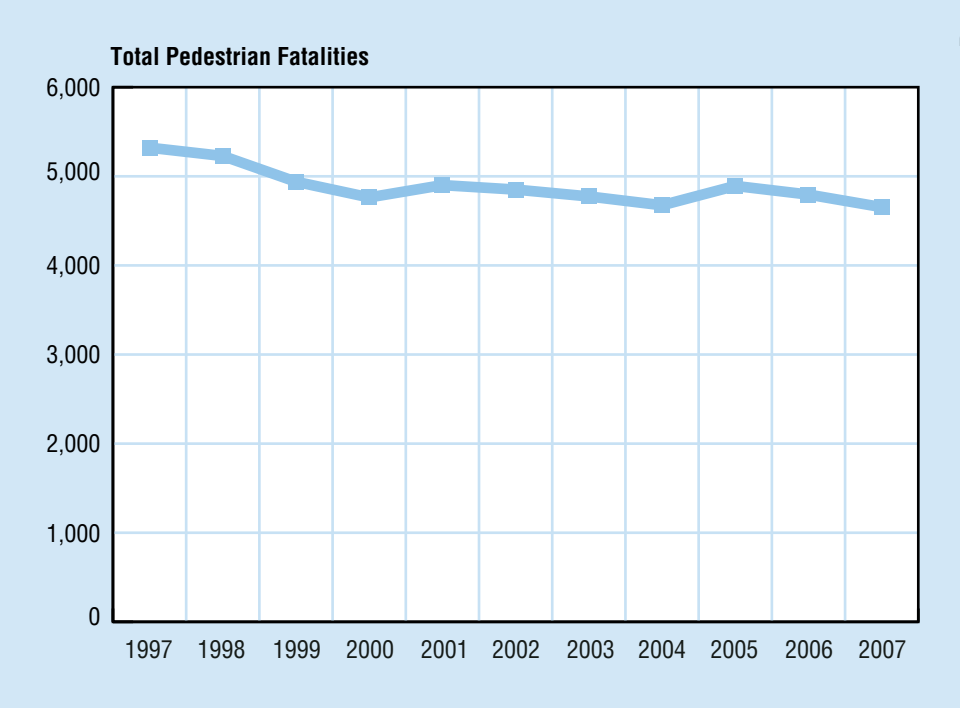
There were 70,000 pedestrians injured in traffic crashes in 2007.

Most pedestrian fatalities in 2007 occurred in urban areas (73%), at non-intersection locations (77%), in normal weather conditions (90%), and at night (67%).

More than two-thirds (70%) of the pedestrians killed in 2007 were males. In 2007, the male pedestrian fatality rate per 100,000 population was 2.19 — more than double the rate for females (0.91 per 100,000 population). In 2007, the male pedestrian injury rate per 100,000 population was 26, compared with 20 for females (see Table 5).

Figure 1

Total Pedestrian Fatalities by Year 1997-2007



Deer Run - Mark Knapp Testimony
Attachment A

Age

Pedestrians (age 70+) accounted for 16 percent (721) of all pedestrian fatalities and an estimated 6 percent (4,000) of all pedestrians injured in 2007.

"In 2007, the fatality rate for pedestrians (age 70+) was 2.66 per 100,000 population – higher than for any other age group."

In 2007, one-fifth (20%) of all children between the ages of 5 and 9 who were killed in traffic crashes were pedestrians. Children age 15 and younger accounted for 8 percent of the pedestrian fatalities in 2007 and 23 percent of all pedestrians injured in traffic crashes.

"In 2007, nearly one-fifth of the children between the ages of 5 and 9 killed in traffic crashes were pedestrians."

Table 1

Pedestrians Killed and Injured by Age Group, 2007

Age Group (Years)	Total Killed	Pedestrians Killed	Percentage of Total Killed
<5	508	106	21
5-9	470	93	20
10-15	1,044	155	15
16-20	5,338	287	5
21-24	4,530	296	7
25-29	3,932	341	9
30-34	2,864	265	9
35-39	3,022	354	12
40-44	3,060	400	13
45-49	3,261	469	14
50-54	2,869	447	16
55-59	2,384	306	13
60-64	1,717	188	11
65-69	1,334	182	14
70-74	1,268	200	16
75-79	1,247	192	15
80+	2,083	329	16
Unknown	128	44	34
Total	**41,059**	**4,654**	**11**

Age Group (Years)	Total Injured	Pedestrians Injured	Percentage of Total Injured
<5	56,000	2,000	4
5-9	65,000	5,000	7
10-15	108,000	9,000	8
16-20	391,000	8,000	2
21-24	267,000	6,000	2
25-29	256,000	6,000	2
30-34	214,000	4,000	2
35-39	194,000	3,000	2
40-44	182,000	5,000	3
45-49	192,000	6,000	3
50-54	155,000	4,000	3
55-59	126,000	3,000	2
60-64	89,000	2,000	2
65-69	66,000	2,000	2
70-74	47,000	1,000	2
75-79	41,000	1,000	3
80+	42,000	2,000	5
Total	**2,491,000**	**70,000**	**3**

The above numbers are not actual counts, but estimates of the actual counts. The estimates are calculated from data obtained from a nationally representative sample of crashes collected through NHTSA's General Estimates System (GES). Estimates should be rounded to the nearest 1,000.

Estimates less than 500 indicate that the sample size was too small to produce a meaningful estimate and should be rounded to 0.

Deer Run - Mark Knapp Testimony
Attachment A

Table 2
Nonoccupant Traffic Fatalities, 1997-2007

Year	Pedestrian	Pedalcyclist	Other	Total
1997	5,321	814	153	6,288
1998	5,228	760	131	6,119
1999	4,939	754	149	5,842
2000	4,763	693	141	5,597
2001	4,901	732	123	5,756
2002	4,851	665	114	5,630
2003	4,774	629	140	5,543
2004	4,675	727	130	5,532
2005	4,892	786	186	5,864
2006	4,795	772	185	5,752
2007	4,654	698	147	5,499

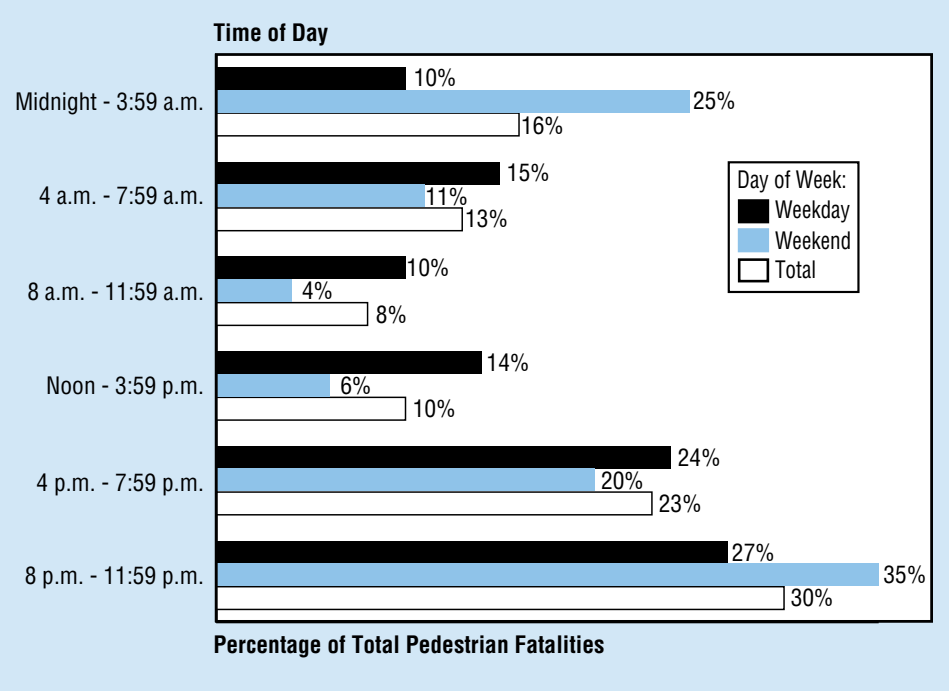
Pedestrian fatalities accounted for 85 percent of all nonoccupant fatalities in 2007. The 698 pedalcyclist fatalities accounted for 13 percent, and the remaining 3 percent were skateboard riders, roller skaters, etc.

Time of Day and Day of Week

Thirty-six percent of the 354 young (under age 16) pedestrian fatalities occurred in crashes between 3 p.m. and 7 p.m.

Nearly one-half (48%) of all pedestrian fatalities occurred on Friday, Saturday, and Sunday (16%, 17%, and 15%, respectively).

Figure 2
Pedestrian Fatalities by Time of Day and Day of Week, 2007



"Thirty-six percent of all young (under age 16) pedestrian fatalities occurred between 3 and 7 p.m."

Important Safety Reminders

- Drivers are required to yield the right-of-way to pedestrians crossing streets in marked or unmarked crosswalks in most situations. Pedestrian need to be especially careful at intersections where the failure to yield right-of-way often occurs when drivers are turning onto another street and a pedestrian is in their path.
- When possible, cross the street at a designated crosswalk. Always stop and look left, right, and left again before crossing. If a parked vehicle is blocking the view of the street, stop at the edge line of the vehicle and look around it before entering the street.
- Increase visibility at night by carrying a flashlight when walking and by wearing retro-reflective clothing that helps to highlight body movement.
- It is much safer to walk on a sidewalk, but if you must walk in the street, walk facing traffic.

Deer Run - Mark Knapp Testimony
Attachment A

"Alcohol involvement — either for the driver or the pedestrian — was reported in 49 percent of all pedestrian fatalities."

Alcohol Involvement

Alcohol involvement — either for the driver or for the pedestrian — was reported in 49 percent of the traffic crashes that resulted in pedestrian fatalities. Of the pedestrians involved, 35 percent had a blood alcohol concentration (BAC) of .08 grams per deciliter (g/dL) or higher. Of the drivers involved in fatal crashes, only 14 percent had a BAC of .08 g/dL or higher, less than one-half the rate for the pedestrians. In 6 percent of the crashes, both the driver and the pedestrian had a BAC of .08 g/dL or higher.

Table 3

Alcohol Involvement in Fatal Pedestrian Crashes, 2007

	No Driver Alcohol Involvement		Driver Alcohol Involvement, BAC .01 – .07 g/dL		Driver Alcohol Involvement, BAC ≥ .08 g/dL		Total	
No Pedestrian Alcohol Involvement	51%		3%		7%		2,775	61%
Pedestrian Alcohol Involvement, BAC .01 – .07 g/dL	3%		0%		1%		198	4%
Pedestrian Alcohol Involvement, BAC ≥ .08 g/dL or Greater	27%		2%		6%		1,605	35%
Total	**3,694**	**81%**	**240**	**5%**	**644**	**14%**	**4,578**	**100%**

Note: The alcohol levels in this table are determined using the alcohol levels of the involved pedestrian fatalities and all the involved drivers (fatality and other)

Table 4

Alcohol Involvement for Pedestrians Killed in Fatal Crashes by Age, 1997 and 2007

	1997					2007				
Age (Years)	**Number of Fatalities**	**% with BAC .00 g/dL**	**% with BAC .01 – .07 g/dL**	**% with BAC ≥ .08 g/dL**	**% with BAC ≥ .01 g/dL (Any Alcohol)**	**Number of Fatalities**	**% with BAC .00 g/dL**	**% with BAC .01 – .07 g/dL**	**% with BAC ≥ .08 g/dL**	**% with BAC ≥ .01 g/dL (Any Alcohol)**
16-20	301	71	4	25	29	287	69	5	26	31
21-24	253	48	7	45	52	296	43	5	51	57
25-34	762	41	4	55	59	606	45	5	51	55
35-44	932	43	4	53	57	754	47	6	47	53
45-54	700	55	5	40	45	916	47	4	49	53
55-64	499	68	4	28	32	494	66	4	30	34
65-74	507	82	2	15	18	382	80	4	16	20
75-84	465	91	3	6	9	387	89	2	9	11
85 +	202	92	3	5	8	134	90	5	5	10
Total*	**4,621**	**61**	**4**	**35**	**39**	**4,256**	**58**	**5**	**37**	**42**

*Excludes pedestrians under 16 years old and pedestrians of unknown age.

Deer Run - Mark Knapp Testimony
Attachment A

Table 5

Pedestrians Killed and Injured and Fatality and Injury Rates by Age and Sex, 2007

Age (Years)	Male			Female			Total		
	Killed	Population (thousands)	Fatality Rate*	Killed	Population (thousands)	Fatality Rate*	Killed**	Population (thousands)	Fatality Rate*
<5	62	10,603	0.58	44	10,121	0.43	106	20,724	0.51
5-9	59	10,149	0.58	34	9,701	0.35	93	19,850	0.47
10-15	99	12,582	0.79	56	11,997	0.47	155	24,579	0.63
16-20	204	10,966	1.86	83	10,411	0.80	287	21,378	1.34
21-24	229	8,711	2.63	67	8,152	0.82	296	16,863	1.76
25-34	449	20,683	2.17	157	19,908	0.79	606	40,591	1.49
35-44	552	21,619	2.55	202	21,543	0.94	754	43,161	1.75
45-54	667	21,595	3.09	249	22,280	1.12	916	43,875	2.09
55-64	344	15,775	2.18	150	16,937	0.89	494	32,712	1.51
65-74	253	8,887	2.85	129	10,465	1.23	382	19,352	1.97
75-84	217	5,313	4.08	170	7,711	2.20	387	13,024	2.97
85 +	84	1,777	4.73	50	3,735	1.34	134	5,512	2.43
Unknown	40	0	0	4	0	0	44	0	0
Total	**3,259**	**148,659**	**2.19**	**1,395**	**152,962**	**0.91**	**4,654**	**301,621**	**1.54**

Age (Years)	Male			Female			Total		
	Injured	Population (thousands)	Injury Rate*	Injured	Population (thousands)	Injury Rate*	Injured	Population (thousands)	Injury Rate*
<5	1,000	10,603	12	1,000	10,121	9	2,000	20,724	10
5-9	3,000	10,149	32	2,000	9,701	17	5,000	19,850	25
10-15	4,000	12,582	33	5,000	11,997	40	9,000	24,579	37
16-20	3,000	10,966	27	5,000	10,411	50	8,000	21,378	38
21-24	3,000	8,711	39	3,000	8,152	34	6,000	16,863	37
25-34	7,000	20,683	33	3,000	19,908	17	10,000	40,591	25
35-44	5,000	21,619	21	4,000	21,543	17	8,000	43,161	19
45-54	7,000	21,595	30	3,000	22,280	15	10,000	43,875	23
55-64	3,000	15,775	18	2,000	16,937	14	5,000	32,712	16
65-74	2,000	8,887	17	1,000	10,465	12	3,000	19,352	14
75-84	2,000	5,313	34	1,000	7,711	15	3,000	13,024	23
85 +	0	1,777	13	0	3,735	7	0	5,512	9
Total	**39,000**	**148,659**	**26**	**31,000**	**152,962**	**20**	**70,000**	**301,621**	**23**

* Rate per 100,000 population
** Includes 44 fatalities of unknown sex
Note: Injuries fewer than 500 are rounded to zero.
Totals may not equal sum of components due to independent rounding.
Source: Population - Bureau of the Census projections

Deer Run - Mark Knapp Testimony
Attachment A

For more information:

Information on traffic fatalities is available from the National Center for Statistics and Analysis, NVS-424, 1200 New Jersey Avenue SE., Washington, DC 20590. NCSA can be contacted at 800-934-8517. Fax messages should be sent to 202-366-7078. General information on highway traffic safety can be accessed by Internet users at www.nhtsa.gov/portal/site/nhtsa/ncsa. To report a safety-related problem or to inquire about motor vehicle safety information, contact the Vehicle Safety Hotline at 888-327-4236.

Other fact sheets available from the National Center for Statistics and Analysis are *Overview, Alcohol, African American, Bicyclists and Other Cyclists (formerly titled Pedalcyclists), Children, Hispanic, Large Trucks, Motorcycles, Occupant Protection, Older Population, Race and Ethnicity, Rural/Urban Comparisons, School Transportation-Related Crashes, Speeding, State Alcohol Estimates, State Traffic Data, and Young Drivers.* Detailed data on motor vehicle traffic crashes are published annually in *Traffic Safety Facts: A Compilation of Motor Vehicle Crash Data from the Fatality Analysis Reporting System and the General Estimates System.* The fact sheets and annual Traffic Safety Facts report can be accessed online at www-nrd.nhtsa.dot.gov/CATS.

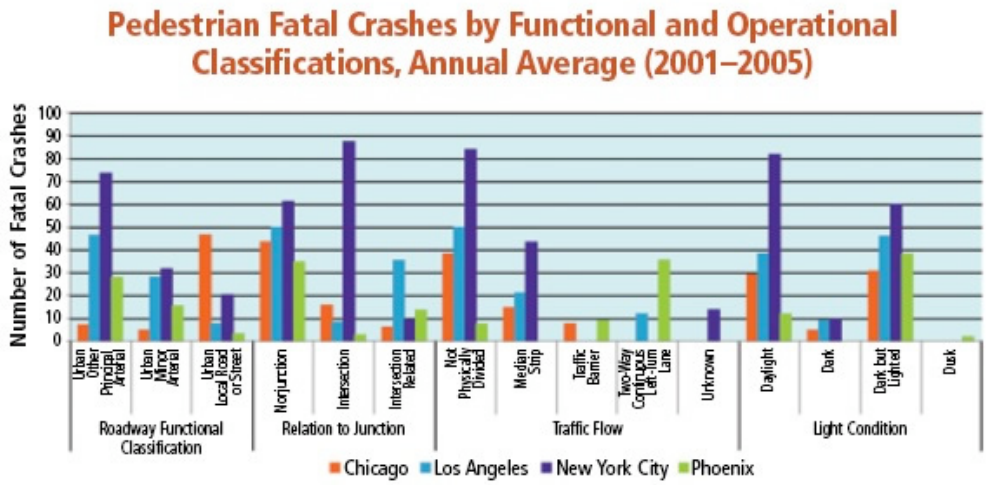
Table 6

Pedestrian Traffic Fatalities and Fatality Rates by State, 2007

State	Total Traffic Fatalities	Resident Population (thousands)	Pedestrian Fatalities	Percent of Total	Pedestrian Fatalities per 100,000 Population
Alabama	1,110	4,628	69	6.2	1.49
Alaska	84	683	14	16.7	2.05
Arizona	1,066	6,339	154	14.4	2.43
Arkansas	650	2,835	45	6.9	1.59
California	3,974	36,553	640	16.1	1.75
Colorado	554	4,862	58	10.5	1.19
Connecticut	277	3,502	31	11.2	0.89
Delaware	117	865	16	13.7	1.85
Dist of Columbia	44	588	19	43.2	3.23
Florida	3,214	18,251	531	16.5	2.91
Georgia	1,641	9,545	153	9.3	1.60
Hawaii	138	1,283	27	19.6	2.10
Idaho	252	1,499	17	6.7	1.13
Illinois	1,249	12,853	171	13.7	1.33
Indiana	898	6,345	59	6.6	0.93
Iowa	445	2,988	23	5.2	0.77
Kansas	416	2,776	20	4.8	0.72
Kentucky	864	4,241	44	5.1	1.04
Louisiana	985	4,293	107	10.9	2.49
Maine	183	1,317	10	5.5	0.76
Maryland	614	5,618	116	18.9	2.06
Massachusetts	417	6,450	61	14.6	0.95
Michigan	1,088	10,072	131	12.0	1.30
Minnesota	504	5,198	33	6.5	0.63
Mississippi	884	2,919	58	6.6	1.99
Missouri	992	5,878	79	8.0	1.34
Montana	277	958	15	5.4	1.57
Nebraska	256	1,775	8	3.1	0.45
Nevada	373	2,565	52	13.9	2.03
New Hampshire	129	1,316	13	10.1	0.99
New Jersey	724	8,686	149	20.6	1.72
New Mexico	413	1,970	52	12.6	2.64
New York	1,333	19,298	278	20.9	1.44
North Carolina	1,675	9,061	171	10.2	1.89
North Dakota	111	640	5	4.5	0.78
Ohio	1,257	11,467	107	8.5	0.93
Oklahoma	754	3,617	66	8.8	1.82
Oregon	455	3,747	48	10.5	1.28
Pennsylvania	1,491	12,433	151	10.1	1.21
Rhode Island	69	1,058	13	18.8	1.23
South Carolina	1,066	4,408	106	9.9	2.40
South Dakota	146	796	7	4.8	0.88
Tennessee	1,210	6,157	69	5.7	1.12
Texas	3,363	23,904	387	11.5	1.62
Utah	299	2,645	32	10.7	1.21
Vermont	66	621	4	6.1	0.64
Virginia	1,027	7,712	88	8.6	1.14
Washington	568	6,468	60	10.6	0.93
West Virginia	431	1,812	27	6.3	1.49
Wisconsin	756	5,602	58	7.7	1.04
Wyoming	150	523	2	1.3	0.38
U.S. Total	**41,059**	**301,621**	**4,654**	**11.3**	**1.54**
Puerto Rico	452	3,941	144	31.9	3.65

Note: Totals may not equal sum of components due to independent rounding.
Sources: Fatalities — Fatality Analysis Reporting System, NHTSA. Population — Bureau of the Census.

Deer Run - Mark Knapp Testimony
Attachment A



The researchers discovered a clear prevalence of nonjunction crashes in all four focus cities. Pedestrians crossing at undesignated midblock locations or jaywalking are usually the victims of these crashes. *Source: ADOT*

On the Move To Improve

Identifying the most likely causes of pedestrian injuries and fatalities can help cities and States allocate their resources to achieve improved safety. Therefore, considering all "the E's" (most commonly engineering, enforcement, and education, as well as emergency medical services, encouragement, and evaluation) in developing countermeasures is crucial to addressing the pedestrian safety issues. Depending on the crash contributing factors that create pedestrian safety issues and/or roadway inadequacies, roadway agencies might choose a single "E" or a combination of more than one. Efforts are underway in each city to improve pedestrian and bicyclist safety.

Phoenix. In Phoenix, for example, pedestrian fatalities, although still too high at 49 in 2005, are down from 63 in 2001 and 61 in 2002, according to Cynecki.

Phoenix is no longer building arterial streets with sidewalks immediately adjacent to the travel lanes, Cynecki says. All new arterial streets have landscaped buffer areas between pedestrians and traffic to improve safety and enhance the walking experience. Onstreet bike lanes provide an additional buffer for pedestrian safety.

Landscape buffers, like this one in Phoenix, separate the sidewalk from the travel lane and create a safer environment for pedestrians.

Following participation in an international scan tour on signalized intersection safety, Phoenix officials began building two-stage crossings with pedestrian safety islands across wide arterial streets. These crossings allow pedestrians to cross only half a street, forcing them to walk in the fenced pedestrian median island facing oncoming traffic before crossing the second half of the street. In fact, one of the two-stage crossing/pedestrian

DEER RUN - MARK KNAPP TESTIMONY
ATTACHMENT B

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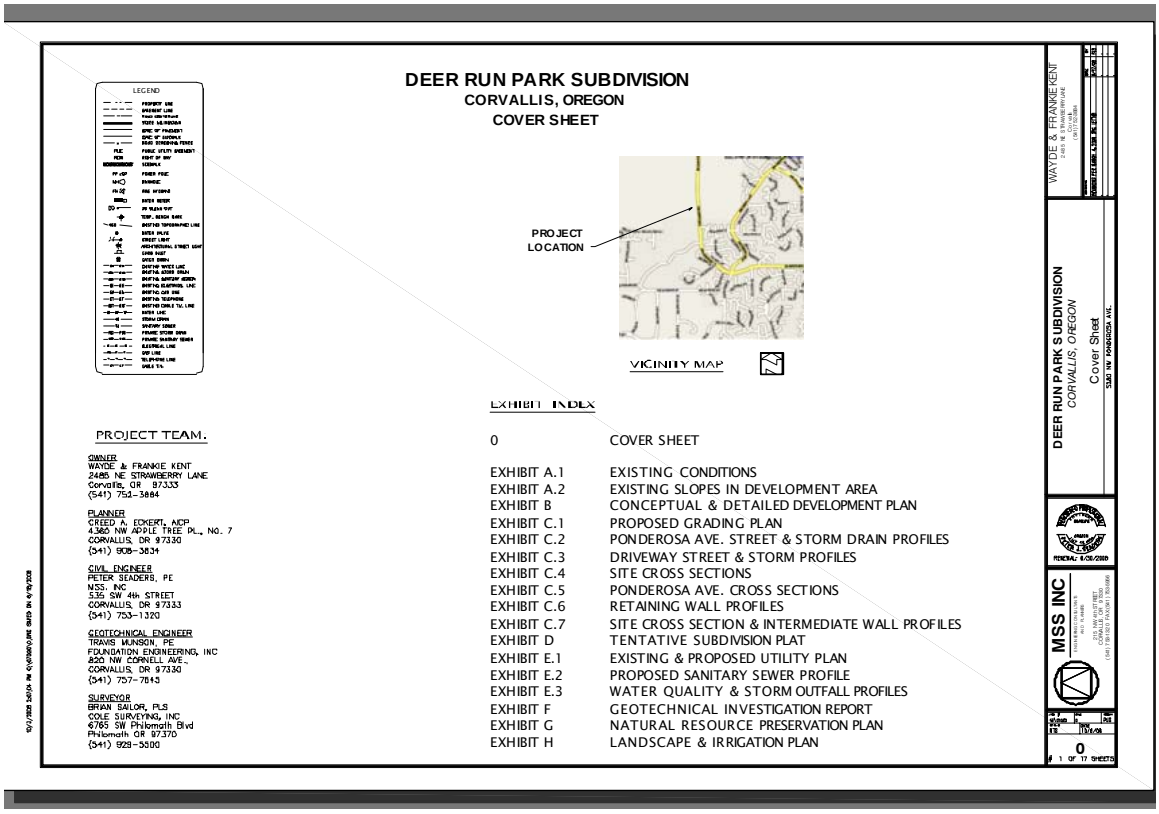
DEER RUN PARK PLANNED DEVELOPMENT AND SUBDIVISION
APPEAL TO CORVALLIS CITY COUNCIL
2/9/09



DEER RUN PARK SUBDIVISION
CORVALLIS, OREGON
COVER SHEET

PROJECT LOCATION

VICINITY MAP

EXHIBIT INDEX

0	COVER SHEET
EXHIBIT A.1	EXISTING CONDITIONS
EXHIBIT A.2	EXISTING SLOPES IN DEVELOPMENT AREA
EXHIBIT B	CONCEPTUAL & DETAILED DEVELOPMENT PLAN
EXHIBIT C.1	PROPOSED GRADING PLAN
EXHIBIT C.2	PONDEROSA AVE. STREET & STORM DRAIN PROFILES
EXHIBIT C.3	DRIVEWAY STREET & STORM PROFILES
EXHIBIT C.4	SITE CROSS SECTIONS
EXHIBIT C.5	PONDEROSA AVE. CROSS SECTIONS
EXHIBIT C.6	RETAINING WALL PROFILES
EXHIBIT C.7	SITE CROSS SECTION & INTERMEDIATE WALL PROFILES
EXHIBIT D	TENTATIVE SUBDIVISION PLAT
EXHIBIT E.1	EXISTING & PROPOSED UTILITY PLAN
EXHIBIT E.2	PROPOSED SANITARY SEWER PROFILE
EXHIBIT E.3	WATER QUALITY & STORM OUTFALL PROFILES
EXHIBIT F	GEOTECHNICAL INVESTIGATION REPORT
EXHIBIT G	NATURAL RESOURCE PRESERVATION PLAN
EXHIBIT H	LANDSCAPE & IRRIGATION PLAN

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DEER RUN PARK SUBDIVISION
CORVALLIS, OREGON
Cover Sheet

MSS INC

0

APPLICANTS' FINAL WRITTEN TESTIMONY
IN RESPONSE TO AN APPEAL OF PC APPROVAL OF
A CONCEPTUAL AND DETAILED DEVELOPMENT PLAN AND SUBDIVISION
TO CREATE 9 LOTS IN THE PD RS-6 ZONE

OUTLINE OF THE INFORMATION IN THIS PACKET:

I. APPLICATION **MEETS INTENT** OF THE CODE IN EACH CASE

II. APPLICATION **EXCEEDS PROTECTIONS** PROVIDED BY CODE

III. THE **SCALE OF MODIFICATIONS** PROPOSED IS RELATIVELY **MINOR**

IV. FINAL CONSIDERATIONS / REBUTTALS

PLEASE NOTE: A discussion of the compensating benefits offered in conjunction with each requested modification to standards appears throughout Sections I-III, and in most detail in Sections II and III.

I. APPLICATION MEETS INTENT OF THE CODE IN EACH CASE

This section will clearly demonstrate how each proposed modification to the development code maintains consistency with the intent of the modified standard and of the PD Section and CLDC overall. This demonstration is necessary because *CLDC Section 2.5.20.h.* lists as one of the purposes of the PD Section:

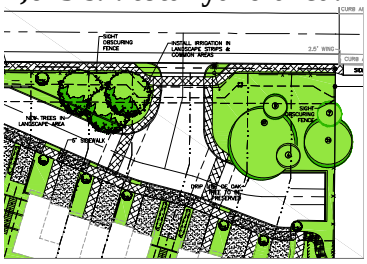
"h. *Provide benefits within the development site that compensate for the variations from development standards such that the intent of the development standards is still met.*"

The Application **meets the intent** of each applicable provision of the CLDC **by complying with the code in every case feasible,** and where exceptions are necessary**:**

(Reduced "Useable" Yards, Reduced Green Area for Lot 6) **-Exceeding significantly the code's 40% minimum green area required on Lots 1, 3-5, 7-9, to compensate for less "useable" yard and slightly less green area on Lot 6**;

Lot #	Total Lot Area	Impervious Area	Lot Coverage	Green Area	**Green Area %**
1	6,909 sf	2,747 sf	40%	4,162 sf	**60%**
2	2,833 sf	1,703 sf	60%	1,130 sf	40%
3	4,148 sf	2,175 sf	52%	1,973 sf	**48%**
4	4,841 sf	2,273 sf	47%	2,568 sf	**53%**
5	3,939 sf	2,126 sf	54%	1,813 sf	**46%**
6	5,285 sf	3,369 sf	64%	1,916 sf	36%
7	5,606 sf	3,032 sf	54%	2,574 sf	**46%**
8	4,525 sf	2,123 sf	47%	2,402 sf	**53%**
9	7,134 sf	2,114 sf	30%	5,020 sf	**70%**
TRACT A	61,097 sf	0 sf	0%	61,097 sf	100%
SITE TOTAL	106,317 sf	21,662 sf	20%	84,655 sf	80%

(Useable Yards) **–Providing 4,860 square feet un-required common area in Lots 4-9, compensating for "useable" yards modification in Lots 2-8.** By comparison**, compliance would provide** app. 375 s.f. "useable" yard per dwelling on lots 2-8, or **2,625 s.f. total yard area.**



An illustration of landscaped common areas in lots 4-9.

As illustrated above, the plan's common areas alone provide 2,235 s.f. more yard area than required under the "useable" yard standard (4,860 – 2,625 = 2,235).

(Useable Yards) **-Providing *substantially* over-sized rear yards (≥30' vs. 5-15' requirement) to compensate for riparian restrictions on use of southernmost portions;**

Rear Yards Range 30-40 feet Deep as Compared with Minimum 5' Rear Setback Standard, Compensating for Applicants' Deviation to "useable" std. As discussed, additional compensation includes providing 2,235 s.f. more (common) yard than is gained under code's "useable" yard standard.

(Increased Front Setback and Parking in front of Buildings) **–Implementing flexibility and diversification in the design and location of structures**, consistent with the first stated purpose of the PD Section:

"a. *Promote flexibility in design and permit diversification in location of structures;"* (Section 2.5.20.a.)

(Increased Front Setback and Parking in front of Buildings) **-Providing greater than normal protections for natural resources, consistent with PD Section requirements.** As demonstrated in public hearing, this is facilitated by the deviation to the maximum front setback and by permitting parking and circulation to be located in front of the structures, permitting cuts and fills to terminate 25-40 feet from the highly protected riparian corridor.

(Increased Front Setback and Parking in front of Buildings) **-Maintaining a pedestrian safe and oriented development by**

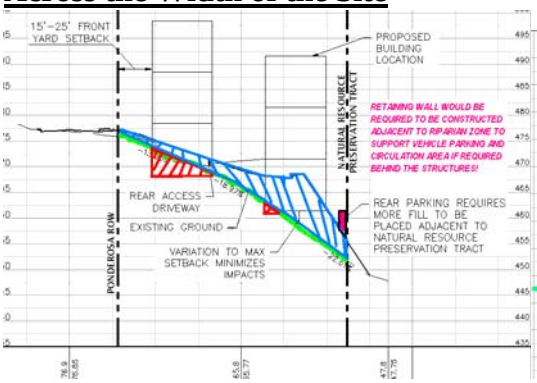
- **Orienting structures toward the public street,**
- **Providing pedestrian connections to public sidewalk as required by PODS,**
- **Complying with all PODS except parking behind structures and maximum front setback, thereby implementing intent of the bulk of POD standards**
- **Providing improvements "***equal to or in excess of the types of improvements required by the standards in Chapter 4.10***" (*Section 2.5.40.04.a.13., Compatibility Factors, Planned Development*).** Please see following discussions of this question in the next section.

(Parking in front of Buildings) **-Screening parking spaces** located between the structures and the street from view to mitigate impacts of that deviation..

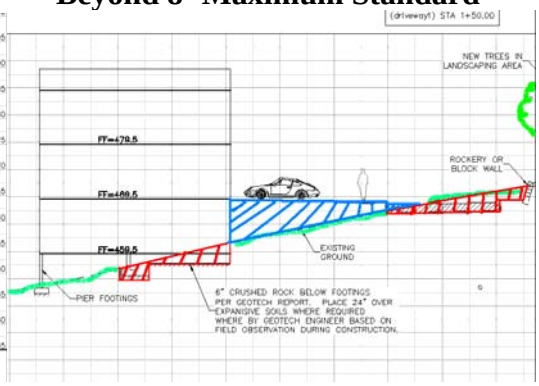
(Increased Front Setback and Parking in front of Buildings) **-Reducing visual impacts on neighboring properties and the public right of way** by placing structures outside of the maximum front setback area, in lower elevations more internal to the site, and screening parking with existing topography and significant vegetation, as well as new plantings and fencing along the easterly property boundary, as discussed.

(Cuts and fills in Excess of 8' Maximum; Increased Front Setback and Parking in front of Buildings) **–Limiting cuts and fills beyond maximum 8' standard as compared with compliance with maximum front setback and requirement for locating parking and drives behind structures, which would require more substantial areas of fill beyond the 8' maximum.**

Compliance Requires More Fill >8' <u>Across the Width of the Site</u>



Applicants' Plan <u>Limits</u> Cuts and Fills Beyond 8' Maximum Standard



(Collector Street Standards) **-Proposing a 6' planter strip in the Ponderosa Ave. right of way** – a feature which was removed by staff. Notably, curbside sidewalks as required by the City Engineer would be consistent with the level of improvements required of previous developers in the neighborhood, matching what currently appears on the improved south side of Ponderosa Ave., east of the subject. Curbside sidewalks are also the standard on the three nearby streets accessing the south side of Ponderosa, Cassia Place, Acacia Place and Audene Place.

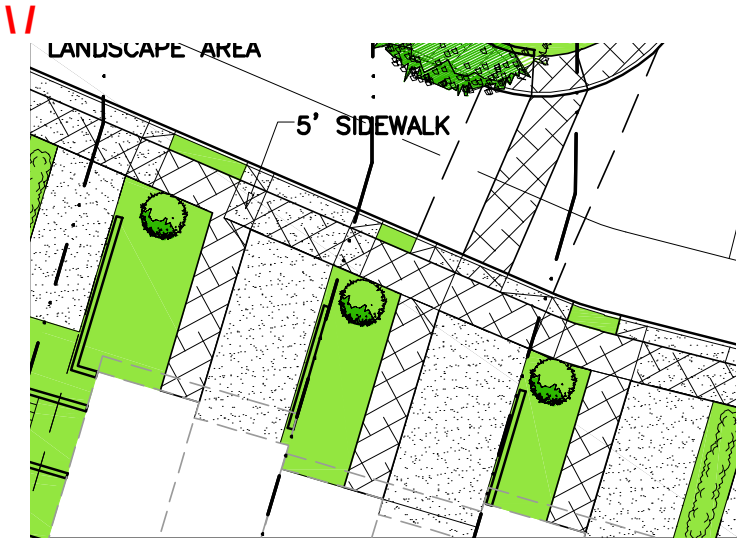
Additionally, Brookside Meadows, on the north side of Ponderosa, exhibits a mix of predominantly curbside and some setback sidewalks. The City's proposed improved street profile appears to match and be generally consistent with the existing conditions in the vicinity. A view from "Google Earth" appears below.

Curbside Sidewalks Prior Approved for Everything South of Ponderosa Ave. & N. side of Acacia Dr.

(Extremely Limited Encroachment on Circles of Protection) **-Limiting to almost zero our encroachment on circles of protection for preserved trees. No impact anticipated by project arborist.**

(Reduced Landscaping Strip) **-Providing a 2' wide landscaping strip** along the private internal sidewalk, not eliminating it, **for planting shrubs as intended by code** – these shrubs were subsequently relocated by staff as indicated below. Increased pedestrian safety maintained by retaining 2' strip versus eliminating it.

2' Landscaping Strip, North Side of Private Sidewalk. Shrubs Placed Behind Sidewalk per Staff.



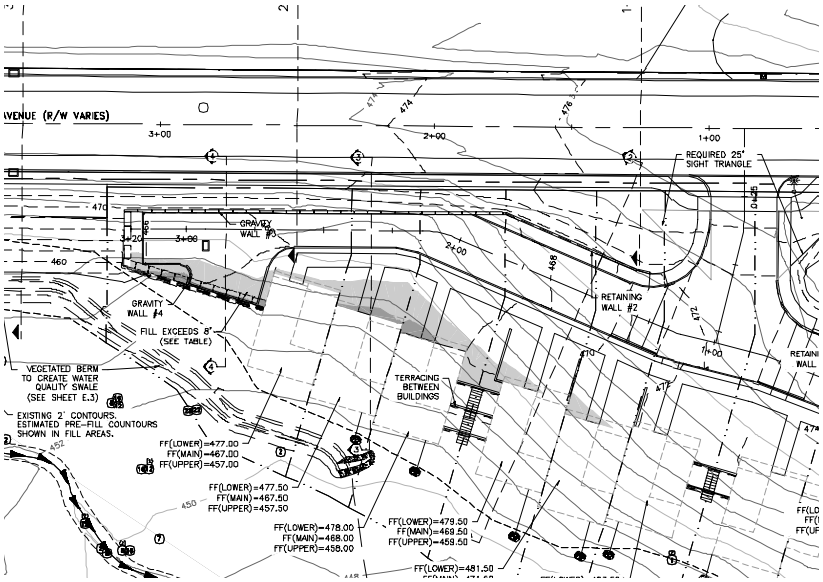
The above section demonstrates how each proposed modification to the development code maintains consistency with the intent of the modified standard and with the PD Section and CLDC overall.

II. APPLICATION EXCEEDS PROTECTIONS NORMALLY PROVIDED BY CODE

"b. Natural Resources and Natural Hazards Factors *-*

1. Any proposed variation from a standard within Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, or Chapter 4.13 - Riparian Corridor and Wetland Provisions shall provide protections equal to or better than the specific standard requested for variation;"

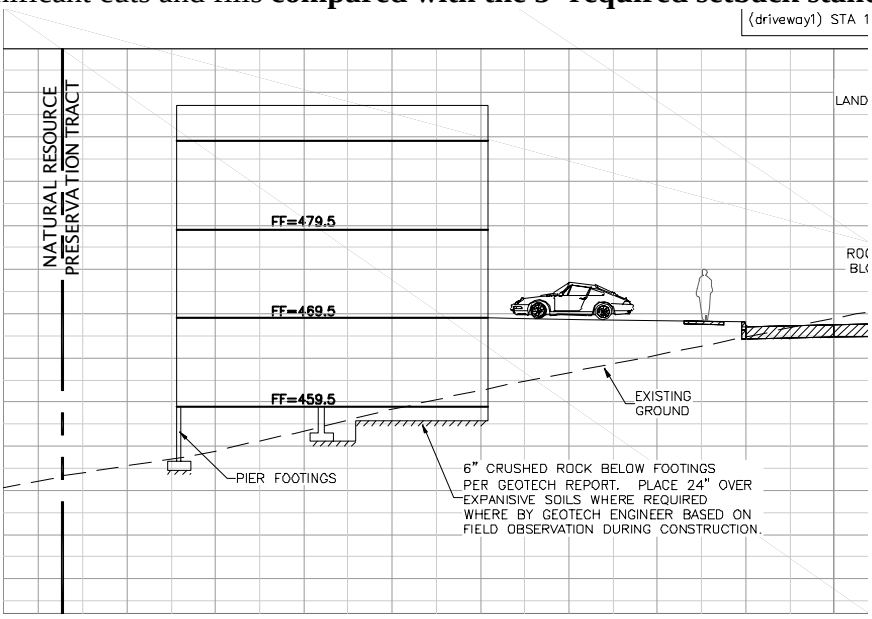
The *sole exception* requested to requirements of the above sections is to permit approximately 1,900 square feet to be filled beyond the eight foot maximum standard, as depicted below. The plan conforms with all other provisions of Chapter 4.5, Natural Hazards and Hillside Development Provisions; 4.11., Minimum Assured Development Area; 4.12., Significant Vegetation Protection Provisions; and Chapter 4.13., Riparian Corridor and Wetland Provisions.



Shaded areas above would be filled to between 8+ to 14.46 feet over the existing grade, subject to the civil and geotechnical engineers' requirements. No other deviation to hillside dev't stds is sought.

The application demonstrates consistency with the above excerpted standard in that it **exceeds code protections for the Riparian and Significant Vegetation resources and provides better protection than would strict conformance to the 8' maximum fill standard without implementation of the applicants' additional measures below. It does so** by:

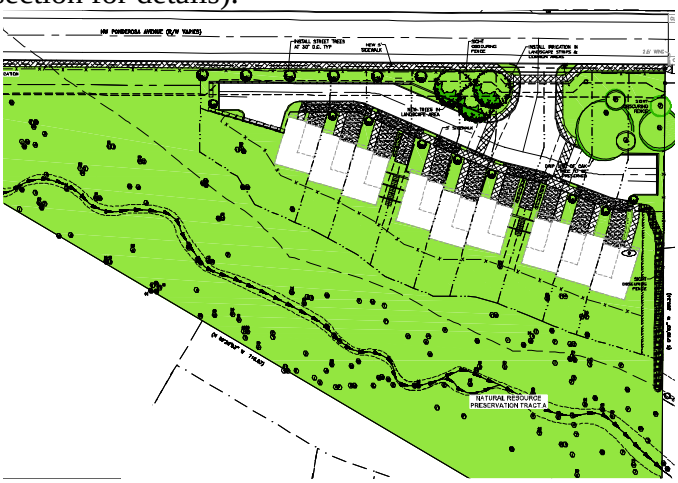
1. Maintaining a **25-40' separation** between the riparian resource boundary and any significant cuts and fills **compared with the 5' required setback standard.**



←----------}App. 30' Separation from Riparian Zone Boundary to Significant Cuts in this Example (Section 2-2)

2. **Preserving trees not required to be preserved**, in the site's northeast corner.

3. **Increasing Green Area** on individual parcels **by 92% overall,** reducing risks of pollution and erosion and improving visual impacts over code requirements (**23,558 s.f. green area proposed for lots 1-9, vs. only 12,285 s.f. required –** see following section for details).



4. **Increasing Green Area for the total site to 80%,** reducing risks of pollution and erosion and maintaining a greener appearance than required by code.

5. Increasing the separation between motor vehicle areas and riparian zone to an average of between **60-80 feet as compared with the RS-6 Zone's 5 foot minimum setback standard, <u>greatly reducing risks of pollution</u>.**

6. **Reducing substantially the volumes of cuts and fills required** for construction of buildings and vehicle circulation drives compared with placing those in compliance with maximum front setback standard and placing parking and drives behind the buildings (please see following section's discussion and drawings).

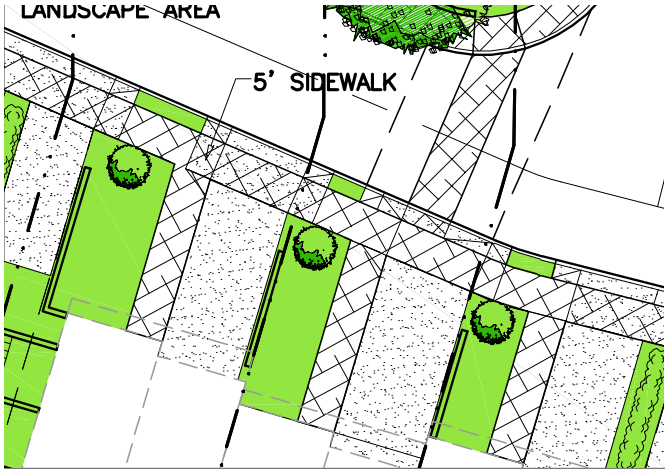
7. **Maintaining existing topographic profiles to greatest extent**, also **providing a higher level of protection for sub-surface hydrology**, a significant concern of staff discussed in detail in their review letter of August 21, 2007.

8. Both of the above measures result in **decreasing potential risks of erosion and slope failure by maintaining the existing conditions, exceeding protections normally afforded by code, since more cut/fill volumes would be permitted.**

9. **Declining to impact the protected riparian zone with encroachment by development, as permitted under the code's MADA provisions.**

III. THE SCALE OF MODIFICATIONS PROPOSED IS RELATIVELY MINOR
Specifically:

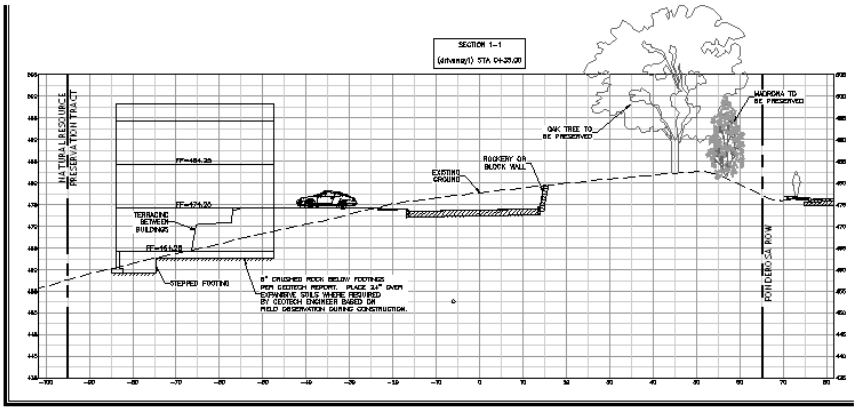
MODIFICATION NO. 1 - 2' PLANTING STRIP NORTH OF PRIVATE SIDEWALK:



Applicants Propose a 2' Planter Strip as 5' Width Cannot be Accommodated

The buildable portion of the site is bound on the south by the riparian zone and on the north by the Ponderosa Avenue public right of way. This creates the following profile:

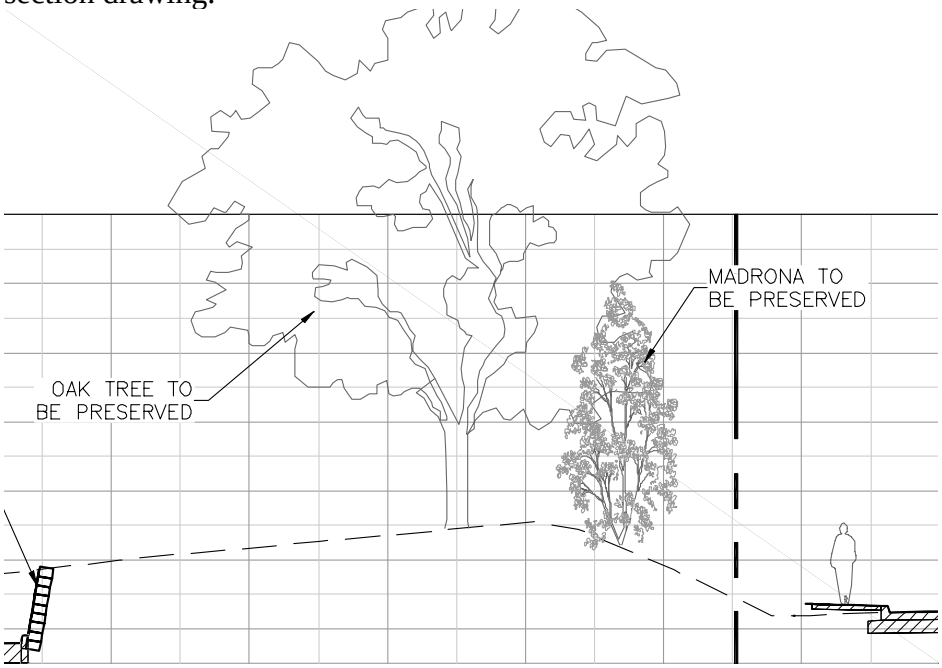
Rip. Zone – rear yard - structure – driveway – s'walk – strip – access – preserved trees- PL
Where PL = the northerly property line. We are viewing Section 1-1 @ the north end of the site.



SECTION 1-1 ON EXHIBIT B, DEVELOPMENT PLAN

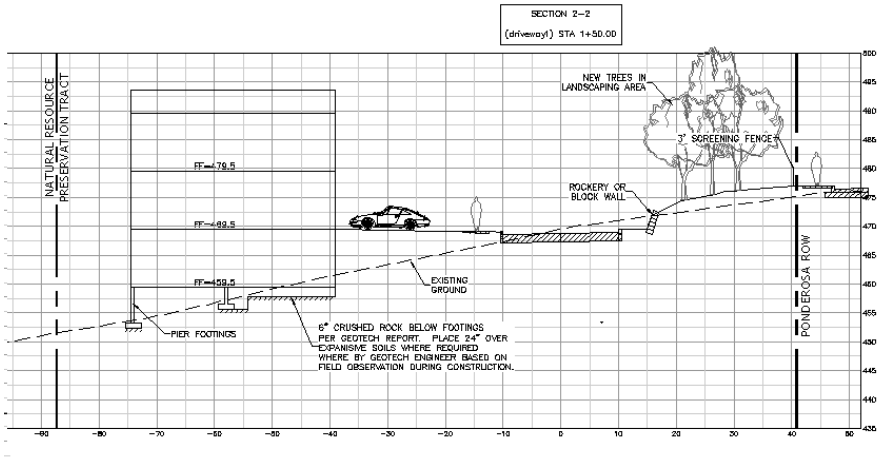
Given the narrow, triangular shape of the buildable portion of the tract, either the individual driveways' depths, the circulation drive's width, or the northerly landscaped strip adjacent to the private sidewalk must be reduced, *regardless of the number of units placed*. The driveway dimensions are required by code to accommodate parking vehicles, and the dimensions of the circulation drive cannot safely be reduced while maintaining it's viable utility and compliance with standards, so we sought, as our best alternative, to decrease, but not remove, the landscaping strip, from five to two feet.

One alternative to accommodate a five foot wide planting strip on this east end of the site would appear be to excavate more into the existing small hill north of the circulation drive, foresee-ably resulting in deleterious impacts upon the roots of the large oak tree which the applicants seek to preserve, in conjunction with the smaller madrona and some small firs. Please see the following figure, which is a blown up excerpt of the above section drawing.



Limiting the cuts in this area to the extent indicated is recommended by the project arborist to ensure the survival and vitality of the preserved trees in this area of the site. Cutting farther into the hill to permit a 5' planter strip would risk ultimately killing or severely impacting the health of the large landmark oak sought to be preserved.

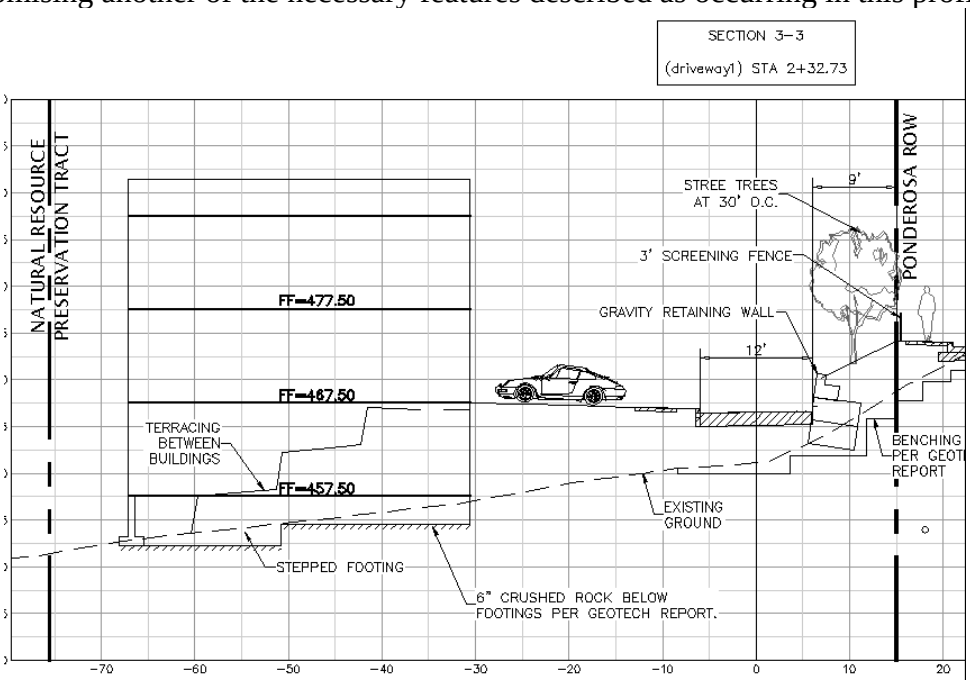
Alternatively, the plan could also conceivably provide lesser rear yards through this and other sections of the site, defaulting to the minimum rear setback requirement of five feet. This is not considered as a desirable trade-off.



SECTION 2-2 ON EXHIBIT B, DEVELOPMENT PLAN

In this central area of the site, Section 2-2 through the site plan, it may be possible to provide a 5' wide planting strip on the north side of the sidewalk without decreasing rear yards outside of the riparian easement and fencing, <u>at the substantial expense of severely impacting the applicants' proposed new tree plantings</u> in the common area immediately west of the driveway. The southerly most proposed medium to large canopy tree indicated in this common area on Exhibit H, Landscape and Irrigation Plan, could not be expected to survive to maturity if the adjacent soil cut were to extend for another three feet to accommodate the full five foot planter strip width. As in other locations, decreasing rear yards is also not considered a beneficial compromise for achieving the 5'.

Finally, at the west end of the development, Section 3-3, below, there is not sufficient area in this narrowest portion of the site triangle to accommodate proposed street trees behind the public sidewalk on Ponderosa Avenue; the retaining wall; the circulation drive, a sidewalk and a five foot wide planting strip on it's north side, without further reducing the unrestricted rear yards within the fenced areas for Lots 1-3, or compromising another of the necessary features described as occurring in this profile.



SECTION 3-3 ON EXHIBIT B, DEVELOPMENT PLAN

The applicants ask that the Council find this minimal deviation to code is consistent with the intent of the standard by providing adequate planter width to accommodate small trees and shrubs and by providing some separation between pedestrians and vehicles. The plan also provides compensating benefits in that it permits preserving existing significant trees in the northeasterly common area and planting new trees in the central common area. It is also noted that approval of the applicants' request permits planting new trees behind the sidewalk on Ponderosa Avenue, an amenity which could be jeopardized in the event a full 5' planter strip were required in this case.

MODIFICATION NO. 2 - REQUIRED GREEN AREA

The plan **exceeds code requirements for minimum green area on individual parcels by 92%.** Seven lots **exceed the 40% minimum green area standard** by between **6% to 30**% per parcel! One meets the standard exactly, and **one seeks a 4% reduction**. The Plan provides 96% in excess of the code's green area requirements cumulatively for Lots 1-5, 7-9, minus (-) a 4% deficit per the standard for Lot 6, equal to (=) a 92% surplus over required green area.

Lot	Required	Proposed	% Deviation
Lot 1	**Required Green Area = 40%**	**Proposed Green Area = 60%**	**+20%**
Lot 2	40%	40%	0%
Lot 3	40%	48%	**+8%**
Lot 4	40%	53%	**+13%**
Lot 5	40%	46%	**+6%**
Lot 6	40%	36%	-4%
Lot 7	40%	46%	**+6%**
Lot 8	40%	53%	**+13%**
Lot 9	40%	70%	**+30%**

The following calculations provide further illustrates how the applicants' Natural Resource Preservation Plan exceeds code requirements for resource protection:

y = 23,588 s.f. Proposed Green Area; x = 12,285.42 s.f. Required Green Area**

(y / x) * 100 = % of Required Green Area Proposed by Applicants

(23,588 / 12,285.42) * 100 = 192%

y = 1.92(x), or 92% more Green Area than Required

23,588 Proposed Green Area
-12,285 Required Green Area
11,303 s.f. Additional Green Area Proposed Beyond Requirement

Refers to Green Area Required Under 40% Minimum Standard of RS-6 Zone

In a rectangular lot we may be able to place this excess green area right where we want it, e.g., in order to create more useable yards for those lots that could benefit, but on this triangular shaped wedge we don't have that luxury. Instead, the extra green space provides other benefits in the form of increased visual attractiveness and green appearance; decreased hard surfacing resulting in lesser environmental impacts and decreased risk of pollution of soils and groundwater; decreased volumes of storm water runoff due to increased infiltration on site, reduced hard surfacing requirements and thereby minimized risk of erosion impacts; and preserving existing trees, and planting new ones for visual amenities, shade and wildlife (e.g., birds and squirrels).

This is considered the minimum possible deviation from the standard for Lot 6, and is very well compensated for by Green Area provided elsewhere on site.

MODIFICATION NO. 3 – MAXIMUM FRONT SETBACK

There has been substantial testimony on record concerning this deviation to standards. As indicated by staff, they and the Commission were highly motivated to approve this and the associated variation to the code's prohibition on parking in front of structures, in consideration of the compensating benefits associated with extra environmental protections provided by the applicants' Natural Resource Preservation Plan. In addition to requiring unnecessary excavation into the existing hillside for placement of the structures, adherence to this standard would also require placing parking and vehicular circulation behind the structures, abutting the riparian zone, with the potential for additional deleterious impacts on the existing topography, soil stability and sub surface hydrology resulting from construction, and further risking ongoing vehicular activities posing pollution risks to the adjacent riparian zone resources.

Where the code permits building structures and parking, driveway / circulation areas up to and **within five feet** of a highly protected riparian resource, **the applicants' plan would maintain a minimum of between 25-40 foot setback** from that resource's boundary for any significant ground work, and 60-80 feet for any hard surfacing for vehicle areas. This is considered as minimizing the scope and impact of the requested deviation in a simultaneous attempt to exceed other applicable requirements.

Please refer to applicants' written and verbal testimony in the public hearing, and discussions elsewhere in this document, for additional details regarding this issue. **The applicants sought to place the structures as close to conforming with the front setback standard as possible** considering needs for rear yards, facilitating vehicle parking and circulation in front of the structures, minimizing cut and fill impacts, and preserving and planting trees.

MODIFICATION NO. 4 – PARKING REQUIRED BEHIND STRUCTURES

The rationale for and compensating benefits associated with this proposed deviation are parallel and commensurate with those discussions for the above deviation to the maximum front setback standard. Placing parking behind the structures as normally required under the PODS would result in the increased environmental impacts discussed elsewhere in the applicants' written and verbal testimony. Arguments in support of the above deviation to the maximum front setback standard, referenced and specifically provided above, are hereby incorporated as supporting arguments for this modification to standards, which is inherently related to the preceding request.

The request is the minimum variance to the standard which would achieve the environmental protections discussed as compensating benefits.

MODIFICATION NO. 5 – 15' USEABLE YARD

Lots 1 and 9 comply with the standard by providing side yards whose depths or widths exceed the 15' standard. Lot 4's rear yard complies for the easterly half of it's width, while the westerly half tapers to approximately 10' in depth at it's narrowest point.

The remaining six parcels (2,3, 5-8) average between about 8-10 feet in depth for their rear yards where, e.g., tool and play structures might be erected, prior to the proposed wooden fence. Each parcel contains an additional rear yard at a depth of 25', in riparian protection status.

The following is excerpted from page 20 of the application narrative:

"Use restrictions applicable to the fifty foot wide riparian easement, restrictions which are required by the code and enforced by the applicants' Conceptual and Detailed Development Plan, apply to the entire, seventy five foot wide riparian corridor. Residents of each proposed unit may nonetheless pass through a gate in the wooden fence demarcating the boundary of the riparian corridor, thereby accessing this southerly green area of their rear yards for typical passive yard uses, such as picnicking and bird watching, which do not conflict with the use restrictions applicable to the entire highly protected riparian corridor. In addition to the private yards and common areas proposed under this plan, residents of the planned development could enjoy passive activities, such as hiking or nature watching, in the significant green area of Tract A, proposed to be dedicated to the City."

The Applicants' Conceptual and Detailed Development Plan, Exhibit B, contains the following Use Restrictions statement describing the restrictions on uses and activities within the protected riparian corridor, including the privately owned, 25 foot deep rear yards:

"*Natural Resource Preservation Tract A is proposed to be dedicated to the City of Corvallis. In addition, the highly protected riparian corridor extends for twenty five feet northerly beyond the northerly boundary of Tract A. Activities in the entire 75' wide riparian corridor required under CLDC Table 4.13-1 are limited to a passive enjoyment of the natural features therein, including primarily hiking, picnicking and sight seeing. No disturbance of any type is permitted of the soil, vegetation, or water feature associated with this reserved natural area. The wooden fence may be provided with one gate per dwelling, subject to the above restrictions of use. No structures may be placed or other disturbance(s) occur within the highly protected riparian corridor, the boundary of which is to be demarcated on the ground by the wooden fence*."

Importantly, as stated, we are targeting a niche of the market whom would happily trade yard area which is generally intended for playing ball and erecting structures, for extra deep rear yards in a perpetually-natural state, enjoying the amenity of views of their own section of the riparian corridor from the second and third floors of their homes.

Incidentally, we do not consider that this or any other proposed modification to standards would be eliminated or significantly reduced by the Council taking one or more of the proposed residential units. For example, the "common yard area" considered at one point by Councilor Raymond in public hearing to potentially replace the westerly proposed unit, would only result in the addition of about 1,000 to 1,500 square feet of common yard area.

By comparison, the applicants' current plan provides 4,860 square feet in common area, **totaling 2,235 s.f. *more* yard area** than would be provided under strict adherence to the code's 15' minimum per lot standard, and over 3,000 s.f. more common area than would result from eliminating a unit as contemplated by the Councilor. A picnic table and barbeque stand could feasibly be located in the central common area. Coupled with the 25' riparian easements, the plan provides substantially more than the amount of yard area required under the code or which would result from eliminating a unit, only seeking modification to permit placing some of that in common areas as opposed to private lawns, and acknowledging that other private portions are subject to riparian protection.

We ask, as we did of the Planning Commission, that the Council find the applicants' provision of over-sized rear yards, and substantially more square footage for yards in the common areas than would be required under conformance with the standard, duly compensate for the requested modification over the traditional interpretation of "useable" yard, since an adequate range of passive uses which do not disrupt the natural riparian features is still permitted.

Alternatively, the applicants seek a waiver to the standard for Lots 2-8 based upon the compensating benefits discussed above.

MODIFICATION NO. 6 – 8' MAXIMUM DEPTH FOR CUTS AND FILLS
If the subject property met the code's test for extenuating circumstances as detailed in *CLDC 4.5.80.d.1.*,, this application would not require a request for modification to the 8' maximum standard. Because it does not qualify under the extenuating circumstances test, the applicants must seek approval through the planned development's variations procedures. The applicants have succeeded in limiting fills beyond the 8' maximum standard to those which are absolutely necessary for parking and front yards. **This deviation request affects less than 1,900 square feet of total area, or under 2% of the parent parcel.** By comparison, a much larger land area would be affected by this request if the structures and vehicle circulation were required to be placed entirely consistent with the City's relatively new PODS.

For the above reasons, the requested is considered the minimum necessary variance to the standard.

MODIFICATION NO. 7 – COLLECTOR STANDARDS FOR PONDEROSA AVE.
As discussed, **the applicants first three fully reviewed development plans included a six foot wide planting strip between the public sidewalk and curb on Ponderosa Avenue** and an eight foot right of way dedication. Staff nixed this aspect of the proposal in August 2008, when they stipulated via email from the City Planner the exact profile to which the improved right of way must be constructed, including a three foot public dedication and eliminating the planter strip, placing street trees behind the sidewalk. Because this was dictated by the City Engineer, the applicants have no control over this aspect of the application, and the modification therefore represents the minimum modification the applicants can possibly propose.

MODIFICATION NO. 8 – MINOR ENCROACHMENT INTO CIRCLES OF PROTECTION FOR PRESERVED TREES

These have been minimized to include only those necessary for parking and circulation, affecting the trees the applicant is opting to preserve in the northeasterly corner of the site, **and very minor, even invigorating impact**s (see applicants' narrative and Arborist's Report, Attachment E) **of surface work associated with the construction of a bermed storm water quality treatment swale** atop the surface soils of some riparian zone trees and their roots (see Utility Plan, Exhibit E). Impacts to trees associated with the public sanitary sewer's construction would be minimized per a condition of the Planning Commission's approval, and are exempt from protection, not requiring any approval under the PD's variance / modifications procedures.

IV. FINAL CONSIDERATIONS / REBUTTALS

THIS IS THE FIRST LAND USE REQUEST BY THESE APPLICANTS

To be clear, contrary to statements by one Councilor, there has never been any denial of a land use application associated with this site since it's annexation to the City, particularly nothing of the sort during the current owners' tenure. Each of *our* prior submitted development plans over the past year and half was answered by your staff with a formal review letter, whose comments built on those of the previous letter, and each subsequent plan we submitted whittled down staff's concerns until, in the final review, none remained. The first and only decision these applicants have received affecting this property was the Planning Commission's approval in December 2008.

RE: APPLICANTS' GEOTECHNICAL REPORTS

It is not necessary for Appellants to create new terms to address the geotechnical reporting issue – the code is very specific in it's requirements. Appellant is generally correct in the following observations:

- A Site Assessment and Geotechnical Report are required due to the slopes and natural hazards mapped on and off site on the City's Natural Hazards Inventory.
- *CLDC Sections 4.5.60.04 and 4.5.60.05* contain the specific requirements those documents must contain in order to be considered acceptable.
- Applicants concur with Appellant that "*the City lacks the authority to second guess as to the contents of…(any) Geotechnical Report*."

Staff and the Planning Commission concurred with the consulting professional Geotechnical engineer that all requirements under the code for a Site Assessment and Geotechnical Report are met by applicants' submittal.

e.g., *4.5.60.04.b.1.-9.* list the substantive requirements for a site assessment; while *4.5.60.50.b.1.-4.* list the substantive requirements for a geotechnical report. Of these, appellants question compliance with *4.5.60.04.1.*, requiring "*field investigations of the site and vicinity*".

Despite testimony in public hearing before the City Council from the geotechnical engineer that he in fact did perform some investigations off site, the primary vocal appellant explained to the Council that he believes this section of the code would require the applicants' consultant to physically conduct boring for soil sample cores, and further conduct the level of in depth analyses which were performed on the subject property:

1. within the Benton County public right of way; and further
2. on an as yet unspecified number of other properties in private ownership in the general neighborhood or vicinity of the subject property.

This interpretation is markedly inconsistent with the understandings of the applicable sections of code by:

- Your staff;
- The Planning Commission;
- These applicants; and importantly, by
- Past Corvallis decision makers in the substantial public record, whose prior approvals of geotechnical assessments and reports have undoubtedly set a legal precedence for their reasonable parameters and scope.

As we stated in the public hearing, this level of off-site analysis is not required by the Code, and further, it must not be conjured so by any amount of paraphrasing or interjection of an appellant's own terminology to replace the City's clear and objective code language. i.e., in Mr. Popadopoulos' correspondence of 2/2/09, the terms "*CLDC Section 4.5.60.04 and .05*" may be substituted for his recurring term "*stated criteria*", as well as for his somewhat vague references to criteria of the State of Oregon, which statutes or rules are not specifically cited sufficiently to demonstrate their applicability or to illustrate any deficiency in the applicants' technical reports. No criteria beyond those in *4.5.60.04* and *.05* have been proven applicable to the question of approval of the applicants' technical reports, and the applicants have demonstrated that they meet those tests of the local code.

CLDC 4.5.70.02. provides that while projects that are *not* within 500 feet of a mapped natural hazard on the City's Natural Hazards Map are permitted under this section, those that *DO* lie within 500 feet of such a mapped feature may only be approved under the following section, *4.5.70.03*. *CLDC 4.5.70.03* requires that projects that lie within 500' of a mapped natural hazard must submit a Site Assessment and Geotechnical Report consistent with *4.5.60.04 and .05*.

This section goes on to state: "*In addition to the items identified in Section 4.5.60.05, the Geotechnical Report shall specifically address the presence, characteristics, and precise location of the identified hazard(s) <u>on the subject property</u> (emphasis added) which is/are depicted on the Natural Hazards Map. If other reports are called for by the Site Assessment, these reports shall also be submitted*."

So, the presence of a mapped natural hazard on this site spurred the requirement for a certified site assessment and geotechnical report. Once that information established that no hazard exists on the subject property, there remained the matter of other features appearing on the map lying within 500 feet of the subject property. This reinforced the necessity for the site assessment and geotechnical report, which was already underway, per requirements of *Section 4.5.70.03.a.* That section requires precise and detailed information about the location and nature of actual hazards occurring on the subject property. The geotechnical engineer testified that he also conducted limited field investigations off site, consistent with *4.5.60.04.1*.

Subsection *b*. of *Chapter 4.5.70.03.* states that "*In no case will permits be issued for development that would increase risks on the development site, or upon neighboring properties, as indicated in the approved reports*." No such risks were indicated in the consultant's report.

The above discussion provides the bases of facts upon which the Planning Commission predicated their findings in support of the applicants' site assessment and geotechnical report.

COUNCIL'S QUESTIONS OF STAFF

We are confident that, in response to the Council's request, your Planning Staff will reiterate those pertinent statements from their two prior staff reports and our application narrative, specifically reinforcing that the:

- Staff and Commission concurred with applicants that compensating benefits have been provided sufficient to balance the requested modifications to standards;
- Staff and Commission concurred with applicants and their consultant that the geotechnical reports comply with requirements of *CLDC 4.5.70.04 and .05.;*
- Use restrictions for the riparian area specify certain passive, non-disturbing activities and uses may occur within that area beyond just viewing; and
- City Engineer has indicated that the current proposed public street profile is the safest and most appropriate means of improving this stretch of Ponderosa Avenue in conjunction with development.

PLEASE AVOID AN ARBITRARY AND UNFAIR DOWN-ZONING

We do feel it is very important no note that no single proposed modification to standards associated with this Conceptual and Detailed Development Plan is in any way driven by the number of units proposed. Although testimony has been provided to suggest otherwise, there has been no demonstration that any one or more of the applicants' proposed deviations to standards would be eliminated, or substantially or even notably decreased, or riparian protection somehow enhanced, by the elimination of one or more units from the plan. It just isn't the case, despite that imposing a lesser density standard than that which legally applies under the code may make neighbors more comfortable, particularly those who reside in lower density residential zones or outside the city limits, or those who are not happy with the diversity of housing types permitted in the subject, PD RS-6 Zone.

The subject zoning would permit up to fifteen units on the site, and the applicants have sought to make the most efficient use of the constrained portion remaining after preservation of the property's significant natural features, as they are required to do under subsection *b*. of *Section 2.5.20.*, *Purpose* of the *PD* Section*:*

"b. *Promote efficient use of land and energy, and facilitate a more economical arrangement of buildings, circulation systems, land uses, and utilities;"*

The result of these efforts is the current plan which seeks to take advantage of just sixty percent of the subject zone's allowable residential density. <u>The applicants should not be held arbitrarily to a lesser standard which would be applicable in a lower density zoning district.</u>

No support exists for one neighbor's comment that "*the number of units proposed exceeds the standards*" (*Mrs. Humphries, public hearing 2/2/09*). Furthermore, no commensurate benefit has been demonstrated to result from the prospect discussed of taking a unit (or more) away from this development plan, forcing a further reduction in density to only *fifty percent (or less!)* of that which is allowed in the zone, in order, e.g., to provide a 25' wide side yard adjacent to one unit (or, for that matter, for any other reason). No issue of compatibility has been demonstrated to exist relative to the applicants' utilization of an outright permitted housing type at a density that is just over ½ of the maximum that is allowed.

Beside the fact that it is not supported by the decision criteria or other parts of the code, the type of down-zoning being contemplated by neighbors, and apparently by some on the Council, simply does not appear to provide benefits to residents in the remaining units or to the public commensurate with the cost to the applicants associated with the loss of a viable residential unit in the thoroughly-planned development.

RE THE # OF CONDITIONS OF PC's APPROVAL

The number and character of conditions of approval recommended by Staff and adopted by the Planning Commission may only appear exorbitant to those unfamiliar with the complexities and standard procedures of the subdivision and planned development processes. Additionally, the consultant has observed many planned developments that request substantially greater numbers and scopes of deviations to City codes, many of which gain ultimate approval based upon their ability to demonstrate compensating benefits and an effort to meet the intent of the code.

We appreciate the Council's consideration and understanding of these factors, and of the applicants' efforts to detail and summarize the fine points of this proposal in a final written submittal, intended as an aid to Councilors in sifting through the substantial record and citizen input received. Thank you.

CORVALLIS
ENHANCING COMMUNITY LIVABILITY

MEMORANDUM

DATE: February 12, 2009

TO: Mayor and City Council

FROM: Ken Gibb, Community Development Director

SUBJECT: Deer Run Park Subdivision (PLD08-00013 and SUB08-00007)
Staff Response to City Council questions

The City Council questions raised at the February 2, 2009, City Council public hearing, and staff responses to those questions, are as follows :

1. *(*Councilor Hervey*)* **- Provide an analysis of requested variations and compensating benefits:**

   Staff Response:
   The applicant has provided a table and detailed description of requested variations and associated compensating benefits in the application narrative (see pages 257 - 269 of the Deer Run City Council Packet). Additionally, staff has provided a similar table in the Planning Commission staff report (see pages 56-63 of the Deer Run City Council Packet). The table is included below for City Council reference.

TABLE A:
Proposed LDC Variations & Compensating Benefits

LDC Standard	Proposed Variation	Compensating Benefit
LDC Section 3.3.30.e.3.b - Side Yard Setback for Single Attached Units 8 feet.	The proposed Conceptual & Detailed Development Plan indicates that the side yard opposite the zero-lot line for Lots 3,4,6, and 7 will be 7'-6".	In support of this variance, the Conceptual & Detailed Development Plan provides for increasing the rear yards / Usable Yard from 15 feet to 25 feet or more, and additional Green Area beyond the LDC required minimums, for all lots except Lot 6. Additional benefit has been provided in the form of common landscaping areas in the fronts of Lots 4,5,7,8, and 9.
LDC Sections 3.3.30.l and 3.3.40.a - Maximum Lot Coverage / Minimum Green Area 3.3.30.l - 60 percent maximum 3.3.40.a - 40 percent minimum	The applicant proposes a Lot Coverage on Lot 6 of 64%. The applicant proposes a Green Area on Lot 6 of 36%.	In support of this variance, the Conceptual & Detailed Development Plan provides for increasing the rear yards / Usable Yard from 15 feet to 25 feet or more, and additional Green Area beyond the LDC required minimums, for all lots except Lot 6. Additional benefit has been provided in the form of common landscaping areas in the fronts of Lots 4,5,7,8, and 9.
LDC Section 3.3.30.e.2 - 15-Ft. Usable Yard is required either on the side or rear of each unit	The applicant is proposing to provide the required Usable Yard in the rear of each unit, but wishes to acknowledge that the Usable Yard will be limited in terms of the use of the space, based on the same protections that apply to the Riparian Corridor.	In support of this variance, the proposed Usable Yard is 25 feet in depth or greater, as opposed to the minimum 15 feet. The applicant also indicates that by allowing gates to be placed in the rear yard fence, residents may desire such restrictions on the use of the Usable Yard to preserve the natural aspects of the drainageway so as to use the space for passive recreation. At least 100% more Green Area on townhouse lots.

LDC Standard	Proposed Variation	Compensating Benefit
<u>LDC Section 4.10.60.01.a.3 & *4.10.60.02.a.1- Location of Vehicle Parking & Circulation Areas*</u> ***"Off-street parking and vehicular circulation shall not be placed between buildings and the streets to which those buildings are primarily oriented, except for driveway parking associated with single family development."*** ***"Parking lots shall be placed to the rear of buildings..."***	**The proposed common driveway provides vehicular circulation for all nine lots, and is located between the buildings and NW Ponderosa Avenue. Five parking spots, located in two bays at the west and east ends of the common driveway, are located between the dwellings and NW Ponderosa Avenue.**	**The applicant has submitted supplemental cross-section studies, which illustrate the differences between locating parking in front of the dwellings, as opposed to locating the parking in the rear. Due to topography issues, the requirement to comply with City standards for driveway slope, and to fully protect the Riparian Corridor, the applicant indicates that the compensating benefits of providing the parking on the north side of the dwellings outweigh trying to locate the parking to the rear of the dwellings. Swapping the locations of the parking and dwellings allows the limits of grading to be moved further north (between 25' and 40') of the 75-foot Riparian Corridor line.**
<u>LDC Sections 3.3.30.e.1 and 4.10.60.01.b - Maximum Front Yard Setback</u> ***3.3.30.e.1 - 25' maximum front yard setback*** ***4.10.60.01.b - "On sites with 100 ft. or more of public...street frontage, at least 50 percent of the site frontage width shall be occupied by buildings placed within the maximum setback established for the zone...For sites with less than 100 ft. of public...street frontage, at least 40 percent of the site frontage width shall be occupied by buildings placed within the maximum setback established for the zone..."***	***The applicant requests to allow all nine dwellings to be located further from the front property line than the maximum 25' setback.***	**Compensating benefits are greater protection of the Riparian Corridor from the effects of fill necessary to support vehicle driveway and parking areas. Setting the dwellings further from NW Ponderosa Avenue means that they will be constructed at a lower elevation, leaving a smaller visual presence from the street, and providing additional buffer from road noise for the occupants of the dwellings. Additional Green Area provided on all interior townhouse lots.**

LDC Standard	Proposed Variation	Compensating Benefit
<u>*LDC Section 4.7.90.01.b-*</u> <u>*Signs in Residential Districts*</u> "b. Special Instructions - 1. Attached signs shall not extend above eaves. 2. Unless specified below, signs shall be limited to one frontage. 3. Where a primary frontage exceeds 100 ft.: a) Permanent monument signs are allowed - minimum setback is five ft.; b) Maximum height for temporary and monument signs is six ft.; c) Maximum Sign Area is 16 sq. ft.; and d) Illuminated signs are permitted."	The applicant proposes a sign containing approximately 20 square feet, and proposes to locate the sign on Lot 6, which does not have more than 100 feet of primary frontage. The applicant is requesting use of the sign standards applicable in the MUR district, which has a maximum allowable area of 32 sq. ft.	*The applicant indicates the need to request a variation to this standard (see Pages 73 and 74 of the applicant's narrative), based on the proposed sign design. However, no compensating benefits have been proposed by the applicant. The applicant cites LDC Section 4.7.90.09.b as the applicable review criteria for a variation to a sign code standard, which does not reference the compensating benefits criteria of LDC Section 2.5.40.04.a.1. While it is not clear that 2.5.40.04.a.1, staff finds that the applicant has not provided reasonable justification for the sign variation request in terms of the square footage of the sign, but finds that the proposed location is acceptable since the overall development includes Tract A, which does contain more than 100 feet of frontage. Staff recommends that the request to vary sign square footage be denied, but that the applicant be allowed to locate a sign which complies with residential district standards at the location proposed.*

LDC Standard	Proposed Variation	Compensating Benefit
LDC Section 4.2.30.a.3 & 4.10.60.06.f - Pedestrian Walkway Landscaping and Vehicle Circulation Separation Requirements "Along sidewalks and multi-use paths not located along streets, a minimum five ft.-wide landscaping buffer is required on either side of the facility. Examples of sidewalks and multi-use paths not located along streets include pedestrian and bicycle connections between Cul-de-sacs or between residential areas and neighborhood centers, etc. Within these buffers, trees 4.2 - 5 LDC December 31, 2006 shall be planted at least every 30 ft., or as determined by the type of tree used. See Table 4.2-1 - Street Trees and Table 4.2-2 - Parking Lot Trees;" "Where internal sidewalks parallel and abut a vehicular circulation area, sidewalks shall be raised a minimum of six in., or shall be separated from the vehicular circulation area by a minimum six-in. raised curb. In addition to this requirement, a landscaping strip at least five ft. wide, or wheel stops with landscaping strips at least four ft. wide, shall be provided to enhance the separation of vehicular from pedestrian facilities."	The Conceptual & Detailed Development Plan indicates that the required landscape buffer and associated trees will only be provided on the south side of the proposed common sidewalk.	The applicant indicates that by not providing the additional five foot landscape buffer on the north side of the proposed common sidewalk, development activity can be further minimized on the site in order to provide additional protections for the Riparian Corridor. Additionally, while in most cases, space exists on the individual lots to allow moving the sidewalk south to create the five foot landscape buffer, the result would be a reduced usable front yard area for each unit. In balancing the objectives of the LDC, and given the limited amount of vehicle and pedestrian traffic associated with nine dwelling units, compensating benefits have been justified for the variations.

LDC Standard	Proposed Variation	Compensating Benefit
LDC Section 4.5.80.04.c.3.a - Mass Grading Limitations 6,500 sq. ft. limit	*The applicant is requesting a variation to this standard for Lot 9. Lot 9 is 7,134 sq. ft. in area. The limit on grading is 6,500 sq. ft. However, based on the applicant's proposed Conceptual & Detailed Development Plan, there is no need for a variation for Lot 9, since it appears that the graded area falls below the 6,500 sq. ft. limit.*	*Refer to the discussion under LDC criterion 2.5.40.04.a.14 and 2.5.40.04.b below.*
LDC Sections 4.5.80.04.c.1, 4.5.80.04.d.1, and 4.5.80.04.e - Eight-Ft. Standard and Terracing	*The applicant is requesting to vary this standard, by proposing fills between 8 and 14.46 feet, on Lots 1 through 5, and by not providing terracing.* *Extenuating Circumstances noted in LDC Section 4.5.80.04.c.2.b provide for an exception up to 10 feet, based on the applicant's protection of the Riparian Corridor. The proposal does not meet the 2 extenuating conditions exemption, which would allow up to 12 foot fills, nor the terracing requirements that apply for allowable fills over 8 feet.*	*The primary argument for the requested variation is that by concentrating development on the north half of the site, and locating fills that will exceed 8 feet in this area, the Highly Protected Riparian Corridor can be fully protected. Additionally, the applicant contends that the proposed grading plan (as opposed to other grading concepts that were explored) is best suited to ensure that the pre-development hydrological function of the site's topography and stream is maintained, post-development. Additional fill beyond the 12-ft. Standard protects specific Significant Trees along the Riparian Corridor boundary.*
LDC Table 4.0-1 - Collector Street Improvement and Right-of-Way Requirements	*The applicant proposes a reduced right-of-way dedication on NW Ponderosa Avenue (varies in width), and Collector street improvements with a curbside sidewalk. Collector streets typically require a 12-ft. planter strip with setback sidewalk.*	*The proposed right-of-way width and street improvements without a 12-ft. planter strip allows for additional protection of existing Significant Trees at the northeast corner of the site, and an enhanced common landscaping area on Lots 4 through 6.*

LDC Standard	Proposed Variation	Compensating Benefit
LDC Section 4.12.60.f.(1) & (4) - Tree Protection Requirements	*Applicant proposes encroachments into Significant Trees' Circles of Protection at specific locations, for installation of private stormwater management facilities. Additional encroachments are proposed at northeast corner of site in area where trees are not required to be protected.* *Construction of the proposed public sewer line is an exempted activity under the Riparian Corridor protections noted in LDC Section 4.13.50, and encroachments into the Riparian Corridor and necessary removal of Significant Vegetation are exempt activities.* *Construction of the proposed private stormwater quality / detention facility on Tract A and Lots 1-3 is an exempt activity per LDC Section 4.13.50.b.7. However, Significant Vegetation within the Riparian Corridor is required to be protected according to the Circle of Protection requirements.*	*Applicant has provided arborist's report, and states that arborist's opinion is that trees will not be negatively impacted.* *Applicant proposes protection of additional Significant Trees not required to be protected per base LDC standards. Note that these trees are being utilized as compensating benefits for other LDC variation requests.*

2. (Councilors Brown, Raymond, Hirsch, Beilstein, O'Brien) - **Regarding the proposed Riparian Corridor fence / Usable Yard:**

a. Information regarding the rear yard fence (height, construction type, sight obscuring ?):

Staff Response:
The applicant has proposed a wood fence along the 75-ft. Riparian Corridor boundary (see page 221 of the Deer Run City Council Packet), but has not provided any more description of the fence in the application materials. The fence is otherwise regulated by the LDC, in terms of height (14' max.) and building permit

requirements (over 6' high requires a building permit). The LDC does not specify materials for fence construction in this situation. Additionally, the Planning Commission modified Condition # 34 ("Required Fences") to allow for a small gap in the bottom of the fence, to allow for passage of small animals.

b. Is the easement area south of the fence intended to be used by the owner or not? What activities are allowed in the Riparian Corridor?

Staff Response:
Yes. The individual owners and their guests are permitted to use the riparian corridor easement area. The LDC allows this, but limits the types of activities in specific ways per LDC Section 4.13.50. No development related activities such as grading, excavation, and building / accessory structures are permitted. Conditions of approval # 7 and # 21 require the applicant to notify future owners of the Riparian Corridor use restrictions, through CC&R and final plat language. The following excerpt is from the applicant's narrative:

> *"Residents of each proposed unit may nonetheless pass through a gate in the wooden fence demarcating the boundary of the riparian corridor, thereby accessing this southerly green area of their rear yards for typical passive yard uses, such as picnicking and bird watching, which do not conflict with the use restrictions applicable to the entire highly protected riparian corridor. In addition to the private yards and common areas proposed under this plan, residents of the planned development could enjoy passive activities, such as hiking or nature watching, in the significant green area of Tract A, proposed to be dedicated to the City."*

c. Is there a gate in the fence for each owner to access the easement area?

Staff Response:
Yes. The applicant has proposed a gate for each of the nine lots.

General Relationship Between Usable Yard and Riparian Corridor

Staff Response:
A number of questions were raised regarding the easement area within the Riparian Corridor and the fence along its outer edge. These issues are discussed on pages 19 and 20 of the Planning Commission Staff Report, and Conditions of Approval 7 and 21 of the Planning Commission Notice of Disposition (pages 4 and 7). As indicated, an area that encompasses 50 feet from the top-of-bank of the 75-ft wide Riparian Corridor is required to be placed in a separate tract. The applicant has proposed dedicating this tract to the City. The remaining 25-ft width is required to be placed in an easement. The entire 75-ft width is subject to the use restrictions contained in LDC Section 4.13.50. The applicant has proposed to place the easement as required, subject to the use restrictions, and also to allow a portion this

25-ft wide area to serve as the "Usable Yard" for each lot (Exhibit III, page 208). The proposal includes the placement of a fence with a gate to allow the residents of the homes to access the easement area for "typical passive yard uses, such as picnicking and bird watching." This level of access is not inconsistent with the LDC, provided the use limitations from Section 4.13.50 are respected. Generally speaking, staff would not consider viewing of an area to be a use. However, because the term "Usable Yard" is not defined, considering the easement area, with its limited uses, to be a part of the Usable Yard is not specifically contrary to the provisions of the LDC. The LDC does not require a fence on the edge of the easement or on the edge of the Riparian Corridor tract.

The Planning Commission Notice of Disposition approved the applicant's proposal with respect to the easement area and its inclusion in the Usable Yard. The placement of a fence with a gate is also an element of that approval.

3. (Councilors Brown, Beilstein) **- Information regarding whether the landslide hazards northeast of the proposed development site must be investigated for potential danger to the subject site, and whether geotechnical report requirements have been satisfied for developments proposed in the 500-ft. landslide buffer area** :

Staff Response:
The applicant has submitted a geotechnical report (see pages 416 - 439 of the Deer Run City Council Packet), which complies with the submittal requirements of LDC Section 4.5.70, and specifically addresses landslide hazards. In general, the analysis includes both an assessment of whether or not the existing mapped landslide hazards on the subject site and in the vicinity constitute a threat to development on the subject site, as well as an assessment of whether or not the proposed development, as situated will create a landslide hazard of its own. The application standards do not include a requirement to perform soils analysis / test pits off-site, but the Geotechnical Engineer included a record of their "visual observation" and analysis of topographic data to assess soil conditions north and south of the subject property. The following excerpts are from the submitted geotechnical report:

"...the risk of deep-seated landslides north or south of the subject property that would impact the proposed development is very low." (Page 416 of the CC Packet)

"...debris flows do not pose a threat to the proposed development."(Page 422 of the CC Packet)

"...the conditions do not represent a slope stability hazard."(Page 422 of the CC Packet)

4. (Councilor Raymond) - **Information regarding the proportion of the 600-foot-long western** *(ed. northern?)* **property boundary along Ponderosa that is within the riparian zone and potential compensating benefits related to the riparian zone and a sidewalk. Can the sidewalk be set back along the front of this project?** (Councilor Hirsch) **Information regarding options to increase pedestrian safety on the sidewalk along Ponderosa while meeting LDC requirements.**

Staff Response:
The elimination of the planting strips is required by LDC section 4.0.30.a.2 within natural resource areas, significant vegetation, riparian corridors or wetlands. Approximately 235 feet of the site's 618 feet of NW Ponderosa Frontage are adjacent to the required riparian corridor and require a curb side sidewalk per the LDC. The remaining 383 feet of frontage is in an area where setback sidewalks would be allowed. The intent of City Engineering staff with the conditioned street improvements, is to avoid significant retaining walls and fill within the public ROW and provide safe and convenient pedestrian, bicycle and vehicular facilities. These improvements were also discussed with Benton County staff. The curbside sidewalk and street improvements described in the staff report is the configuration Public Works supports with the current site plan. Staff also interpret this to be consistent with LDC section 4.5.80.04.c.2.(a). From page 42 of the staff report:

> "The elimination of the planting strip between the street and sidewalk along the rest of the site frontage (lots 1-9) was proposed by staff after it was determined that the applicant's proposal would be difficult to construct without significant retaining walls, up to 10 feet tall, and associated fill within the required standard ROW. Due to the existing riparian corridor, site topography, proposed retaining walls, and the applicant's desire to maintain the proposed number of dwelling units, City staff agreed that a curbside sidewalk may be appropriate in this case. The conditions associated with the reduced ROW width and installation of a curbside sidewalk include:
>
> - The ROW dedication in front of lots 1-9 along NW Ponderosa Avenue shall provide a total of 23.5 feet of ROW when measured from the existing centerline (reduced from the standard 34 feet).
> - Standard Collector street pavement width of 34 feet which includes two 11-foot travel lanes, and two 6-foot bike lanes.
> - Minimum sidewalk width of 5 feet.
> - A 1-foot level shoulder shall be provided behind the sidewalk.
> - The slope between behind the sidewalk shall not exceed 2:1 for a minimum distance of 9 feet behind the sidewalk.
> - All retaining walls located at the toe of the 2:1 slope behind the sidewalk shall be engineered and not exceed a height of 4 feet.
>
> With the curbside sidewalk, the applicant is showing street trees planted on the slopes behind the sidewalks on private property along lots 1-9. This swaps the location of the sidewalk and trees to allow grading behind the sidewalk, minimize

the retaining wall height and keeps the sidewalk at an elevation visible from the street. **(see Conditions # 11 through 15)"**

The preferred design for the portion of Ponderosa Avenue outside the Riparian Corridor would be to have full ROW width, a 12-foot planting strip, and a 5-foot setback sidewalk. To achieve this would require an additional ROW dedication of 11 feet and a complete redesign of the project. This could not be done using a condition of approval due to the many implications to the remainder of the project, including alterations to the vehicle maneuvering areas, building designs, and likely increased fill. The previous submittal by the applicant proposed a 6-foot planting strip with a 5-foot setback sidewalk and retaining walls supporting the fill required for these improvements. Engineering staff did not support the extensive retaining walls, up to 10 feet, adjacent to the sidewalk, and associated fill required with the prior plan.

5. (Councilor Beilstein) **- Information regarding staff's request that shrubs not be planted in the two-foot-wide park strip for vision clearance. More of the street frontage seems amenable to shrubs.**

Staff Response:

NW Ponderosa Avenue
The LDC requires a 12-ft. wide park strip between the public sidewalk and curb on NW Ponderosa Avenue (except within the Riparian Corridor). The applicant proposes to vary this standard.

A park strip is not proposed between the public sidewalk on NW Ponderosa Avenue and the street curb, with the exception of two small areas immediately east and west of the common driveway entrance into the site. This area around the driveway entrance is considered a vision clearance area, and any plantings in these areas are limited in height to 2 feet.

Private, On-Site Park Strip Adjacent to Driveway.
The LDC requires a 5-ft. wide planting buffer area south of and between the common private driveway, and the required common pedestrian sidewalk which connects to each unit. The applicant proposes to vary this standard.

The required 5-ft. planting buffer area is proposed to be eliminated, with the exception of some small, 3' to 10' long areas in between the individual driveways for each unit. The width of the planters in these areas is 2 feet and is suitable for ground cover and shrub plantings. The City Engineer's vision clearance standards do not apply in this situation, due to the internal, private nature of the common driveway and individual driveway intersections. The proposed landscape and irrigation plans (see page 234 of the Deer Run City Council Packet) show plantings in these areas of unspecified variety and size.

* * * MEMORANDUM * * *

FEBRUARY 11, 2009

TO: **MAYOR AND CITY COUNCIL**

FROM: **JON S. NELSON, CITY MANAGER** Jon

SUBJECT: **FEBRUARY 11, 2009, CITY LEGISLATIVE COMMITTEE WORKING NOTES**

1. Call to Order

Mayor Tomlinson called the meeting to order at 9:00 am, with Councilors Brown, Hamby, and Brauner in attendance. Also in attendance were City Manager Nelson, Public Works Director Rogers, and Library Director Rawles-Heiser.

2. Review of Pending Legislative Proposals

a. Library –

Library Director Rawles-Heiser described the $12,000 in State funding traditionally received for the "Ready to Read" program. There is also a small amount of State funds available for the vision-impaired (Federally mandated) and grants on a case-by-case basis. Per the Governor's directions, the State Library did submit a budget with ten-percent reductions. By consensus, the Committee recommends that City Council support the State Library budget. Ms. Rawles-Heiser also noted that March 5th is the Public Libraries Legislative Day.

b. Public Works –

Public Works Director Rogers reviewed the following bills:

Bill	Subject	Position – Highlights
HB 2080	Gray Water Re-use	Generally favorable concept but do have concerns. Consensus: Monitor.
HB 2120	Governor's Jobs and Transportation Act	Raises City share of State-based transportation revenues by $1.9 million, allowing for preventive maintenance on local streets. Consensus: Support.
HB 2180	Business Energy Tax Credits	Not specific to Corvallis but may offer avenue for securing tax credits. Consensus: Monitor.

Bill	Subject	Position – Highlights
HB 2417	Hearing Prior to Street Closure	Seventh Street Closure. Consensus: Support with language clarifying it is the Rail Division that conducts the hearing on their street closure proposal.
SB 269	Utilities Recovery of Right-of-Way Relocation Costs	Consensus: Oppose based upon infringement of local control.
SB 292	Dedication of Highway Funds for Bike and Pedestrian from 1% to 2%	Consensus: Support; Corvallis always spends above the targeted percentage.

Mr. Rogers also noted six other bills being monitored by Public Works:

HB 2472 – Limits business energy tax credits.
HB 2493 – Greenhouse gas cap and trade prohibition.
HB 2492 – Golf cart use on highways.
SB 171 – Oregon Department of Aviation (ODA) permits for building on airports requirement,.
SB 169 – Airport-related land use.
SB 170 – Airport "through the fence" operations.

Mayor Tomlinson will communicate the above positions to Representative Gelser and Senator Morse unless City Council directs otherwise.

3. Other

Mr. Nelson noted that the cancer presumption bill passed out of the House with 55 votes and the cities of Portland, Salem, and Eugene either supporting or sitting the issue out. The Committee concurred that strong opposition to this bill, given its support, was not advisable.

Senator Morse's weekly update was reviewed by Mayor Tomlinson.

4. Next Meeting – February 25, 2009

5. Adjournment

The meeting adjourned at 9:40 am.

Nelson, Jon

From: Rogers, Steve
Sent: Wednesday, February 11, 2009 10:26 AM
To: Nelson, Jon
Cc: Braun, Gene
Subject: HB 2417 Proposed Language Change

Modify Section 2. (2) of the bill to read:

Upon receipt of notice of proposed closure, the road authority may request that the Department of Transportation hold a public hearing. The public hearing, if requested, shall be noticed and conducted by the Department.

House Bill 2080

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of House Interim Committee on Energy and the Environment)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Modifies public policy regarding waters of state and subsurface sewage disposal systems. Requires Environmental Quality Commission to adopt rules regarding gray water. Allows commission to appoint advisory committee. Allows permit to be issued for subsurface or alternative sewage disposal system that reuses or discharges gray water even if community or area-wide sewerage system is available.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to gray water; amending ORS 454.605, 454.607, 454.610, 454.615, 454.655 and 468B.015; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 468B.015 is amended to read:

468B.015. Whereas pollution of the waters of the state constitutes a menace to public health and welfare, creates public nuisances, is harmful to wildlife, fish and aquatic life and impairs domestic, agricultural, industrial, recreational and other legitimate beneficial uses of water, and whereas the problem of water pollution in this state is closely related to the problem of water pollution in adjoining states, it is hereby declared to be the public policy of the state:

(1) To conserve the waters of the state **through innovative approaches, including but not limited to the appropriate reuse of water and wastes**;

(2) To protect, maintain and improve the quality of the waters of the state for public water supplies, for the propagation of wildlife, fish and aquatic life and for domestic, agricultural, industrial, municipal, recreational and other legitimate beneficial uses;

(3) To provide that no waste be discharged into any waters of this state without first receiving the necessary treatment or other corrective action to protect the legitimate beneficial uses of such waters;

(4) To provide for the prevention, abatement and control of new or existing water pollution; and

(5) To cooperate with other agencies of the state, agencies of other states and the federal government in carrying out these objectives.

SECTION 2. ORS 454.607 is amended to read:

454.607. It is the public policy of the State of Oregon to encourage:

(1) Improvements to, maintenance of and innovative technology for subsurface and alternative sewage disposal systems and nonwater-carried sewage disposal facilities consistent with the protection of the public health and safety and the quality of the waters of this state**; and**

(2) The appropriate reuse of gray water for beneficial uses.

SECTION 3. ORS 454.605 is amended to read:

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

454.605. As used in ORS 454.605 to 454.755, unless the context requires otherwise:

(1) "Absorption facility" means a system of open-jointed or perforated piping, alternate distribution units or other seepage systems for receiving the flow from septic tanks or other treatment units and designed to distribute effluent for oxidation and absorption by the soil within the zone of aeration.

(2) "Alternative sewage disposal system" means a system incorporating all of the following:

(a) Septic tank or other sewage treatment or storage unit; and

(b) Disposal facility or method consisting of other than an absorption facility but not including discharge to public waters of the State of Oregon.

(3) "Construction" includes installation, alteration or repair.

(4) "Contract agent" means a local unit of government that has entered into an agreement with the Department of Environmental Quality pursuant to ORS 454.725.

(5) "Effluent sewer" means that part of the system of drainage piping that conveys treated sewage from a septic tank or other treatment unit into an absorption facility.

(6) "Governmental unit" means the state or any county, municipality or other political subdivision, or any agency thereof.

(7)(a) "Gray water" means shower and bath waste water, kitchen waste water, laundry wastes and any other domestic sewage.

(b) "Gray water" does not mean toilet and garbage wastes.

[*(7)*] **(8)** "Local unit of government" means any county or municipality.

[*(8)*] **(9)** "Nonwater-carried sewage disposal facility" includes, but is not limited to, pit privies, vault privies and chemical toilets.

[*(9)*] **(10)** "Public health hazard" means a condition whereby there are sufficient types and amounts of biological, chemical or physical, including radiological, agents relating to water or sewage which are likely to cause human illness, disorders or disability. These include, but are not limited to, pathogenic viruses, bacteria, parasites, toxic chemicals and radioactive isotopes.

[*(10)*] **(11)** "Septic tank" means a watertight receptacle which receives the discharge of sewage from a sanitary drainage system and which is so designed and constructed as to separate solids from liquids, digest organic matter during a period of detention and allow the liquids to discharge to another treatment unit or into the soil outside of the tank through an absorption facility.

[*(11)*] **(12)** "Sewage" means domestic water-carried human and animal wastes, including kitchen, bath and laundry wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration, surface waters or industrial waste as may be present.

[*(12)*] **(13)** "Sewage disposal service" means:

(a) The construction of subsurface sewage disposal systems, alternative sewage disposal systems or any part thereof.

(b) The pumping out or cleaning of subsurface sewage disposal systems, alternative sewage disposal systems or nonwater-carried sewage disposal facilities.

(c) The disposal of materials derived from the pumping out or cleaning of subsurface sewage disposal systems, alternative sewage disposal systems or nonwater-carried sewage disposal facilities.

(d) Grading, excavating and earth-moving work connected with the operations described in paragraph (a) of this subsection.

[*(13)*] **(14)** "Subsurface sewage disposal system" means a cesspool or the combination of a septic tank or other treatment unit and effluent sewer and absorption facility.

[*(14)*] **(15)** "Zone of aeration" means the unsaturated zone that occurs below the ground surface

and the point at which the upper limit of the water table exists.

SECTION 4. ORS 454.610 is amended to read:

454.610. [*(1) As used in this section "gray water" means any domestic sewage other than toilet and garbage wastes, including shower and bath waste water, kitchen waste water and laundry wastes.*]

(1) The Environmental Quality Commission shall adopt rules exempting gray water reuse and disposal systems from the permitting requirements of ORS 454.605 to 454.755 or establishing separate permitting requirements for gray water reuse and disposal systems, or both. In adopting the rules, the commission shall consider the recommendations of an advisory committee appointed by the Department of Environmental Quality pursuant to ORS 183.333.

(2) [*Nothing in ORS 454.605 to 454.755 except*] **Subject to** ORS 454.645, [*shall*] **the rules adopted by the commission under this section may not** prohibit the discharge of gray water if:

(a) Soil and site conditions for such gray water conform to the rules of the department [*of Environmental Quality*] regarding standard subsurface sewage disposal systems or alternative sewage disposal systems, except that such systems may use two-thirds the normal size surface area for a drainfield and shall be preceded by a treatment facility such as, but not limited to, a septic tank; or

(b) Such gray water is discharged into an existing subsurface sewage disposal system or alternative sewage disposal system [*which*] **that** is functioning satisfactorily, or a public sewage system [*which*] **that** serves the dwelling from which such gray water is derived.

SECTION 5. ORS 454.615 is amended to read:

454.615. The Environmental Quality Commission shall [*by September 1, 1975,*] adopt [*by rule standards which*] **rules that**:

(1) Prescribe minimum requirements for the design and construction of subsurface sewage disposal systems, alternative sewage disposal systems and nonwater-carried sewage disposal facilities or parts thereof including grading, excavating and earth-moving work connected therewith, and allow for use of alternative systems and component materials consistent with the minimum requirements. Requirements prescribed under this section may vary in different areas or regions of the state.

(2) Prescribe minimum requirements for the operation and maintenance of subsurface sewage disposal systems, alternative sewage disposal systems and nonwater-carried sewage disposal facilities or parts thereof.

(3) Prescribe requirements for the pumping out or cleaning of subsurface sewage disposal systems, alternative sewage disposal systems and nonwater-carried sewage disposal facilities or parts thereof, for the disposal of material derived from such pumping out or cleaning, for sewage pumping equipment, for sewage tank trucks and for the identification of sewage tank trucks and workers.

(4) Prescribe **optional** requirements for [*handling kitchen, bath and laundry wastes as opposed to human and animal wastes which*] **disposal or reuse of gray water that** recognize the possibility for separate treatment of different types of waste.

SECTION 6. ORS 454.655 is amended to read:

454.655. (1) Except as otherwise provided in ORS 454.675, without first obtaining a permit from the Department of Environmental Quality, no person shall construct or install a subsurface sewage disposal system, alternative sewage disposal system or part thereof. However, a person may undertake emergency repairs limited to replacing minor broken components of the system without first obtaining a permit.

(2) A permit required by subsection (1) of this section shall be issued only in the name of an

owner or contract purchaser in possession of the land. However, a permit issued to an owner or contract purchaser carries the condition that the owner or purchaser or regular employees or a person licensed under ORS 454.695 perform all labor in connection with the construction of the subsurface or alternative sewage disposal system.

(3) The applications for a permit required by this section must be accompanied by the permit fees prescribed in ORS 454.745.

(4) After receipt of an application and all requisite fees, subject to ORS 454.685, the department shall issue a permit if it finds that the proposed construction will be in accordance with the rules of the Environmental Quality Commission. **Except for a subsurface sewage disposal system, alternative sewage disposal system or part thereof that reuses or discharges only gray water,** a permit may not be issued if a community or area-wide sewerage system is available which will satisfactorily accommodate the proposed sewage discharge. The prohibition on the issuance of a permit in this subsection does not apply to a public agency as defined in ORS 454.430.

(5)(a) Unless weather conditions or distance and unavailability of transportation prevent the issuance of a permit within 20 days of the receipt of the application and fees by the department, the department shall issue or deny the permit within 20 days after such date. If such conditions prevent issuance or denial within 20 days, the department shall notify the applicant in writing of the reason for the delay and shall issue or deny the permit within 60 days after such notification.

(b) If within 20 days of the date of the application the department fails to issue or deny the permit or to give notice of conditions preventing such issuance or denial, the permit shall be considered to have been issued.

(c) If within 60 days of the date of the notification referred to in paragraph (a) of this subsection, the department fails to issue or deny the permit, the permit shall be considered to have been issued.

(6) Upon request of any person, the department may issue a report, described in ORS 454.755 (1), of evaluation of site suitability for installation of a subsurface or alternative sewage disposal system or nonwater-carried sewage disposal facility. The application for such report must be accompanied by the fees prescribed in ORS 454.755.

(7) With respect to an application for a permit for the construction and installation of a septic tank and necessary effluent sewer and absorption facility for a single family residence or for a farm related activity on a parcel of 10 acres or more described in the application by the owner or contract purchaser of the parcel, the Department of Environmental Quality:

(a) Within the period allowed by subsection (5)(a) of this section after receipt by it of the application, shall issue the permit or deliver to the applicant a notice of intent to deny the issuance of the permit;

(b) In any notice of intent to deny an application, shall specify the reasons for the intended denial based upon the rules of the Environmental Quality Commission for the construction and installation of a septic tank and necessary effluent sewer and absorption facility or based upon the factors included in ORS 454.685 (2)(a) to (j);

(c) Upon request of the applicant, shall conduct a hearing in the manner provided in ORS 454.635 (4) and (5) on the reasons specified in a notice of intent to deny the application with the burden of proof upon the department to justify the reasons specified; and

(d) In the case of issuance of a permit, may include as a condition of the permit that no other permit for a subsurface sewage disposal system or alternative sewage disposal system shall be issued for use on the described parcel while the approved septic tank, effluent sewer and absorption facility are in use on the described parcel.

1 **SECTION 7. This 2009 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
3 **on its passage.**
4

House Bill 2120

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Creates Transportation Utility Commission. Sunsets January 2, 2012.

Directs Oregon Transportation Commission to conduct study. Sunsets January 2, 2014.

Directs Department of Transportation to develop pilot programs to implement congestion pricing in one or more communities. Sunsets January 2, 2016.

Authorizes Department of Transportation to establish pilot programs to test alternatives to motor vehicle fuel tax. Sunsets January 2, 2018.

Directs Oregon Transportation Commission to work with stakeholders to review and update criteria used to select projects within Statewide Transportation Improvement Program.

Directs Oregon Transportation Commission to determine amount of federal transportation funds available to Department of Transportation that may be used for eligible nonhighway projects.

Directs Department of Transportation to develop environmental performance standards for highway projects.

Directs department to develop least-cost planning model.

Authorizes state agencies to provide electricity for plug-in electric vehicles.

Authorizes issuance of lottery bonds for purchase of passenger railroad equipment.

Authorizes issuance of lottery bonds for transportation projects funded from Multimodal Transportation Fund. Specifies allocation of lottery bond proceeds.

Defines "medium-speed electric vehicle."

Creates offense of unlawfully operating medium-speed electric vehicle on highway. Punishes by maximum fine of $360.

Directs Department of Transportation to adopt safety standards for low-speed vehicles and medium-speed electric vehicles.

Directs department to include specific request for capital construction funding for sharing offices and other facilities with local government in budget request prepared for Oregon Department of Administrative Services.

Increases vehicle title fees. Imposes fee for issuance of first certificate of title.

Increases vehicle registration fees.

Increases fuel tax and motor carrier taxes.

Creates Timber Counties Safety Net Account within State Highway Fund.

Permits mass transit district to increase payroll tax for district.

Authorizes transportation districts and mass transit districts to use certain forms of financing without first obtaining voter approval.

Increases allocation of State Highway Fund moneys for footpaths and bicycle trails.

Expands special county allotment program to provide counties with minimum level of funding from State Highway Fund.

Authorizes issuance of Highway User Tax Bonds in aggregate principal amount sufficient to produce net proceeds of not more than $600 million. Specifies bond revenue to be used to finance projects selected by Oregon Transportation Commission that meet specified criteria. Provides for allocation of bond proceeds.

Eliminates requirement that county ordinance establishing vehicle registration fees be submitted to electors of county for approval.

Authorizes Department of Transportation to set registration plate manufacturing fee.

Increases customized registration plate fee.

Increases certain vehicle dealer fees.

Extends credit against corporate excise or corporate income tax for corporation that provides motor vehicle insurance issued under mile-based or time-based rating plan.

1 **A BILL FOR AN ACT**

2 Relating to transportation; creating new provisions; amending ORS 267.385, 267.430, 267.615, 319.020,
3 319.530, 366.514, 366.739, 366.772, 367.620, 801.041, 803.090, 803.420, 803.570, 805.250, 818.225,
4 822.043, 825.476 and 825.480 and section 4, chapter 545, Oregon Laws 2003; repealing ORS

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

267.302 and sections 8 and 9, chapter 739, Oregon Laws 2003; appropriating money; and providing for revenue raising that requires approval by a three-fifths majority.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) There is established the Transportation Utility Commission, consisting of five members appointed by the Governor.

(2) The commission, in consultation with the Department of Transportation, counties and cities, shall:

(a) Develop a common chart of accounts for revenues and expenditures;

(b) Develop, for use by all state, county and city transportation agencies in this state, common descriptions for the condition of the transportation infrastructure;

(c) Estimate the total amount of revenue required by all jurisdictions in this state to maintain, preserve and modernize the transportation system;

(d) Develop a conceptual framework for funding transportation services and facilities; and

(e) Develop and adopt alternative rates for consumers to choose as an option to the motor fuel tax and for use in congestion pricing pilot projects.

(3) A majority of the members of the commission constitutes a quorum for the transaction of business.

(4) Official action by the commission requires the approval of a majority of the members of the commission.

(5) The Governor shall designate one of the members of the commission to serve as chairperson.

(6) If there is a vacancy on the commission for any cause, the Governor shall make an appointment to become immediately effective.

(7) The commission shall meet at times and places specified by the call of the chairperson or of a majority of the members of the commission.

(8) The commission may adopt rules necessary for the operation of the commission.

(9) No later than December 1, 2010, the commission shall prepare a report of its activities for submission to the interim House and Senate committees related to transportation.

(10) Members of the commission who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the commission shall be paid out of funds appropriated to the Department of Transportation for purposes of the commission.

(11) The Department of Transportation is directed to assist the commission in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the commission consider necessary to perform their duties.

SECTION 2. Section 1 of this 2009 Act is repealed on January 2, 2012.

SECTION 3. (1) The Oregon Transportation Commission shall, in consultation with local governments, metropolitan planning organizations and other transportation stakeholders:

(a) Review the responsibilities given to the state, counties and cities for improvement, maintenance and management of the highway system and the resources available to each level of government and make recommendations to better align resources and responsibil-

ities.

(b) Review best practices for stakeholder involvement in transportation decision-making.

(c) Identify opportunities to achieve greater program efficiency in the delivery of transportation services and programs through intergovernmental cooperation.

(d) Study national best practices for improving the delivery of metropolitan transportation services through enhanced regional decision-making.

(2) The Oregon Transportation Commission shall make a progress report to the interim House and Senate committees related to transportation no later than December 1, 2010, and shall make a final report to the interim House and Senate committees related to transportation no later than December 1, 2012.

SECTION 4. Section 3 of this 2009 Act is repealed on January 2, 2014.

SECTION 5. (1) At the direction of the Oregon Transportation Commission, the Department of Transportation shall develop one or more pilot programs to implement congestion pricing in communities within this state and study the effect congestion pricing may have on reducing traffic congestion. Pilot programs may include, but need not be limited to, time-of-day pricing with variable tolls.

(2) No later than December 1, 2010, the commission shall report to the interim House and Senate committees related to transportation on the work of the commission and department in designing and implementing the pilot programs.

SECTION 6. Section 5 of this 2009 Act is repealed on January 2, 2016.

SECTION 7. (1) The Department of Transportation, in consultation with the federal government, other states and transportation stakeholders, shall develop technology for implementing collection of a fee based on vehicle miles traveled that may be used to replace the motor vehicle fuel tax.

(2) The technology chosen by the department must be commercially viable and protect the privacy of the motoring public.

(3) The department shall study mileage-based fees and other alternatives to the current system of taxing highway use through motor vehicle fuel taxes. The department shall gather public comment on alternative approaches and shall make recommendations to the Oregon Transportation Commission on the design of pilot programs to be used to test alternative approaches. The department may also make recommendations to the commission on criteria to be used to evaluate pilot programs.

(4) The department shall report to each regular session of the Legislative Assembly on the work of the department and the commission in designing, implementing and evaluating pilot programs.

SECTION 8. (1) The Department of Transportation may develop one or more pilot programs to test alternatives to the current system of taxing highway use through motor vehicle fuel taxes. Pilot programs may include, but need not be limited to, programs testing technology and methods for:

(a) Identifying vehicles;

(b) Collecting and reporting the number of miles traveled by a particular vehicle; and

(c) Receiving payments from participants in pilot projects.

(2) Technology and methods tested under subsection (1) of this section shall be tested for:

(a) Reliability;

(b) Ease of use;

(c) Public acceptance;

(d) Cost of implementation and administration; and

(e) Minimizing the potential for evasion of accurate reporting.

(3) The department may solicit volunteers for participation in pilot programs developed under this section. A participant must:

(a) Report the participant's use of the highway system in Oregon as required by the program; and

(b) Pay the fee established for the program for use of the highway system.

(4) The department shall establish a fee for each pilot program the department undertakes. The fee shall be a highway use fee and shall be paid by each participant in the program. The program may be designed so that the fee is imposed in lieu of any tax on motor vehicle fuel imposed under ORS 319.020 or any tax on the use of fuel in a vehicle under ORS 319.530 that would otherwise be paid by the participant.

(5) If a person who participates in a pilot program under this section pays the motor vehicle fuel tax under ORS 319.020, the department may refund the taxes paid.

(6) A seller of fuel for use in a motor vehicle may not collect the tax that would otherwise be due under ORS 319.530 from a person operating a vehicle registered in a pilot program authorized by the department under this section.

(7) If a person participating in a pilot program under this section ends the person's participation in the program prior to termination of the program, the person shall pay to the department any amount of the highway use fee established for the program under subsection (4) of this section that the person has not yet paid.

(8) The department may terminate a pilot program at any time and may terminate participation by any particular person at any time. When a program is terminated or a person's participation is terminated by the department, the department shall collect any unpaid highway use fees established for the program under subsection (4) of this section.

(9) The department may adopt any rules the department deems necessary for the implementation of this section, including but not limited to rules establishing methods of collecting highway use fees from program participants and rules establishing reporting requirements for participants.

(10) The department may compensate participants in pilot programs established under this section.

SECTION 9. The Department of Transportation may vary any fee established under section 8 of this 2009 Act to facilitate:

(1) The maximum use of road capacity.

(2) The reduction of greenhouse gas emissions.

(3) The application of any public policy identified by the commission.

SECTION 10. (1) The Department of Transportation may use moneys in the State Highway Fund for financing activities required under section 7 of this 2009 Act and the pilot programs established under section 8 of this 2009 Act.

(2) The department may solicit and accept grants and assistance from the United States Government and its agencies and from any other source, public or private, necessary to carry out research and pilot programs under sections 7 and 8 of this 2009 Act.

(3) The department may accept gifts or donations of equipment necessary to carry out research and pilot programs under sections 7 and 8 of this 2009 Act.

(4) Any moneys received by the department under subsections (2) and (3) shall be deposited into the State Highway Fund.

SECTION 11. (1) Mileage-based fee development and other possible alternatives to the current system of taxing highway use through motor vehicle taxes identified by the Department of Transportation under sections 7 and 8 of this 2009 Act are transportation projects as defined in ORS 367.800 to 367.824.

(2) Pilot programs established under section 8 of this 2009 Act are transportation projects as defined in ORS 367.800 to 367.824.

SECTION 12. Sections 7 to 11 of this 2009 Act are repealed on January 2, 2018.

SECTION 13. Section 14 of this 2009 Act is added to and made a part of ORS 184.610 to 184.666.

SECTION 14. The Oregon Transportation Commission shall work with stakeholders to review and update the criteria used to select projects within the Statewide Transportation Improvement Program. When revising the project selection criteria the commission shall consider whether the project:

(1) Improves the state highway system or major access routes to the state highway system on the local road system to relieve congestion by expanding capacity, enhancing operations or otherwise improving travel times within high-congestion corridors.

(2) Enhances the safety of the traveling public using access management and other techniques in support of decreasing traffic crash rates, promoting the efficient movement of people and goods and preserving the public investment in the transportation system.

(3) Increases the operational effectiveness and reliability of the existing system by using technological innovation, providing linkages to other existing components of the transportation system and relieving congestion.

(4) Is capable of being implemented in a timely manner to reduce congestion in other modes of transportation and reduce the need for additional highway projects.

(5) Improves the condition, connectivity and capacity of freight-reliant infrastructure serving the state.

(6) Supports improvements necessary for the state's economic growth and competitiveness, accessibility to industries and economic development.

(7) Provides the greatest benefit in relation to project costs.

(8) Fosters livable communities by demonstrating that the investment reinforces or does not undermine compact urban development.

(9) Enhances the value of transportation projects through designs and development that reflect environmental stewardship and community sensitivity.

(10) Is consistent with infrastructure plans and reinforces the state's greenhouse gas emissions reduction goals described in ORS 468A.205.

SECTION 15. (1) The Oregon Transportation Commission shall determine the amount of federal transportation funds available to the Department of Transportation that may be used for eligible nonhighway projects without disqualifying Oregon from participation in discretionary grants of federal highway funds.

(2) The commission shall reserve the funds identified under subsection (1) of this section for eligible nonhighway purposes in the development of the Statewide Transportation Improvement Program.

SECTION 16. (1) As used in this section, "highway" has the meaning given that term in

ORS 801.305.

(2) The Department of Transportation shall incorporate environmental performance standards into the design and construction of all state highway construction projects, including local government highway construction projects funded by the department.

(3) The department shall work with state and federal environmental regulatory agencies to improve the environmental permitting process for state highway construction projects in order to:

(a) Reduce the time required to design projects and obtain environmental permits;

(b) Reduce the cost and delay associated with redesigning projects to meet environmental requirements; and

(c) Maintain a strong commitment to environmental stewardship.

SECTION 17. (1) As used in this section "least-cost planning" means a process of comparing direct and indirect costs of demand and supply options to meet transportation goals, policies or both, where the intent of the process is to identify the most cost-effective mix of options.

(2) The Department of Transportation shall, in consultation with local governments and metropolitan planning organizations, develop a least-cost planning model for use as a decision-making tool in the development of plans and projects at both the state and regional level.

SECTION 18. Prior to February 1, 2011, the Department of Transportation shall submit a progress report, including any recommendations for legislation, on the development of a least-cost planning model under section 17 of this 2009 Act to the Seventy-sixth Legislative Assembly.

SECTION 19. (1) As used in this section:

(a) "Electric vehicle" means a motor vehicle, as defined in ORS 801.360, that is manufactured or modified to use electricity.

(b) "State agency" means any state office, department, division, bureau, board and commission, whether in the executive, legislative or judicial branch.

(2) It is the policy of the State of Oregon to encourage the use of electric vehicles.

(3) State agencies may provide electric power purchased at state expense for the purpose of recharging privately owned and publicly owned plug-in electric vehicles at state agency locations.

SECTION 20. (1) The Legislative Assembly finds that issuing lottery bonds to finance passenger railroad equipment is essential to promoting the state's economic development.

(2) The use of lottery bond proceeds is authorized based on the following findings:

(a) There is an urgent need to improve and expand publicly owned transportation infrastructure to support economic development in this state.

(b) Development of efficient, safe and comprehensive rail service minimizes environmental impact, contributes to effective land use, sustains jobs and contributes to a favorable business climate.

(c) Railroads facilitate the efficient movement of people and goods, which directly impacts local and regional economies. Public investment in expansion of capacity on the rail system is warranted because railroads are a vital part of the transportation system.

(d) The ability of Oregon's railroads to help divert road traffic for both freight and passenger trips helps congestion management efforts and enhances the useable life of road in-

vestments.

(e) Financing of passenger railroad equipment is essential to maintain and improve passenger rail service from Eugene to Portland and provide Oregonians with transportation options in the future.

(3) The factors described in subsection (2) of this section will encourage and promote economic development within the State of Oregon, and issuance of lottery bonds to finance passenger railroad equipment is therefore an appropriate use of state lottery funds under section 4, Article XV of the Oregon Constitution, and ORS 461.510.

SECTION 21. (1) For the biennium beginning July 1, 2009, at the request of the Director of Transportation, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in the amount of $35 million for payment of the expenses of the Department of Transportation for financing of passenger railroad equipment, plus an additional amount to be estimated by the State Treasurer for payment of bond-related costs incurred by the Department of Transportation and the State Treasurer.

(2) The bond-related costs incurred by the Department of Transportation and the State Treasurer for the lottery bonds authorized by this section shall be paid from the gross proceeds of the lottery bonds and from allocations for the purposes of ORS 286A.576 (1)(c).

SECTION 22. (1) Pursuant to ORS 286A.560 to 286A.585, for the biennium beginning July 1, 2009, the State Treasurer may issue lottery bonds to finance grants and loans for transportation projects as provided in ORS 367.080 to 367.086.

(2) The use of lottery bond proceeds pursuant to this section is authorized based on the following findings:

(a) There is an urgent need to improve and expand publicly owned and privately owned transportation infrastructure to support economic development in this state.

(b) A safe, efficient and reliable transportation network supports the long-term economic development and livability of this state. A multimodal network of air, rail, public transit, highway and marine transportation moves people and goods efficiently.

(c) Local governments and private sector businesses often lack capital and the technical capacity to undertake multimodal transportation projects.

(d) Public financial assistance can stimulate industrial growth and commercial enterprise and promote employment opportunities in this state.

(e) Public investment in transportation infrastructure will create jobs and further economic development in this state.

(3) The aggregate principal amount of lottery bonds issued pursuant to this section may not exceed the sum of $150 million plus an additional amount established by the State Treasurer to pay bond-related costs. The State Treasurer may issue lottery bonds pursuant to this section only at the request of the Director of Transportation.

(4) The net proceeds of the lottery bonds issued pursuant to this section shall be deposited in the Multimodal Transportation Fund established by ORS 367.080.

SECTION 23. To the extent that proposed transportation projects meet the qualifications established by the Oregon Transportation Commission by rule, the commission shall allocate at least 10 percent of the net proceeds of the lottery bonds authorized by section 22 of this 2009 Act to each region described in this section. For purposes of this section, the regions are as follows:

(1) Region one consists of Clackamas, Columbia, Hood River, Multnomah and Washington

Counties.

(2) Region two consists of Benton, Clatsop, Lane, Lincoln, Linn, Marion, Polk, Tillamook and Yamhill Counties.

(3) Region three consists of Coos, Curry, Douglas, Jackson and Josephine Counties.

(4) Region four consists of Crook, Deschutes, Gilliam, Jefferson, Klamath, Lake, Sherman, Wasco and Wheeler Counties.

(5) Region five consists of Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union and Wallowa Counties.

SECTION 24. Sections 25 to 27 of this 2009 Act are added to and made a part of the Oregon Vehicle Code.

SECTION 25. "Medium-speed electric vehicle" means an electric motor vehicle with four wheels that is equipped with a roll cage or a crushproof body design, can attain a maximum speed of 35 miles per hour on a paved, level surface, is fully enclosed and has at least one door for entry.

SECTION 26. (1) A person commits the offense of unlawfully operating a medium-speed electric vehicle on a highway if the person operates a medium-speed electric vehicle on a highway with a posted speed limit that is greater than 40 miles per hour.

(2) Notwithstanding subsection (1) of this section, a city or county may adopt an ordinance allowing operation of medium-speed electric vehicles on city streets or county roads that have speed limits or posted speeds of more than 40 miles per hour.

(3) The offense described in this section, unlawfully operating a medium-speed electric vehicle on a highway, is a Class B traffic violation.

SECTION 27. (1) The Department of Transportation shall adopt, by rule, minimum safety standards for low-speed vehicles and medium-speed electric vehicles. Standards adopted by the department under this section must be consistent with, but may exceed, any vehicle safety standards established under federal regulations.

(2) The department may not issue registration to a low-speed vehicle or medium-speed electric vehicle if the department has reason to believe the vehicle does not meet the safety standards adopted pursuant to this section.

SECTION 28. As part of the preparation of the capital construction estimate submitted to the Oregon Department of Administrative Services pursuant to ORS 291.224, the Department of Transportation shall prepare, in addition to any amounts budgeted for the department, a budget request for other funds that may be used to facilitate the sharing of offices and other facilities used by the Department of Transportation with the offices and other facilities used by local government.

SECTION 29. ORS 803.090 is amended to read:

803.090. **(1)** The following fees are the fees for the transaction described:

[*(1)*] **(a)** The transfer fee under ORS 803.092:

[*(a)*] **(A)** For a salvage title, [*$17*] **$27**.

[*(b)*] **(B)** For trailers eligible for permanent registration under ORS 803.415 (1) and motor vehicles with a gross vehicle weight rating over 26,000 pounds, excluding motor homes, [*$90*] **$110**.

[*(c)*] **(C)** For vehicles other than vehicles for which the title fee is described in [*paragraph (b) of this subsection, $55*] **subparagraph (B) of this paragraph, $110**.

[*(2)*] **(b)** The fee for issuance of a certificate of title under ORS 803.045:

[*(a)*] **(A)** For trailers eligible for permanent registration under ORS 803.415 (1) and motor vehi-

cles with a gross vehicle weight rating over 26,000 pounds, excluding motor homes, [*$90*] **$110**.

[*(b)*] **(B)** For vehicles other than vehicles for which the title fee is described in [*paragraph (a) of this subsection, $55*] **subparagraph (A) of this paragraph, $110**.

[*(3)*] **(c)** The fee for issuance of a salvage title certificate under ORS 803.140, [*$17*] **$27**.

[*(4)*] **(d)** The fee for issuance of a duplicate or replacement certificate of title under ORS 803.065:

[*(a)*] **(A)** For a duplicate or replacement salvage title certificate, [*$17*] **$27**.

[*(b)*] **(B)** For trailers eligible for permanent registration under ORS 803.415 (1) and motor vehicles with a gross vehicle weight rating over 26,000 pounds, excluding motor homes, [*$90*] **$110**.

[*(c)*] **(C)** For vehicles other than vehicles for which the title fee is described in [*paragraph (b) of this subsection, $55*] **subparagraph (B) of this paragraph, $110**.

[*(5)*] **(e)** The fee under subsection (4) of this section [*must*] **may not** be paid at the same time as a transfer fee under this section if application is made at the same time as application for transfer.

[*(6)*] **(f)** The fee for issuance of a new certificate of title under ORS 803.220 indicating a change of name or address:

[*(a)*] **(A)** For a new salvage title certificate, [*$17*] **$27**.

[*(b)*] **(B)** For trailers eligible for permanent registration under ORS 803.415 (1) and motor vehicles with a gross vehicle weight rating over 26,000 pounds, excluding motor homes, [*$90*] **$110**.

[*(c)*] **(C)** For vehicles other than vehicles for which the title fee is described in [*paragraph (b) of this subsection, $55*] **subparagraph (B) of this paragraph, $110**.

[*(7)*] **(g)** The fee for late presentation of certificate of title under ORS 803.105, $25 from the 31st day after the transfer through the 60th day after the transfer and $50 thereafter.

[*(8)*] **(h)** The fees for title transactions involving a form of title other than a certificate shall be the amounts established by the Department of Transportation by rule under ORS 803.012.

(2) In addition to the fee required by subsection (1)(b) of this section, if title has never been issued in this state for a vehicle for which registration fees are established under ORS 803.420, the department shall charge a fee of $100.

SECTION 30. ORS 803.090, as amended by section 29 of this 2009 Act, is amended to read:

803.090. (1) The following fees are the fees for the transaction described:

(a) The transfer fee under ORS 803.092:

(A) For a salvage title, $27.

(B) For trailers eligible for permanent registration under ORS 803.415 (1) and motor vehicles with a gross vehicle weight rating over 26,000 pounds, excluding motor homes, $110.

(C) For vehicles other than vehicles for which the title fee is described in subparagraph (B) of this paragraph, $110.

(b) The fee for issuance of a certificate of title under ORS 803.045:

(A) For trailers eligible for permanent registration under ORS 803.415 (1) and motor vehicles with a gross vehicle weight rating over 26,000 pounds, excluding motor homes, $110.

(B) For vehicles other than vehicles for which the title fee is described in subparagraph (A) of this paragraph, $110.

(c) The fee for issuance of a salvage title certificate under ORS 803.140, $27.

(d) The fee for issuance of a duplicate or replacement certificate of title under ORS 803.065:

(A) For a duplicate or replacement salvage title certificate, $27.

(B) For trailers eligible for permanent registration under ORS 803.415 (1) and motor vehicles with a gross vehicle weight rating over 26,000 pounds, excluding motor homes, $110.

(C) For vehicles other than vehicles for which the title fee is described in subparagraph (B) of this paragraph, $110.

(e) The fee under subsection (4) of this section may not be paid at the same time as a transfer fee under this section if application is made at the same time as application for transfer.

(f) The fee for issuance of a new certificate of title under ORS 803.220 indicating a change of name or address:

(A) For a new salvage title certificate, $27.

(B) For trailers eligible for permanent registration under ORS 803.415 (1) and motor vehicles with a gross vehicle weight rating over 26,000 pounds, excluding motor homes, $110.

(C) For vehicles other than vehicles for which the title fee is described in subparagraph (B) of this paragraph, $110.

(g) The fee for late presentation of certificate of title under ORS 803.105, $25 from the 31st day after the transfer through the 60th day after the transfer and $50 thereafter.

(h) The fees for title transactions involving a form of title other than a certificate shall be the amounts established by the Department of Transportation by rule under ORS 803.012.

(2) In addition to the fee required by subsection (1)(b) of this section, if title has never been issued in this state for a vehicle for which registration fees are established under ORS 803.420, the department shall charge a fee of [*$100.*]**:**

(a) $50 for a vehicle with a vehicle registration weight of less than 26,001 pounds with an Environmental Protection Agency combined fuel economy rating of at least 30 miles per gallon.

(b) $100 for a vehicle with a vehicle registration weight of less than 26,001 pounds with an Environmental Protection Agency combined fuel economy rating of less than 30 miles per gallon.

SECTION 31. ORS 803.420 is amended to read:

803.420. This section establishes registration fees for vehicles. If there is uncertainty as to the classification of a vehicle for purposes of the payment of registration fees under the vehicle code, the Department of Transportation may classify the vehicle to assure that registration fees for the vehicle are the same as for vehicles the department determines to be comparable. The registration fees for the vehicle shall be those based on the classification determined by the department. Except as otherwise provided in this section, or unless the vehicle is registered quarterly, the fees described in this section are for an entire registration period for the vehicle as described under ORS 803.415. The department shall apportion any fee under this section to reflect the number of quarters registered for a vehicle registered for a quarterly registration period under ORS 803.415. The fees are payable when a vehicle is registered and upon renewal of registration. Except as provided in ORS 801.041 (3) and 801.042 (7), the fee shall be increased by any amount established by the governing body of a county or by the governing body of a district, as defined in ORS 801.237 under ORS 801.041 or 801.042 as an additional registration fee for the vehicle. The fees for registration of vehicles are as follows:

(1) Vehicles not otherwise provided for in this section or ORS 821.320, [*$27*] **$81** for each year of the registration period.

(2) Mopeds, [*$15*] **$45** for each year of the registration period.

(3) Motorcycles, [*$15*] **$45** for each year of the registration period.

(4) Government-owned vehicles registered under ORS 805.040, $3.50.

(5) State-owned vehicles registered under ORS 805.045, $3.50 on registration or renewal.

(6) Undercover vehicles registered under ORS 805.060, $3.50 on registration or renewal.

(7) Antique vehicles registered under ORS 805.010, $54.

(8) Vehicles of special interest registered under ORS 805.020, $81.

(9) Electric vehicles and hybrid vehicles that use electricity and another source of motive power, as follows:

(a) The registration fee for an electric or hybrid vehicle not otherwise described in this subsection is [*$27*] **$81** for each year of the registration period.

(b) The registration fee for electric or hybrid vehicles that have two or three wheels is [*$27*] **$45**. This paragraph does not apply to electric or hybrid mopeds. Electric or hybrid mopeds are subject to the same registration fee as otherwise provided for mopeds under this section.

(c) The registration fees for the following electric or hybrid vehicles are the same as for comparable nonelectric vehicles described in this section plus 50 percent of such fee:

(A) Motor homes.

(B) Commercial buses.

(C) Vehicles registered as farm vehicles under ORS 805.300.

(D) Vehicles required to establish registration weight under ORS 803.430 or 826.013.

(10) Motor vehicles required to establish a registration weight under ORS 803.430 or 826.013, and commercial buses as provided in the following chart, based upon the weight submitted in the declaration of weight prepared under ORS 803.435 or 826.015:

Weight in Pounds			Fee
8,000	or	less	$ [*27*] **81**
8,001	to	10,000	169
10,001	to	12,000	192
12,001	to	14,000	215
14,001	to	16,000	238
16,001	to	18,000	261
18,001	to	20,000	291
20,001	to	22,000	314
22,001	to	24,000	345
24,001	to	26,000	375
26,001	to	28,000	184
28,001	to	30,000	192
30,001	to	32,000	207
32,001	to	34,000	215
34,001	to	36,000	230
36,001	to	38,000	238
38,001	to	40,000	253
40,001	to	42,000	261
42,001	to	44,000	276
44,001	to	46,000	284
46,001	to	48,000	291
48,001	to	50,000	307
50,001	to	52,000	322

52,001	to	54,000	330
54,001	to	56,000	337
56,001	to	58,000	352
58,001	to	60,000	368
60,001	to	62,000	383
62,001	to	64,000	398
64,001	to	66,000	406
66,001	to	68,000	421
68,001	to	70,000	429
70,001	to	72,000	444
72,001	to	74,000	452
74,001	to	76,000	467
76,001	to	78,000	475
78,001	to	80,000	490
80,001	to	82,000	498
82,001	to	84,000	513
84,001	to	86,000	521
86,001	to	88,000	536
88,001	to	90,000	544
90,001	to	92,000	559
92,001	to	94,000	567
94,001	to	96,000	582
96,001	to	98,000	590
98,001	to	100,000	598
100,001	to	102,000	613
102,001	to	104,000	621
104,001	to	105,500	636

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(11)(a) Motor vehicles with a registration weight of more than 8,000 pounds that are described in ORS 825.015, that are operated by a charitable organization as defined in ORS 825.017 (14), that are certified under ORS 822.205 or that are used exclusively to transport manufactured structures, as provided in the following chart:

Weight in Pounds			Fee
8,001	to	10,000	$ 50
10,001	to	12,000	60
12,001	to	14,000	65
14,001	to	16,000	75
16,001	to	18,000	80
18,001	to	20,000	90
20,001	to	22,000	95
22,001	to	24,000	105
24,001	to	26,000	110

26,001	to	28,000	120
28,001	to	30,000	125
30,001	to	32,000	135
32,001	to	34,000	140
34,001	to	36,000	150
36,001	to	38,000	155
38,001	to	40,000	165
40,001	to	42,000	170
42,001	to	44,000	180
44,001	to	46,000	185
46,001	to	48,000	190
48,001	to	50,000	200
50,001	to	52,000	210
52,001	to	54,000	215
54,001	to	56,000	220
56,001	to	58,000	230
58,001	to	60,000	240
60,001	to	62,000	250
62,001	to	64,000	260
64,001	to	66,000	265
66,001	to	68,000	275
68,001	to	70,000	280
70,001	to	72,000	290
72,001	to	74,000	295
74,001	to	76,000	305
76,001	to	78,000	310
78,001	to	80,000	320
80,001	to	82,000	325
82,001	to	84,000	335
84,001	to	86,000	340
86,001	to	88,000	350
88,001	to	90,000	355
90,001	to	92,000	365
92,001	to	94,000	370
94,001	to	96,000	380
96,001	to	98,000	385
98,001	to	100,000	390
100,001	to	102,000	400
102,001	to	104,000	405
104,001	to	105,500	415

(b) The owner of a vehicle described in paragraph (a) of this subsection must certify at the time of initial registration, in a manner determined by the department by rule, that the motor vehicle will be used exclusively to transport manufactured structures or exclusively as described in ORS

822.210, 825.015 or 825.017 (14). Registration of a vehicle described in paragraph (a) of this subsection is invalid if the vehicle is operated in any manner other than that described in the certification under this paragraph.

(12) Trailers registered under permanent registration, $10.

(13) Fixed load vehicles as follows:

(a) If a declaration of weight described under ORS 803.435 is submitted establishing the weight of the vehicle at 3,000 pounds or less, $54.

(b) If no declaration of weight is submitted or if the weight of the vehicle is in excess of 3,000 pounds, [*$75*] **$81**.

(14) Trailers for hire that are equipped with pneumatic tires made of an elastic material and that are not travel trailers or trailers registered under permanent registration, $27.

(15) Trailers registered as part of a fleet under an agreement reached pursuant to ORS 802.500, the same as the fee for vehicles of the same type registered under other provisions of the Oregon Vehicle Code.

(16) Travel trailers, campers and motor homes as follows, based on length as determined under ORS 803.425:

(a) For travel trailers or campers that are 6 to 10 feet in length, $81.

(b) For travel trailers or campers over 10 feet in length, $81 plus $6.75 a foot for each foot of length over the first 10 feet.

(c) For motor homes that are 6 to 14 feet in length, $54.

(d) For motor homes over 14 feet in length, $126 plus $7.50 a foot for each foot of length over the first 10 feet.

(17) Special use trailers as follows, based on length as determined under ORS 803.425:

(a) For lengths 6 to 10 feet, $54.

(b) For special use trailers over 10 feet in length, $54 plus $3 a foot for each foot of length over the first 10 feet.

(18) Fees for vehicles with proportional registration under ORS 826.009, or proportioned fleet registration under ORS 826.011, are as provided for vehicles of the same type under this section except that the fees shall be fixed on an apportioned basis as provided under the agreement established under ORS 826.007.

(19) For any vehicle that is registered under a quarterly registration period, a minimum of $15 for each quarter registered plus an additional fee of $1.

(20) In addition to any other fees charged for registration of vehicles in fleets under ORS 805.120, the department may charge the following fees:

(a) A $2 service charge for each vehicle entered into a fleet.

(b) A $1 service charge for each vehicle in the fleet at the time of renewal.

(21) The registration fee for vehicles with special registration for disabled veterans under ORS 805.100 is a fee of $15.

(22) Subject to subsection (19) of this section, the registration fee for motor vehicles registered as farm vehicles under ORS 805.300 is as follows based upon the registration weight given in the declaration of weight submitted under ORS 803.435:

Weight in Pounds	Fee
8,000 or less	$ [*27*] **81**

8,001	to	10,000	[*30*]	**85**
10,001	to	12,000	[*35*]	**90**
12,001	to	14,000	[*45*]	**95**
14,001	to	16,000	[*50*]	**100**
16,001	to	18,000	[*60*]	**105**
18,001	to	20,000	[*65*]	**110**
20,001	to	22,000	[*75*]	**115**
22,001	to	24,000	[*80*]	**120**
24,001	to	26,000	[*90*]	**125**
26,001	to	28,000	[*95*]	**130**
28,001	to	30,000	[*105*]	**135**
30,001	to	32,000	[*110*]	**140**
32,001	to	34,000	[*120*]	**145**
34,001	to	36,000	[*125*]	**150**
36,001	to	38,000	[*135*]	**155**
38,001	to	40,000	[*140*]	**160**
40,001	to	42,000	[*150*]	**165**
42,001	to	44,000	[*155*]	**170**
44,001	to	46,000	[*165*]	**170**
46,001	to	48,000	[*170*]	**175**
48,001	to	50,000		180
50,001	to	52,000		185
52,001	to	54,000		190
54,001	to	56,000		200
56,001	to	58,000		210
58,001	to	60,000		215
60,001	to	62,000		220
62,001	to	64,000		230
64,001	to	66,000		240
66,001	to	68,000		245
68,001	to	70,000		250
70,001	to	72,000		260
72,001	to	74,000		265
74,001	to	76,000		275
76,001	to	78,000		280
78,001	to	80,000		290
80,001	to	82,000		295
82,001	to	84,000		305
84,001	to	86,000		310
86,001	to	88,000		320
88,001	to	90,000		325
90,001	to	92,000		335
92,001	to	94,000		340
94,001	to	96,000		350
96,001	to	98,000		355

98,001	to	100,000	365
100,001	to	102,000	370
102,001	to	104,000	380
104,001	to	105,500	385

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(23) The registration fee for school vehicles registered under ORS 805.050 is $7.50.

(24) The registration fee for a low-speed vehicle is $54.

(25) A rental or leasing company, as defined in ORS 221.275, that elects to initially register a vehicle for an annual or biennial registration period shall pay a fee of $1 in addition to the vehicle registration fee provided under this section.

(26) Racing activity vehicles registered under ORS 805.035, $81.

(27) Medium-speed electric vehicles, $54 for each year of the registration period.

SECTION 32. ORS 319.020 is amended to read:

319.020. (1) Subject to subsections (2) to (4) of this section, in addition to the taxes otherwise provided for by law, every dealer engaging in the dealer's own name, or in the name of others, in the first sale, use or distribution of motor vehicle fuel or aircraft fuel or withdrawal of motor vehicle fuel or aircraft fuel for sale, use or distribution within areas in this state within which the state lacks the power to tax the sale, use or distribution of motor vehicle fuel or aircraft fuel, shall:

(a) Not later than the 25th day of each calendar month, render a statement to the Department of Transportation of all motor vehicle fuel or aircraft fuel sold, used, distributed or so withdrawn by the dealer in the State of Oregon as well as all such fuel sold, used or distributed in this state by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable license tax during the preceding calendar month.

(b) Except as provided in ORS 319.270, pay a license tax computed on the basis of [*24*] **26** cents per gallon on the first sale, use or distribution of such motor vehicle fuel or aircraft fuel so sold, used, distributed or withdrawn as shown by such statement in the manner and within the time provided in ORS 319.010 to 319.430.

(2) When aircraft fuel is sold, used or distributed by a dealer, the license tax shall be computed on the basis of nine cents per gallon of fuel so sold, used or distributed, except that when aircraft fuel usable in aircraft operated by turbine engines (turbo-prop or jet) is sold, used or distributed, the tax rate shall be one cent per gallon.

(3) In lieu of claiming refund of the tax paid on motor vehicle fuel consumed by such dealer in nonhighway use as provided in ORS 319.280, 319.290 and 319.320, or of any prior erroneous payment of license tax made to the state by such dealer, the dealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of tax.

(4) The license tax computed on the basis of the sale, use, distribution or withdrawal of motor vehicle or aircraft fuel shall not be imposed wherever such tax is prohibited by the Constitution or laws of the United States with respect to such tax.

SECTION 33. ORS 319.530 is amended to read:

319.530. (1) To compensate this state partially for the use of its highways, an excise tax hereby is imposed at the rate of [*24*] **26** cents per gallon on the use of fuel in a motor vehicle. Except as otherwise provided in subsections (2) and (3) of this section, 100 cubic feet of fuel used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

(2) One hundred twenty cubic feet of compressed natural gas used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

(3) One and three-tenths liquid gallons of propane at 60 degrees Fahrenheit is taxable at the same rate as a gallon of other liquid fuel.

SECTION 34. ORS 818.225 is amended to read:

818.225. (1)(a) In addition to any fee for a single-trip nondivisible load permit, a person who is issued the permit or who operates a vehicle in a manner that requires the permit is liable for payment of a road use assessment fee of [*five and seven-tenths cents*] _____ per equivalent single-axle load mile traveled. As used in this subsection, "equivalent single-axle load" means the relationship between actual or requested weight and an 18,000 pound single-axle load as determined by the American Association of State Highway and Transportation Officials Road Tests reported at the Proceedings Conference of 1962. The Department of Transportation may adopt rules to standardize the determination of equivalent single-axle load computation based on average highway conditions.

(b) If the road use assessment fee is not collected at the time of issuance of the permit, the department shall bill the permittee for the amount due. The account shall be considered delinquent if not paid within 60 days of billing.

(c) The miles of travel authorized by a single-trip nondivisible load permit shall be exempt from taxation under ORS chapter 825.

(2) The department by rule may establish procedures for payment, collection and enforcement of the fees and assessments established by this chapter.

SECTION 35. ORS 825.476 is amended to read:

825.476.

MILEAGE TAX RATE TABLE "A"

Declared Combined Weight Groups (Pounds)	Fee Rates Per Mile (Mills)	
26,001 to 28,000	[*40.0*]	_____
28,001 to 30,000	[*42.4*]	_____
30,001 to 32,000	[*44.3*]	_____
32,001 to 34,000	[*46.3*]	_____
34,001 to 36,000	[*48.1*]	_____
36,001 to 38,000	[*50.6*]	_____
38,001 to 40,000	[*52.5*]	_____
40,001 to 42,000	[*54.4*]	_____
42,001 to 44,000	[*56.4*]	_____
44,001 to 46,000	[*58.3*]	_____
46,001 to 48,000	[*60.2*]	_____
48,001 to 50,000	[*62.2*]	_____
50,001 to 52,000	[*64.5*]	_____
52,001 to 54,000	[*66.9*]	_____
54,001 to 56,000	[*69.4*]	_____
56,001 to 58,000	[*72.3*]	_____

58,001 to 60,000	[*75.6*]
60,001 to 62,000	[*79.5*]
62,001 to 64,000	[*83.9*]
64,001 to 66,000	[*88.7*]
66,001 to 68,000	[*95.0*]
68,001 to 70,000	[*101.7*]
70,001 to 72,000	[*108.4*]
72,001 to 74,000	[*114.6*]
74,001 to 76,000	[*120.5*]
76,001 to 78,000	[*126.3*]
78,001 to 80,000	[*131.6*]

AXLE-WEIGHT MILEAGE
TAX RATE TABLE "B"

Declared Combined Weight Groups (Pounds)	Number of Axles 5	6 (Mills)	7	8	9 or more
80,001 to 82,000	[*135.9*	*124.3*	*116.2*	*110.4*	*104.1*]
82,001 to 84,000	[*140.3*	*126.3*	*118.1*	*111.8*	*105.5*]
84,001 to 86,000	[*144.5*	*129.2*	*120.0*	*113.2*	*107.0*]
86,001 to 88,000	[*149.4*	*132.0*	*121.9*	*115.2*	*108.4*]
88,001 to 90,000	[*155.2*	*135.4*	*123.9*	*117.1*	*110.4*]
90,001 to 92,000	[*161.9*	*139.3*	*125.7*	*119.0*	*112.3*]
92,001 to 94,000	[*169.2*	*143.1*	*127.7*	*120.9*	*113.8*]
94,001 to 96,000	[*176.9*	*147.5*	*130.1*	*122.9*	*115.6*]
96,001 to 98,000	[*185.1*	*152.8*	*133.0*	*124.9*	*117.6*]
98,001 to 100,000		[*158.5*	*135.9*	*127.2*	*119.5*]
100,001 to 102,000			[*138.8*	*130.1*	*121.5*]
102,001 to 104,000			[*141.7*	*133.0*	*123.9*]
104,001 to 105,500			[*145.5*	*135.9*	*126.3*]

SECTION 36. ORS 825.480 is amended to read:

825.480. (1)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operating motor vehicles in the transportation of logs, poles, peeler cores or piling may pay annual fees for such operation computed at the rate of [*six dollars and ten cents*] _____ for each 100 pounds of declared combined weight.

(b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt from taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, servicing or moving from one exempt highway operation to another.

(2) The annual fees provided in subsections (1), (4) and (5) of this section may be paid on a monthly basis. Any carrier electing to pay fees under this method may not change an election during the same calendar year in which the election is made, but may be relieved from the payment due for any month on a motor vehicle which is not operated. A carrier electing to pay fees under this method shall report and pay these fees on or before the 10th of each month for the preceding month's operations. A monthly report shall be made on all vehicles on the annual fee basis including any vehicle not operated for the month.

(3)(a) In lieu of the fees provided in ORS 825.470 to 825.474, motor vehicles described in ORS 825.024 with a combined weight of less than 46,000 pounds that are being operated under a permit issued under ORS 825.102 may pay annual fees for such operation computed at the rate of [*five dollars*] _____ for each 100 pounds of declared combined weight.

(b) The annual fees provided in this subsection shall be paid in advance but may be paid on a monthly basis on or before the first day of the month. A carrier may be relieved from the fees due for any month during which the motor vehicle is not operated for hire if a statement to that effect is filed with the Department of Transportation on or before the fifth day of the first month for which relief is sought.

(4)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in the operation of motor vehicles equipped with dump bodies and used in the transportation of sand, gravel, rock, dirt, debris, cinders, asphaltic concrete mix, metallic ores and concentrates or raw nonmetallic products, whether crushed or otherwise, moving from mines, pits or quarries may pay annual fees for such operation computed at the rate of [*six dollars and five cents*] _____ for each 100 pounds of declared combined weight.

(b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt for taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, servicing or moving from one exempt highway operation to another.

(5)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operating motor vehicles in the transportation of wood chips, sawdust, barkdust, hog fuel or shavings may pay annual fees for such operation computed at the rate of [*twenty-four dollars and sixty-two cents*] _____ for each 100 pounds of declared combined weight.

(b) Any carrier electing to pay under this method may, as to vehicles otherwise exempt from taxation, elect to be taxed on the mileage basis for movement of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, service or moving from one exempt highway operation to another.

SECTION 37. Sections 38 and 39 of this 2009 Act are added to and made a part of ORS

chapter 366.

SECTION 38. (1) The following moneys shall be allocated as described in subsections (2) and (3) of this section:

(a) The amount attributable to the fee increases by the amendments to ORS 803.090 by sections 29 and 30 of this 2009 Act.

(b) The amount attributable to the fee increases by the amendments to ORS 803.420 by section 31 of this 2009 Act.

(c) The amount attributable to the increase in fees and tax rates created by the amendments to ORS 319.020, 319.530, 818.225, 825.476 and 825.480 by sections 32 to 36 of this 2009 Act.

(2) The moneys described in subsection (1) of this section shall be allocated first in an amount equivalent to the federal funds reserved by the Oregon Transportation Commission for eligible nonhighway purposes under section 15 of this 2009 Act to the Department of Transportation with the remainder as provided in subsection (3) of this section.

(3) The remainder of the moneys described in subsection (2) of this section shall be allocated as follows:

(a) 50 percent to the Department of Transportation.

(b) 30 percent to counties for distribution as provided in ORS 366.762.

(c) 20 percent to cities for distribution as provided in ORS 366.800.

(4) The moneys described in subsection (3)(a) of this section or equivalent amounts that become available to the Department of Transportation shall be allocated as follows:

(a) 2.86 percent to the Timber Counties Safety Net Account established by section 39 of this 2009 Act.

(b) 5.71 percent for studies and developing technology needed to implement pilot programs for congestion pricing and for alternatives to taxing highway use through motor vehicle fuel taxes as authorized under sections 5, 7 and 8 of this 2009 Act.

(c) 0.22 percent to the Transportation Utility Commission established under section 1 of this 2009 Act.

(d) 0.22 percent to the Department of Environmental Quality.

(e) 15.38 percent for maintenance and safety of highways.

(f) 10.99 percent for preservation of highways.

(g) 4.40 percent for bridges.

(h) 9.67 percent for operation of highways.

(i) 50.55 percent for modernization as defined in ORS 367.622.

SECTION 39. The Timber Counties Safety Net Account is established within the State Highway Fund. The account shall consist of moneys paid into the account under section 38 of this 2009 Act. All moneys in the account are continuously appropriated to the Department of Transportation for the purpose of assisting counties that have a county road base funding deficit, as defined in ORS 366.772. Moneys in the account, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.820 and the earnings from such investments must be credited to the account.

SECTION 40. ORS 366.739 is amended to read:

366.739. Except as otherwise provided in ORS 366.744 **and section 38 of this 2009 Act**, the taxes collected under ORS 319.020, 319.530, 803.090, 803.420, 818.225, 825.476 and 825.480, minus $71.2 million per biennium, shall be allocated 24.38 percent to counties under ORS 366.762 and 15.57

percent to cities under ORS 366.800.

SECTION 41. ORS 267.385 is amended to read:

267.385. (1) To carry out the powers granted by ORS 267.010 to 267.390, a district may by ordinance impose an excise tax on every employer equal to not more than [*seven-tenths*] **eight-tenths** of one percent of the wages paid with respect to the employment of individuals. For the same purposes, a district may by ordinance impose a tax on each individual equal to not more than [*seven-tenths*] **eight-tenths** of one percent of the individual's net earnings from self-employment.

(2) No employer shall make a deduction from the wages of an employee to pay all or any portion of a tax imposed under this section.

(3) The provisions of ORS 305.620 are applicable to collection, enforcement, administration and distribution of a tax imposed under this section.

(4) At any time an employer or individual fails to remit the amount of taxes when due under an ordinance of the district board imposing a tax under this section, the Department of Revenue may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued thereon. Such warrant shall be issued and may be enforced in the same manner and have the same force and effect as prescribed with respect to warrants for the collection of delinquent state income taxes.

(5) Any ordinance adopted under subsection (1) of this section shall require an individual having net earnings from self-employment from activity both within and without the district taxable by the State of Oregon to allocate and apportion such net earnings to the district in the manner required for allocation and apportionment of income under ORS 314.280 and 314.605 to 314.675. Such ordinance shall give the individual the option of apportioning income based on a single factor designated by the ordinance.

(6) Any ordinance adopted under subsection (1) of this section with respect to net earnings from self-employment may impose a tax for a taxable year measured by each individual's net earnings from self-employment for the prior taxable year, whether such prior taxable year begins before or after November 1, 1981, or such ordinance.

(7) Any ordinance imposing a tax authorized by subsection (1) of this section shall not apply to any business, trade, occupation or profession upon which a tax is imposed under ORS 267.360.

(8) The district board may not adopt an ordinance increasing a tax authorized by subsection (1) of this section unless the board makes a finding that the economy in the district has recovered to an extent sufficient to warrant the increase in tax. In making the finding, the board shall consider regional employment and income growth.

SECTION 42. Notwithstanding ORS 267.385 (1) and subject to ORS 267.260 (3) and (6), an increase in any tax imposed on wages or on net earnings from self-employment that is authorized by a mass transit district under ORS 267.385 (1) on or after January 1, 2010, must be phased in over a 10-year period. The district shall by ordinance set forth the increments by which the increase in tax is phased in. Subject to ORS 267.260 (3) and (6), each annual increment may not increase the rate of tax by more than 0.02 percent of the wages or net earnings from self-employment.

SECTION 43. ORS 267.615 is amended to read:

267.615. [*(1)*] For the purpose of performing any of the powers conferred by ORS 267.510 to 267.650, a transportation district may use any of the following methods of financing:

[*(a)*] **(1)** Service charges and user fees collected under ORS 267.570 (1)(d).

[*(b)*] **(2)** Levy **of** ad valorem taxes under ORS 267.620.

[*(c)*] **(3)** Use of a revolving fund as authorized for mass transit districts under ORS 267.310.

[*(d)*] **(4)** Sale of bonds under ORS 267.630 and 267.640.

[*(e)*] **(5)** Levy of business license fees as authorized for mass transit districts under ORS 267.360.

[*(f)*] **(6)** Levy of a tax measured by net income as authorized for mass transit districts under ORS 267.370.

[*(g)*] **(7)** Levy of a tax measured by employer payrolls as authorized for mass transit districts under ORS 267.380 and 267.385.

[*(h)*] **(8)** Acceptance and use of any contributions or loans from the United States, without limitation by any other provision of ORS 267.510 to 267.650 requiring approval of indebtedness.

[*(i)*] **(9)** Any combination of the provisions of [*paragraphs (a) to (h) of this subsection*] **subsections (1) to (8) of this section.**

[*(2) A district shall not use any method of financing authorized under subsection (1)(c) to (g) of this section without first obtaining authorization at a properly called election held for that purpose.*]

SECTION 44. ORS 267.430 is amended to read:

267.430. ORS 267.300, 267.380, 267.410 to 267.430 do not apply to entities described in ORS 267.380 (1)(a)(C) that made, and that continue to make, payments under the provisions of ORS 291.405 and 291.407 equivalent to the rate in effect on January 1, 1989. If a mass transit district or transportation district does not collect a tax under ORS 267.300 (1)(g) or 267.615 [*(1)(g)*] **(7)**, ORS 267.300, 267.380 and 267.410 to 267.430 do not affect payment under ORS 291.405 and 291.407.

SECTION 45. ORS 366.514 is amended to read:

366.514. (1) Out of the funds received by the Department of Transportation or by any county or city from the State Highway Fund reasonable amounts shall be expended as necessary to provide footpaths and bicycle trails, including curb cuts or ramps as part of the project. Footpaths and bicycle trails, including curb cuts or ramps as part of the project, shall be provided wherever a highway, road or street is being constructed, reconstructed or relocated. Funds received from the State Highway Fund may also be expended to maintain footpaths and trails and to provide footpaths and trails along other highways, roads and streets.

(2) Footpaths and trails are not required to be established under subsection (1) of this section:

(a) Where the establishment of such paths and trails would be contrary to public safety;

(b) If the cost of establishing such paths and trails would be excessively disproportionate to the need or probable use; or

(c) Where sparsity of population, other available ways or other factors indicate an absence of any need for such paths and trails.

(3) The amount expended by the department or by a city or county as required or permitted by this section shall never in any one fiscal year be less than [*one*] **1-1/2** percent of the total amount of the funds received from the highway fund. However:

(a) This subsection does not apply to a city in any year in which the [*one*] **1-1/2** percent equals $250 or less, or to a county in any year in which the [*one*] **1-1/2** percent equals $1,500 or less.

(b) A city or county in lieu of expending the funds each year may credit the funds to a financial reserve fund in accordance with ORS 294.525, to be held for not more than 10 years, and to be expended for the purposes required or permitted by this section.

(c) For purposes of computing amounts expended during a fiscal year under this subsection, the department, a city or county may record the money as expended:

(A) On the date actual construction of the facility is commenced if the facility is constructed by the city, county or department itself; or

(B) On the date a contract for the construction of the facilities is entered with a private contractor or with any other governmental body.

(4) For the purposes of this chapter, the establishment of paths, trails and curb cuts or ramps and the expenditure of funds as authorized by this section are for highway, road and street purposes. The department shall, when requested, provide technical assistance and advice to cities and counties in carrying out the purpose of this section. The department shall recommend construction standards for footpaths and bicycle trails. Curb cuts or ramps shall comply with the requirements of ORS 447.310 and rules adopted under ORS 447.231. The department shall, in the manner prescribed for marking highways under ORS 810.200, provide a uniform system of signing footpaths and bicycle trails which shall apply to paths and trails under the jurisdiction of the department and cities and counties. The department and cities and counties may restrict the use of footpaths and bicycle trails under their respective jurisdictions to pedestrians and nonmotorized vehicles, except that motorized wheelchairs shall be allowed to use footpaths and bicycle trails.

(5) As used in this section, "bicycle trail" means a publicly owned and maintained lane or way designated and signed for use as a bicycle route.

SECTION 46. ORS 366.772 is amended to read:

366.772. [*(1) Not later than July 31 in each calendar year, the sum of $500,000 shall be withdrawn from the appropriation specified in ORS 366.762, and the sum of $250,000 shall be withdrawn from moneys available to the Department of Transportation from the State Highway Fund. The sums withdrawn shall be set up in a separate account to be administered by the Department of Transportation.*]

[*(2) Not later than July 31 in each calendar year, the sum of $750,000 shall be withdrawn from the separate account described in subsection (1) of this section and distributed to counties that had a county road base funding deficit in the prior fiscal year. A county's share of the $750,000 shall be based on the ratio of the amount of the county's road base funding deficit to the total amount of county road base funding deficits of all counties.*]

[*(3) Moneys allocated as provided in this section may be used only for maintenance, repair and improvement of existing roads.*]

[*(4)*] **(1)** As used in this section:

(a) "Arterial highway" has the meaning given that term in [*ORS 801.127*] **the Federal Highway Administration Functional Classification Guidelines, as in effect January 1, 2009**.

(b) "Collector highway" has the meaning given that term in [*ORS 801.197*] **the Federal Highway Administration Functional Classification Guidelines, as in effect January 1, 2009**.

(c) "County road" has the meaning given that term in ORS 368.001.

[*(c)*] **(d)** "County road base funding deficit" means the amount of a county's minimum county road base funding minus the amount of that county's dedicated county road funding. A county has a county road base funding deficit only if the amount of the dedicated county road funding is less than the amount of the minimum county road base funding.

[*(d)*] **(e)** "Dedicated county road funding" for a county means:

(A) Moneys received from federal forest reserves and apportioned to the county road fund in accordance with ORS 294.060;

(B) State Highway Fund moneys distributed to the county, other than moneys distributed under this section and not including moneys allocated under section 15, chapter 911, Oregon Laws 2007; and

(C) Federal Highway Administration revenues allocated by formula to the county annually under the federal-aid highway program authorized by 23 U.S.C. chapter 1. These moneys do not include

federal funds received by the county through a competitive grant process.

[*(e)*] **(f)** "Minimum county road base funding" means **$1 million or** $4,500 per mile of county roads that are arterial and collector highways beginning on July 1, 2008, [*and*] **whichever is greater. For each fiscal year** thereafter [*means*] **the** $4,500 per mile of county roads that are arterial and collector highways [*as*] **shall be** adjusted annually on the basis of the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(2) Not later than July 31 in each calendar year, the Department of Transportation, in consultation with counties, shall:

(a) Determine the amount of county road base funding deficit, if any, in the prior fiscal year for each county; and

(b) Develop a quarterly distribution plan for the fiscal year beginning July 1 that ensures that each county with a county road base funding deficit in the prior fiscal year receives an amount equal to its county road base funding deficit in the prior fiscal year in addition to the amount distributed to the county under ORS 366.764.

(3) Prior to the end of the first month of each quarter of the fiscal year, the Department of Transportation shall withdraw the funding required to implement the quarterly distribution plan from the Timber Counties Safety Net Account and, if the moneys in the Timber Counties Safety Net Account are not sufficient to implement the quarterly distribution plan, the balance shall be withdrawn from the appropriation specified in ORS 366.762. The sums withdrawn shall be deposited in a separate account to be administered by the department.

(4) Prior to the end of the first month of each quarter of the fiscal year, after the moneys are deposited in the separate account described in subsection (3) of this section, the Department of Transportation shall distribute the moneys to counties that had a county road base funding deficit as indicated in the quarterly distribution plan.

(5) Moneys allocated as provided in this section may be used only for maintenance, repair and improvement of existing roads.

SECTION 47. ORS 367.620 is amended to read:

367.620. (1) The principal amount of Highway User Tax Bonds issued under ORS 367.615 shall be subject to the provisions of ORS 286A.035.

(2) Highway User Tax Bonds may be issued under ORS 367.615 for the purposes described in ORS 367.622 in an aggregate principal amount sufficient to produce net proceeds of not more than $500 million.

(3)(a) Highway User Tax Bonds may be issued under ORS 367.615 for bridge purposes described in section 10 (1), chapter 618, Oregon Laws 2003, in an aggregate principal amount sufficient to produce net proceeds of not more than $1.6 billion.

(b) Highway User Tax Bonds may be issued under ORS 367.615 for modernization purposes described in sections 10 (2) and 11, chapter 618, Oregon Laws 2003, in an aggregate principal amount sufficient to produce net proceeds of not more than $300 million.

(c) Highway User Tax Bonds may be issued under ORS 367.615 for the purposes described in section 48 of this 2009 Act, in an aggregate principal amount sufficient to produce net proceeds of not more than $600 million.

[*(c)*] **(d)** The Department of Transportation, with the approval of the State Treasurer, may designate the extent to which a series of bonds authorized under this subsection is secured and payable on a parity of lien or on a subordinate basis to existing or future Highway User Tax Bonds.

SECTION 48. Proceeds of the bonds authorized under ORS 367.620 (3)(c) shall be used to finance projects chosen by the Oregon Transportation Commission. The commission shall select projects that relieve freight bottlenecks.

SECTION 49. The amendments to ORS 367.620 by section 47 of this 2009 Act do not impair the interests of the owners of any Highway User Tax Bonds that are outstanding on the effective date of this 2009 Act or any obligations of the agreements of the Department of Transportation under its Amended and Restated Master Highway User Tax Revenue Bond Declaration dated June 1, 2008, as amended and supplemented.

SECTION 50. Notwithstanding ORS 367.620 (1), the provisions of ORS 286A.035 do not apply to bonds described in ORS 367.620 (3)(c) for the biennium beginning July 1, 2009.

SECTION 51. ORS 801.041 is amended to read:

801.041. The following apply to the authority granted to counties by ORS 801.040 to establish registration fees for vehicles:

(1) **Notwithstanding ORS 203.055 or any provision of a county charter,** an ordinance establishing registration fees under this section must be enacted by the county imposing the registration fee and filed with the Department of Transportation. [*Any ordinance establishing registration fees that is enacted by the governing body of a county must be submitted to the electors of the county for their approval.*] The governing body of the county imposing the registration fee shall enter into an intergovernmental agreement under ORS 190.010 with the department by which the department shall collect the registration fees, pay them over to the county and, if necessary, allow the credit or credits described in ORS 803.445 (5). The intergovernmental agreement must state the date on which the department shall begin collecting registration fees for the county.

(2) The authority granted by this section allows the establishment of registration fees in addition to those described in ORS 803.420. There is no authority under this section to affect registration periods, qualifications, cards, plates, requirements or any other provision relating to vehicle registration under the vehicle code.

(3) Except as otherwise provided for in this subsection, when registration fees are imposed under this section, they must be imposed on all vehicle classes. Registration fees as provided under this section may not be imposed on the following:

(a) Snowmobiles and Class I all-terrain vehicles.

(b) Fixed load vehicles.

(c) Vehicles registered under ORS 805.100 to disabled veterans.

(d) Vehicles registered as antique vehicles under ORS 805.010.

(e) Vehicles registered as vehicles of special interest under ORS 805.020.

(f) Government-owned or operated vehicles registered under ORS 805.040 or 805.045.

(g) School buses or school activity vehicles registered under ORS 805.050.

(h) Law enforcement undercover vehicles registered under ORS 805.060.

(i) Vehicles registered on a proportional basis for interstate operation.

(j) Vehicles with a registration weight of 26,001 pounds or more described in ORS 803.420 (10) or (11).

(k) Vehicles registered as farm vehicles under the provisions of ORS 805.300.

(L) Travel trailers, campers and motor homes.

(4) Any registration fee imposed by a county must be a fixed amount not to exceed, with respect to any vehicle class, the registration fee established under ORS 803.420 (1). For vehicles on which a flat fee is imposed under ORS 803.420, the fee must be a whole dollar amount.

(5) Moneys from registration fees established under this section must be paid to the county establishing the registration fees as provided in ORS 802.110. The county ordinance shall provide for payment of at least 40 percent of the money to cities within the county unless a different distribution is agreed to between the county and the cities within the jurisdiction of the county. The moneys shall be used for any purpose for which moneys from registration fees may be used.

(6) Two or more counties may act jointly to impose a registration fee under this section. The ordinance of each county acting jointly with another under this subsection must provide for the distribution of moneys collected through a joint registration fee.

(7) Before the governing body of a county that overlaps a district can impose a registration fee under this section, it must enter into an intergovernmental agreement under ORS 190.010 with the governing bodies of that district and all counties, other districts and cities with populations of over 300,000 that overlap the district. The intergovernmental agreement must state the registration fees and, if necessary, how the revenue from the fees are to be apportioned among the counties and the districts. Before the governing body of a county can enter into such an intergovernmental agreement, the county shall consult with the cities in its jurisdiction.

SECTION 52. ORS 803.570 is amended to read:

803.570. Except as otherwise specifically provided by law, the Department of Transportation shall collect the fee described by this section each time the department issues a registration plate upon the registration of a vehicle or at other times when a registration plate is issued by the department. The following all apply to the fee established by this section:

(1) The fee shall be in addition to any other fee collected upon issuance of a registration plate.

[*(2) The fee for each registration plate issued and for each set of two plates issued shall be determined by the department and shall be established by the department by rule. The fee may not exceed $3 for one plate and $5 for a set of two plates.*]

(2) The fee for each registration plate issued and for each set of two plates issued shall be determined by the department by rule.

(3) The department shall establish the fee for each registration plate issued and for each set of two plates issued under this section by determining the cost to manufacture each plate and each set of two plates. The department shall round the amount of the fee to the next higher half-dollar.

(4) If the difference between the cost to manufacture a single plate and the cost to manufacture a pair of plates would result in a difference in the fee established under this section, the department shall establish separate fees for issuance of single registration plates and pairs of registration plates.

SECTION 53. ORS 805.250 is amended to read:

805.250. This section establishes fees for issuance of registration plates authorized under ORS 805.200. If a fee for plates authorized in ORS 805.200 is not established in this section, the fee is the same fee as established under ORS 803.570. Where a fee is established under this section, the fee is in addition to the fee established under ORS 803.570 unless otherwise provided in the following:

(1) Amateur radio operator registration plates issued under ORS 805.230, $5.

(2) Customized registration plates issued under ORS 805.240:

(a) For original issuance or renewal, [*$25*] **$50** annual fee.

(b) For issuance of a duplicate or replacement plate, $5 when the plate is issued at the time of renewal of registration or $10 when the plate is issued at any other time.

(3) Special interest registration plates approved under ORS 805.210 are approved without cost

except as provided in this subsection, including without payment of the fee established under ORS 803.570. If identifying stickers are required, $1 per sticker or pair of stickers.

(4) Dealer plates issued under ORS 822.020 and 822.040 are as follows:

(a) For the original dealer plate, no fee except the fee established under ORS 803.570.

(b) For replacement dealer plates, $10 for each plate except that persons dealing exclusively in motorcycles, mopeds, snowmobiles or any combination of those vehicles shall pay only $3 for each replacement plate.

(c) For additional plates, or for renewal of registration, $42, except that persons dealing exclusively in motorcycles, mopeds or snowmobiles or any combination of those vehicles shall pay only $9 for each additional plate, or for renewal of registration.

(5) Special vehicle transporter plates or devices issued under ORS 822.310, $5 for each plate or device.

SECTION 54. ORS 822.043 is amended to read:

822.043. (1) As used in this section:

(a) "Integrator" has the meaning given that term in ORS 802.600.

(b) "Vehicle dealer" means a person issued a vehicle dealer certificate under ORS 822.020.

(2) A vehicle dealer may elect to prepare, submit, or prepare and submit documents necessary to:

(a) Issue or transfer a certificate of title for a vehicle;

(b) Register a vehicle or transfer registration of a vehicle; or

(c) Issue a registration plate.

(3) A vehicle dealer who prepares any documents described in subsection (2) of this section:

(a) May charge a purchaser of a vehicle a fee for the preparation of those documents.

(b) May not charge a purchaser of a vehicle a fee for the submission of any document or the issuance of a registration plate.

(4) The Department of Transportation may adopt rules to:

(a) Limit the amount of a fee charged under subsection (3) of this section. The limit established by rule may not be less than:

(A) [*$75*] **$100**, if the vehicle dealer uses an integrator; or

(B) [*$50*] **$75**, if the vehicle dealer does not use an integrator.

(b) Determine when a vehicle dealer is required to inform the purchaser of the vehicle of the option of using an integrator and when the purchaser has the option of electing to use an integrator.

(5) Unless otherwise provided by rule, if a vehicle dealer uses an integrator and charges a fee greater than that charged for not using an integrator, the dealer must inform the purchaser of the vehicle of the option of using an integrator to prepare the documents. The purchaser may then elect whether or not to have the vehicle dealer use an integrator to prepare the documents.

SECTION 55. Section 4, chapter 545, Oregon Laws 2003, is amended to read:

Sec. 4. Sections 2 and 3**, chapter 545, Oregon Laws 2003,** [*of this 2003 Act*] apply to tax years beginning on or after January 1, 2005, and before January 1, [*2010*] **2015**.

SECTION 56. ORS 267.302 and sections 8 and 9, chapter 739, Oregon Laws 2003, are repealed.

SECTION 57. The amendments to ORS 801.041 by section 51 of this 2009 Act apply to ordinances enacted by the governing body of a county on or after the effective date of this 2009 Act.

SECTION 58. The amendments to ORS 803.090 by section 30 of this 2009 Act become op-

1 **erative on January 1, 2011.**

2

House Bill 2180

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for State Department of Energy)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Establishes Oregon Renewable Energy Grant Account and allows credit against income taxes for contributions to account. Authorizes State Department of Energy to award grants for renewable energy projects.

Modifies business energy tax credit to include certain recycling facilities. Allows taxpayer to claim residential energy tax credit for hydroelectric generating system.

Modifies provisions for claiming biomass tax credit. Limits eligibility to biofuels that have been converted into fuels ready for use as energy in Oregon. Revises biomass credit transfer provisions. Allows credit where biofuel producer is also agricultural producer or biomass collector.

Applies to tax years beginning on or after January 1, 2010.

A BILL FOR AN ACT

Relating to energy; creating new provisions; amending ORS 315.141, 315.144, 315.354, 469.160 and 469.185; and appropriating money.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS chapter 315.

SECTION 2. (1) A taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316 for amounts contributed during the tax year to the Oregon Renewable Energy Grant Account established under section 4 of this 2009 Act.

(2) A taxpayer that is a corporation shall be allowed a credit against the taxes otherwise due under ORS chapter 317 or 318 for amounts contributed during the tax year to the Oregon Renewable Energy Grant Account established under section 4 of this 2009 Act.

(3) The amount of the credit shall equal 100 percent of the amount contributed to the Oregon Renewable Energy Grant Account, but may not exceed the lesser of the tax liability of the:

(a) Taxpayer under ORS chapter 316 for the tax year or $250.

(b) Taxpayer that is a corporation under ORS chapter 317 or 318 for the tax year or $1,250.

(4) The credit allowed under this section may not be carried over to another tax year.

(5) The credit allowed under this section is in addition to any charitable contribution deduction allowable to the taxpayer.

(6) In the case of a credit allowed under this section for purposes of ORS chapter 316:

(a) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

(b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed under this section shall be determined in a manner consistent with ORS 316.117.

(c) A husband and wife who file separate returns for a taxable year may each claim a

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

share of the tax credit that would have been allowed on a joint return in proportion to the contribution of each.

(d) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

SECTION 3. Section 4 of this 2009 Act is added to and made a part of ORS chapter 469.

SECTION 4. (1) The Oregon Renewable Energy Grant Account is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Renewable Energy Grant Account shall be credited to the account. The primary purpose of the account is to provide grants for the development of community-scale renewable energy resource projects in Oregon.

(2) All moneys in the Oregon Renewable Energy Grant Account are appropriated continuously to the State Department of Energy for the purposes of section 5 of this 2009 Act.

SECTION 5. (1) The State Department of Energy shall award grants from the Oregon Renewable Energy Grant Account established under section 4 of this 2009 Act to fund renewable energy projects in Oregon. The total amount awarded by the department in a calendar year may not exceed $1 million.

(2) The grants authorized under this section:

(a) Shall fund renewable energy facilities of less that ten megawatts or comparably sized heat and fuel generation projects; and

(b) Shall require applicants to provide matching funds.

(3) The department shall by rule establish criteria for the awarding of grants under this section. The department may give preference to:

(a) Public bodies, tribal governments and nonprofit organizations;

(b) Community-based renewable energy facilities;

(c) Renewable energy facilities likely to benefit rental or low-income housing developments;

(d) Projects intended to test, demonstrate or develop innovative renewable energy equipment manufacturing processes or innovative renewable energy products intended for manufacture in Oregon by firms based in Oregon;

(e) Projects for communities with demonstrated need, such as rural or economically distressed communities;

(f) Projects that have received feasibility study funding from the department; and

(g) Projects that are unlikely to proceed without funding under this section.

(4) Any amount received under this section shall be subtracted when determining certified costs under ORS 469.185 to 469.225.

SECTION 6. ORS 315.354 is amended to read:

315.354. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318), based upon the certified cost of the facility during the period for which that facility is certified under ORS 469.185 to 469.225. The credit is allowed as follows:

(a) Except as provided in paragraph (b) or (c) of this subsection, the credit allowed in each of the first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the facility, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the

succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability of the taxpayer.

(b) If the certified cost of the facility does not exceed $20,000, the total amount of the credit allowable under subsection (4) of this section may be claimed in the first tax year for which the credit may be claimed, but may not exceed the tax liability of the taxpayer.

(c) If the facility uses or produces renewable energy resources or is a renewable energy resource equipment manufacturing facility, the credit allowed in each of five succeeding tax years shall be 10 percent of the certified cost of the facility, but may not exceed the tax liability of the taxpayer.

(2) Notwithstanding subsection (1) of this section:

(a) If the facility is one or more renewable energy resource systems installed in a single-family dwelling, the amount of the credit for each system shall be determined as if the facility was considered a residential alternative energy device under ORS 316.116, but subject to the maximum credit amount under subsection (4)(b) of this section;

(b) If the facility is a high-performance home, the amount of the credit shall equal the amount determined under paragraph (a) of this subsection plus $3,000; and

(c) If the facility is a high-performance home or a homebuilder-installed renewable energy system, the total amount of the credit may be claimed in the first tax year for which the credit is claimed, but may not exceed the tax liability of the taxpayer.

(3) In order for a tax credit to be allowable under this section:

(a) The facility must be located in Oregon;

(b) The facility must have received final certification from the Director of the State Department of Energy under ORS 469.185 to 469.225; and

(c) The taxpayer must be an eligible applicant under ORS 469.205 (1)(c).

(4) The total amount of credit allowable to an eligible taxpayer under this section may not exceed:

(a) 50 percent of the certified cost of a renewable energy resources facility, a renewable energy resource equipment manufacturing facility [*or*], a high-efficiency combined heat and power facility **or a recycling facility**;

(b) $9,000 per single-family dwelling for homebuilder-installed renewable energy systems;

(c) $12,000 per single-family dwelling for homebuilder-installed renewable energy systems, if the dwelling also constitutes a high-performance home; or

(d) 35 percent of the certified cost of any other facility.

(5)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the facility, notice thereof shall be given to the Director of the State Department of Energy who shall revoke the certificate covering the facility as of the date of such disposition. The new owner, or upon re-leasing of the facility, the new lessor, may apply for a new certificate under ORS 469.215, but the tax credit available to the new owner shall be limited to the amount of credit not claimed by the former owner or, for a new lessor, the amount of credit not claimed by the lessor under all previous leases.

(b) The State Department of Energy may not revoke the certificate covering a facility under paragraph (a) of this subsection if the tax credit associated with the facility has been transferred to a taxpayer who is an eligible applicant under ORS 469.205 (1)(c)(A).

(6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next

succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise, any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, and likewise, any credit not used in that fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and likewise, any credit not used in that sixth succeeding tax year may be carried forward and used in the seventh succeeding tax year, and likewise, any credit not used in that seventh succeeding tax year may be carried forward and used in the eighth succeeding tax year, but may not be carried forward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years specified in subsection (1) of this section only as provided in this subsection.

(7) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the facility to which the taxpayer otherwise may be entitled for purposes of ORS chapter 316, 317 or 318 for such year.

(8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax credits allowed under this section.

(9) If a homebuilder claims a credit under this section with respect to a homebuilder-installed renewable energy system or a high-performance home:

(a) The homebuilder may not claim credits for both a homebuilder-installed renewable energy system and a high-performance home with respect to the same dwelling;

(b) The homebuilder must inform the buyer of the dwelling that the homebuilder is claiming a tax credit under this section with respect to the dwelling; and

(c) The buyer of the dwelling may not claim a credit under this section that is based on any facility for which the homebuilder has already claimed a credit.

(10) The definitions in ORS 469.185 apply to this section.

SECTION 7. ORS 469.160 is amended to read:

469.160. As used in ORS 316.116, 317.115 and 469.160 to 469.180:

(1) "Alternative energy device" means a category one alternative energy device or a category two alternative energy device.

(2) "Alternative fuel device" means any of the following:

(a) An alternative fuel vehicle;

(b) Related equipment; or

(c) A fueling station necessary to operate an alternative fuel vehicle.

(3) "Alternative fuel vehicle" means a motor vehicle as defined in ORS 801.360 that is:

(a) Registered in this state; and

(b) Manufactured or modified to use an alternative fuel, including but not limited to electricity, natural gas, ethanol, methanol, propane and any other fuel approved in rules adopted by the Director of the State Department of Energy that produces less exhaust emissions than vehicles fueled by gasoline or diesel. Determination that a vehicle is an alternative fuel vehicle shall be made [*without regard to energy consumption savings*] **by the director based on a consideration of petroleum reduction, efficiency, greenhouse gas reduction and technology**.

(4) "Category one alternative energy device" means:

(a) Any system, mechanism or series of mechanisms that uses solar radiation for space heating or cooling for one or more dwellings;

(b) Any system that uses solar radiation for:

(A) Domestic water heating; or

(B) Swimming pool, spa or hot tub heating and that meets the requirements set forth in ORS 316.116;

(c) A ground water heat pump and ground loop system;

(d) Any wind powered device used to offset or supplement the use of electricity by performing a specific task such as pumping water;

(e) Equipment used in the production of alternative fuels;

(f) A generator powered by alternative fuels and used to produce electricity;

(g) An energy efficient appliance;

(h) An alternative fuel device; or

(i) A premium efficiency biomass combustion device that includes a dedicated outside combustion air source and that meets minimum performance standards that are established by the State Department of Energy.

(5) "Category two alternative energy device" means a fuel cell system, **hydroelectric generating system,** solar electric system or wind electric system.

(6) "Coefficient of performance" means the ratio calculated by dividing the usable output energy by the electrical input energy. Both energy values must be expressed in equivalent units.

(7) "Contractor" means a person whose trade or business consists of offering for sale an alternative energy device, construction service, installation service or design service.

(8)(a) "Cost" means the actual cost of the acquisition, construction and installation of the alternative energy device paid by the taxpayer for the alternative energy device.

(b) For an alternative fuel vehicle, "cost" means the difference between the cost of the alternative fuel vehicle and the same vehicle or functionally similar vehicle manufactured to use conventional gasoline or diesel fuel or, in the case of modification of an existing vehicle, the cost of the modification. "Cost" does not include any amounts paid for remodification of the same vehicle, **unless added efficiency or capacity meets requirements established by the Director of the State Department of Energy**.

(c) For a fueling station necessary to operate an alternative fuel vehicle, "cost" means the cost to the contractor of constructing or installing the fueling station in a dwelling and of making the fuel station operational in accordance with the specifications issued under ORS 469.160 to 469.180 and any rules adopted by the Director of the State Department of Energy.

(d) For related equipment, "cost" means the cost of the related equipment and any modifications or additions to the related equipment necessary to prepare the related equipment for use in converting a vehicle to alternative fuel use.

(9) "Domestic water heating" means the heating of water used in a dwelling for bathing, clothes washing, dishwashing and other related functions.

(10) "Dwelling" means real or personal property ordinarily inhabited as a principal or secondary residence and located within this state. "Dwelling" includes, but is not limited to, an individual unit within multiple unit residential housing.

(11) "Energy efficient appliance" means a clothes washer, clothes dryer, water heater, refrigerator, freezer, dishwasher, appliance designed to heat or cool a dwelling or other major household appliance that has been certified by the State Department of Energy to have premium energy efficiency characteristics.

(12) "First year energy yield" of an alternative energy device is the usable energy produced

under average environmental conditions in one year.

(13) "Fuel cell system" means any system, mechanism or series of mechanisms that uses fuel cells or fuel cell technology to generate electrical energy for a dwelling.

(14) "Fueling station" includes but is not limited to a compressed natural gas compressor fueling system or an electric charging system for vehicle power battery charging.

(15) "Hydroelectric generating system" means a system that obtains all applicable permits and complies with all state and federal statutory requirements for the protection of fish and wildlife and does not exceed 10 megawatts of installed capacity.

[*(15)*] **(16)** "Placed in service" means:

(a) The date an alternative energy device is ready and available to produce usable energy or save energy.

(b) For an alternative fuel vehicle:

(A) In the case of purchase, the date that the alternative fuel vehicle is first purchased as an alternative fuel vehicle ready and available for use.

(B) In the case of modification, the date that the modification is completed and the vehicle is ready and available for use as an alternative fuel vehicle.

(c) For a fueling station necessary to operate an alternative fuel vehicle, the date that the fueling station is first operational.

(d) For related equipment, the date that the equipment is first operational.

[*(16)*] **(17)** "Related equipment" means equipment necessary to convert a vehicle to use an alternative fuel.

[*(17)*] **(18)** "Solar electric system" means any system, mechanism or series of mechanisms, including photovoltaic systems, that uses solar radiation to generate electrical energy for a dwelling.

[*(18)*] **(19)** "Wind electric system" means any system, mechanism or series of mechanisms that uses wind to generate electrical energy for a dwelling.

SECTION 8. ORS 469.185 is amended to read:

469.185. As used in ORS 469.185 to 469.225 and 469.878:

(1) "Alternative fuel vehicle" means a vehicle as defined by the Director of the State Department of Energy by rule that is used primarily in connection with the conduct of a trade or business and that is manufactured or modified to use an alternative fuel, including but not limited to electricity, ethanol, methanol, gasohol and propane or natural gas, regardless of energy consumption savings.

(2) "Car sharing facility" means the expenses of operating a car sharing program, including but not limited to the fair market value of parking spaces used to store the fleet of cars available for a car sharing program, but does not include the costs of the fleet of cars.

(3) "Car sharing program" means a program in which drivers pay to become members in order to have joint access to a fleet of cars from a common parking area on an hourly basis. "Car sharing program" does not include operations conducted by car rental agencies.

(4) "Cost" means the capital costs and expenses necessarily incurred in the acquisition, erection, construction and installation of a facility, including site development costs and expenses for a sustainable building practices facility.

(5) "Energy facility" means any capital investment for which the first year energy savings yields a simple payback period of greater than one year. An energy facility includes:

(a) Any land, structure, building, installation, excavation, machinery, equipment or device, or any addition to, reconstruction of or improvement of, land or an existing structure, building, instal-

lation, excavation, machinery, equipment or device necessarily acquired, erected, constructed or installed by any person in connection with the conduct of a trade or business and actually used in the processing or utilization of renewable energy resources to:

(A) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

(B) Provide the initial use of energy where electricity, petroleum or natural gas would have been used;

(C) Generate electricity to replace an existing source of electricity or to provide a new source of electricity for sale by or use in the trade or business;

(D) Perform a process that obtains energy resources from material that would otherwise be solid waste as defined in ORS 459.005; or

(E) Manufacture or distribute alternative fuels, including but not limited to electricity, ethanol, methanol, gasohol or biodiesel.

(b) Any acquisition of, addition to, reconstruction of or improvement of land or an existing structure, building, installation, excavation, machinery, equipment or device necessarily acquired, erected, constructed or installed by any person in connection with the conduct of a trade or business in order to substantially reduce the consumption of purchased energy.

(c) A necessary feature of a new commercial building or multiple unit dwelling, as dwelling is defined by ORS 469.160, that causes that building or dwelling to exceed an energy performance standard in the state building code.

(d) The replacement of an electric motor with another electric motor that substantially reduces the consumption of electricity.

(6) "Facility" means an energy facility, recycling facility, transportation facility, car sharing facility, sustainable building practices facility, alternative fuel vehicle or facilities necessary to operate alternative fuel vehicles, including but not limited to an alternative fuel vehicle refueling station, a high-efficiency combined heat and power facility, a high-performance home, a homebuilder-installed renewable energy system, or a renewable energy resource equipment manufacturing facility.

(7) "High-efficiency combined heat and power facility" means a device or equipment that simultaneously produces heat and electricity from a single source of fuel and that meets the criteria established for a high-efficiency combined heat and power facility under ORS 469.197.

(8) "High-performance home" means a new single-family dwelling that:

(a) Is designed and constructed to reduce net purchased energy through use of both energy efficiency and on-site renewable energy resources; and

(b) Meets the criteria established for a high-performance home under ORS 469.197.

(9) "Homebuilder-installed renewable energy system" means a renewable energy resource system that:

(a) Meets the criteria established for a renewable energy resource system under ORS 469.197; and

(b) Is installed in a new single-family dwelling by, or at the direction of, the homebuilder constructing the dwelling.

(10) "Qualified transit pass contract" means a purchase agreement entered into between a transportation provider and a person, the terms of which obligate the person to purchase transit passes on behalf or for the benefit of employees, students, patients or other individuals over a specified period of time.

(11) "Recycling facility" means equipment used by a trade or business solely for recycling **in-**

cluding:

[*(a) Including:*]

[*(A)*] **(a)** Equipment used solely for hauling and refining used oil;

[*(B)*] **(b)** New vehicles or modifications to existing vehicles used solely to transport used recyclable materials that cannot be used further in their present form or location such as glass, metal, paper, aluminum, rubber and plastic;

[*(C)*] **(c)** Trailers, racks or bins that are used for hauling used recyclable materials and are added to or attached to existing waste collection vehicles; [*and*]

[*(D)*] **(d)** Any equipment used solely for processing recyclable materials such as bailers, flatteners, crushers, separators and scales[.]**; and**

[*(b)*] **(e)** [*But not including*] Equipment used for transporting or processing scrap materials that are recycled as a part of the normal operation of a trade or business as defined by the director.

(12)(a) "Renewable energy resource" includes, but is not limited to:

(A) Straw, forest slash, wood waste or other wastes from farm or forest land, nonpetroleum plant or animal based biomass, ocean wave energy, solar energy, wind power, water power or geothermal energy; or

(B) A hydroelectric generating facility that obtains all applicable permits and complies with all state and federal statutory requirements for the protection of fish and wildlife and:

(i) That does not exceed 10 megawatts of installed capacity; or

(ii) Qualifies as a research, development or demonstration facility.

(b) "Renewable energy resource" does not include a hydroelectric generating facility that is not described in paragraph (a) of this subsection.

(13) "Renewable energy resource equipment manufacturing facility" means any structure, building, installation, excavation, machinery, equipment or device, or an addition, reconstruction or improvement to land or an existing structure, building, installation, excavation, machinery, equipment or device, that is necessarily acquired, constructed or installed by a person in connection with the conduct of a trade or business, that is used primarily to manufacture equipment, machinery or other products designed to use a renewable energy resource and that meets the criteria established under ORS 469.197.

(14) "Sustainable building practices facility" means a commercial building in which building practices that reduce the amount of energy, water or other resources needed for construction and operation of the building are used. "Sustainable building practices facility" may be further defined by the State Department of Energy by rule, including rules that establish traditional building practice baselines in energy, water or other resource usage for comparative purposes for use in determining whether a facility is a sustainable building practices facility.

(15) "Transportation facility" means a transportation project that reduces energy use during commuting to and from work or school, during work-related travel, or during travel to obtain medical or other services, and may be further defined by the department by rule. "Transportation facility" includes, but is not limited to, a qualified transit pass contract or a transportation services contract.

(16) "Transportation provider" means a public, private or nonprofit entity that provides transportation services to members of the public.

(17) "Transportation services contract" means a contract that is related to a transportation facility, and may be further defined by the department by rule.

SECTION 9. ORS 315.141 is amended to read:

315.141. (1) As used in this section:

(a) "Agricultural producer" means a person that produces biomass that is used in Oregon as biofuel or to produce biofuel.

(b) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass**, that have been converted into a processed fuel ready for use as energy by a biofuel producer's customers or for direct biomass energy use at the biofuel producer's site.**

(c) "Biomass" means organic matter that is available on a renewable or recurring basis and that is derived from:

(A) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;

(B) Wood material from hardwood timber described in ORS 321.267 (3);

(C) Agricultural residues;

(D) Offal and tallow from animal rendering;

(E) Food wastes collected as provided under ORS chapter 459 or 459A;

(F) Yard or wood debris collected as provided under ORS chapter 459 or 459A;

(G) Wastewater solids; or

(H) Crops grown solely to be used for energy.

(d) "Biomass" does not mean wood that has been treated with creosote, pentachlorophenol, inorganic arsenic or other inorganic chemical compounds.

(e) "Biomass collector" means a person that collects biomass to be used in Oregon as biofuel or to produce biofuel.

(2)(a) An agricultural producer [*or*]**, a** biomass collector **or a biofuel producer that is also an agricultural producer or biomass collector** shall be allowed a credit against the taxes that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for:

(A) The production of biomass [*that is*] **in Oregon** used **to produce biofuel** in Oregon [*as biofuel or to produce biofuel*]; or

(B) The collection of biomass [*that is used*] in Oregon [*as biofuel or*] to produce biofuel **in Oregon**.

(b) A credit under this section may be claimed in the tax year in which the agricultural producer or biomass collector [*transfers*] **delivers** biomass to a biofuel producer.

(c) Notwithstanding paragraph (a) of this subsection, a tax credit is not allowed for grain corn, but a tax credit shall be allowed for other corn material.

(3) The amount of the credit shall be calculated as follows:

(a) Determine the quantity of biomass [*transferred*] **delivered** to a biofuel producer during the tax year;

(b) Categorize the biomass into appropriate categories; and

(c) Multiply the quantity of biomass in a particular category by the appropriate credit rate for that category, expressed in dollars and cents, that is prescribed in ORS 469.790.

(4) The amount of the credit claimed under this section for any tax year may not exceed the tax liability of the taxpayer.

(5)(a) A biofuel producer shall provide a written receipt **of delivery** to an agricultural producer or biomass collector at the time biomass is [*transferred*] **delivered** from the agricultural producer or biomass collector to the biofuel producer. The receipt must state the quantity and type of biomass being [*transferred*] **delivered** and that the biomass is to be used to produce biofuel.

(b) If the biofuel producer is also the agricultural producer or biomass collector to which the biomass is delivered, the agricultural producer or biomass collector may claim the credit under this section.

[*(b)*] **(c)** Each agricultural producer or biomass collector shall maintain the receipts described in this subsection in their records for a period of at least five years after the tax year in which the credit is claimed or for a longer period of time prescribed by the Department of Revenue.

(6) The credit shall be claimed on a form prescribed by the Department of Revenue that contains the information required by the department.

(7) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, but may not be carried forward for any tax year thereafter.

(8) In the case of a credit allowed under this section:

(a) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

(b) If a change in the status of the taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

SECTION 10. ORS 315.144 is amended to read:

315.144. (1) A person that has obtained a tax credit under ORS 315.141 may transfer the credit for consideration to a taxpayer subject to tax under ORS chapter 316, 317 or 318.

(2) To transfer the tax credit, the taxpayer earning the credit and the taxpayer that will claim the credit shall jointly file a notice of tax credit transfer with the Department of Revenue. The notice shall be given on a form prescribed by the department that contains all of the following:

(a) The name, address and taxpayer identification number of the transferor and transferee;

(b) The amount of the tax credit; and

(c) Any other information required by the department.

(3) Notwithstanding subsection (1) of this section, a tax credit may not be transferred under this section:

(a) From an agricultural producer to a biomass collector claiming a credit for collecting the **same** biomass; or

(b) From a biomass collector to an agricultural producer claiming a credit for producing the **same** biomass.

SECTION 11. Section 2 of this 2009 Act and the amendments to ORS 315.141, 315.144, 315.354, 469.160 and 469.185 by sections 6 to 10 of this 2009 Act apply to tax years beginning on or after January 1, 2010.

House Bill 2417

Sponsored by Representative GELSER, Senator MORSE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Requires Department of Transportation to notify road authority 60 days prior to closing railroad-highway grade crossing.

A BILL FOR AN ACT

Relating to railroad-highway grade crossings.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2009 Act is added to and made a part of the Oregon Vehicle Code.

SECTION 2. (1) Except as provided in subsection (3) of this section, when the Department of Transportation proposes to close a railroad-highway grade crossing, the department shall notify the road authority 60 days prior to issuing a proposed final order or closure notice.

(2) Upon receipt of notice of the proposed closure, the road authority may hold a public hearing. The road authority shall notify the department of any public hearing the road authority holds.

(3) The requirement to notify a road authority of a proposed railroad-highway grade crossing closure does not apply:

(a) In the event of a natural disaster or other emergency that compromises the health and safety of the residents of this state as determined by the department.

(b) When the department is the road authority.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

Senate Bill 269

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with presession filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Prescribes manner in which public body may require utility to relocate facilities legally located on property constituting public highway. Provides that public body may require relocation to extent necessary to accommodate public purpose construction projects. Provides that public body may require relocation for benefit of private party, or to allow private party to comply with conditions of approval for private development, only if private party pays costs incurred by utility. Allows utility to recover from retail customers total unreimbursed costs of relocation activities required by public body.

A BILL FOR AN ACT

Relating to relocation of utility facilities; creating new provisions; and amending ORS 221.420 and 758.010.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS chapter 758.

SECTION 2. (1) As used in this section:

(a) "Public body" has the meaning given that term in ORS 174.109.

(b) "Public highway" has the meaning given that term in ORS 825.005.

(c) "Utility" means a public utility, as defined in ORS 757.005, or a telecommunications utility, as defined in ORS 759.005.

(2) A public body may require a utility to relocate facilities legally located on property constituting a public highway only as provided in this section.

(3) A public body may require a utility to relocate facilities located on property constituting a public highway to the extent necessary to accommodate public purpose construction projects. The public body must allow a utility a reasonable time to relocate facilities.

(4) During the planning and design phase of a public purpose construction project, a public body shall conduct a preliminary design meeting to determine the extent to which the project will require relocation of utility facilities. The public body must give written notice to any utility that has facilities that might be affected by the project at least 30 days before the preliminary design meeting. The notice must include:

(a) The project design.

(b) Proposed dates for any utility facility relocation.

(c) A statement as to whether the project involves any highway or urban extension of a highway that is a part of the National System of Interstate and Defense Highways, as defined in the Federal-Aid Highway Act of 1956, and that qualifies for federal aid under the Federal-Aid Highway Act of 1956. If the project involves a highway or urban extension of highway described in this paragraph, the notice must include the federal project identifying number.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

(d) A statement as to whether the project involves any highway that at any time was part of the National System of Interstate and Defense Highways.

(5) A public body shall use best efforts to eliminate the need for, or the cost of, utility relocation. A public body may require that a utility relocate facilities only if the public body determines that the relocation and the costs of relocation cannot be eliminated. If the public body determines that the relocation and the costs of relocation cannot be eliminated, the public body shall coordinate the relocation with the affected utility and discuss options that would limit the impact of the construction on utility facilities and minimize the costs associated with the relocation.

(6) If a public body requests that a utility relocate facilities, and the public body has failed to conduct a preliminary design meeting as required by subsection (4) of this section, or has failed to provide the notice required by subsection (4) of this section, the public body must reimburse the utility for any costs incurred by the utility in relocating the facilities. A public body may not prohibit a utility from seeking reimbursement for costs under this subsection in any permit application, license application or other written agreement authorizing the utility to relocate the facilities.

(7) A public body may require a utility to relocate facilities for the benefit of a private party, or in order to allow a private party to comply with the conditions for approval of a private development, only if the private party agrees to reimburse the utility for all costs incurred by the utility by reason of the relocation.

(8) If a public body requires relocation of utility facilities for a project that is funded by both a public body and a private party, the private party shall pay a portion of the utility's actual costs of relocating the utility's facilities in the same proportion that the party's costs bear to the costs of the entire project.

(9) Notwithstanding any other provision of ORS chapter 757 or 759, a utility may recover from the utility's retail customers the total amount of the utility's costs, as defined by 23 C.F.R. part 645.117, as in effect on the effective date of this 2009 Act, for relocation activities required by a public body that are not otherwise paid by a private party. A utility may not amortize the recovery of relocation costs for a period of more than three years. Costs recoverable by the utility under this section may be identified by the utility as a separate line item in customer bills.

SECTION 3. ORS 221.420 is amended to read:

221.420. (1) As used in this section:

(a) "Public utility" has the meaning for that term provided in ORS 757.005.

(b) "Commission" means the Public Utility Commission of Oregon.

(c) "Council" means the common council, city council, commission or any other governing body of any municipality wherein the property of the public utility is located.

(d) "Municipality" means any town, city or other municipal government wherein property of the public utility is located.

(e) "Service" is used in its broadest and most inclusive sense and includes equipment and facilities.

(f) "Heating company" means any person furnishing heat but not electricity or natural gas to its customers.

(2) [*Every*] **Subject to section 2 of this 2009 Act, a** city may:

(a) Determine by contract or prescribe by ordinance or otherwise, the terms and conditions, in-

cluding payment of charges and fees, upon which any public utility, electric cooperative, people's utility district or heating company, or Oregon Community Power, may be permitted to occupy the streets, highways or other public property within such city and exclude or eject any public utility or heating company therefrom.

(b) Require any public utility, by ordinance or otherwise, to make such modifications, additions and extensions to its physical equipment, facilities or plant or service within such city as shall be reasonable or necessary in the interest of the public, and designate the location and nature of all additions and extensions, the time within which they must be completed, and all conditions under which they must be constructed.

(c) Fix by contract, prescribe by ordinance, or in any other lawful manner, the rates, charges or tolls to be paid to, or that may be collected by, any public utility or the quality and character of each kind of product or service to be furnished or rendered by any public utility furnishing any product or service within such city. No schedule of rates, charges or tolls, fixed in the manner provided in this paragraph, shall be so fixed for a longer period than five years. Whenever it is proposed by any city to enter into any contract, or to enact any ordinance, or other municipal law or regulation concerning the matters specified in this paragraph, a copy of such proposed contract, ordinance or other municipal law or resolution shall be filed with the Public Utility Commission of Oregon before the same may be lawfully signed or enacted, as the case may be, and the commission shall thereafter have 90 days within which to examine into the terms thereof. If the commission is of the opinion that in any respect the provisions of the proposed contract, ordinance or other municipal law or resolution are not in the public interest, the commission shall file, in writing, with the clerk or other officer who has the custody of the files and records of the city, the commission's reasons therefor. If the objections are filed within said period of 90 days, no proposed contract, ordinance or other municipal law or regulation shall be valid or go into effect until it has been submitted to or ratified by the vote of the electors of the city. Unless and until a city exercises its powers as provided in this paragraph, the commission is vested with all powers with respect to the matters specified in this paragraph. If the schedule of rates, charges and tolls or the quality and character of each kind of product or service is fixed by contract, ordinance or other municipal law or regulation and in the manner provided in this paragraph, the commission has no power or jurisdiction to interfere with, modify or change it during the period fixed thereby. Upon the expiration of said period such powers shall again be vested in the commission, to be exercised by the commission unless and until a new schedule of rates or the quality and character for such service or product is fixed or prescribed by contract, ordinance or other municipal law or regulation in the manner provided in this paragraph.

(d) Provide for a penalty for noncompliance with the provisions of any charter provision, ordinance or resolution adopted by the city in furtherance of the powers specified in this subsection.

SECTION 4. ORS 758.010 is amended to read:

758.010. (1) Except within cities, any person or corporation has a right and privilege to construct, maintain and operate its water, gas, electric or communication service lines, fixtures and other facilities along the public roads in this state, as defined in ORS 368.001 or across rivers or over any lands belonging to the state, free of charge, and over lands of private individuals, as provided in ORS 772.210. Such lines, fixtures and facilities shall not be constructed so as to obstruct any public road or navigable stream.

(2) A county governing body and the Department of Transportation have authority to designate the location upon roads under their respective jurisdiction, outside of cities, where lines, fixtures

and facilities described in this section may be located, and **subject to section 2 of this 2009 Act** may order the location of any such line, fixture or facility to be changed when such governing body or department deems it expedient. Any line, fixture or facility erected or remaining in a different location upon such road than that designated in any order of the governing body or department is a public nuisance and may be abated accordingly.

(3) The state officer, agency, board or commission having jurisdiction over any land belonging to the state with respect to which the right and privilege granted under subsection (1) of this section is exercised may impose reasonable requirements for the location, construction, operation and maintenance of the lines, fixtures and facilities on such land. The person or corporation exercising such right and privilege over any land belonging to the state shall pay the current market value for the existing forest products that are damaged or destroyed in exercising such right and privilege. Such right and privilege of any person or corporation is conditioned upon compliance with the requirements imposed by this subsection.

Senate Bill 292

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with presession filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Bicycle Transportation Alliance)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Increases allocation of State Highway Fund moneys for footpaths and bicycle trails.

A BILL FOR AN ACT

Relating to use of State Highway Fund moneys; amending ORS 366.514.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 366.514 is amended to read:

366.514. (1) Out of the funds received by the Department of Transportation or by any county or city from the State Highway Fund reasonable amounts shall be expended as necessary to provide footpaths and bicycle trails, including curb cuts or ramps as part of the project. Footpaths and bicycle trails, including curb cuts or ramps as part of the project, shall be provided wherever a highway, road or street is being constructed, reconstructed or relocated. Funds received from the State Highway Fund may also be expended to maintain footpaths and trails and to provide footpaths and trails along other highways, roads and streets.

(2) Footpaths and trails are not required to be established under subsection (1) of this section:

(a) Where the establishment of such paths and trails would be contrary to public safety;

(b) If the cost of establishing such paths and trails would be excessively disproportionate to the need or probable use; or

(c) Where sparsity of population, other available ways or other factors indicate an absence of any need for such paths and trails.

(3) The amount expended by the department or by a city or county as required or permitted by this section shall never in any one fiscal year be less than [*one*] **two** percent of the total amount of the funds received from the highway fund. However:

(a) This subsection does not apply to a city in any year in which the [*one*] **two** percent equals $250 or less, or to a county in any year in which the [*one*] **two** percent equals $1,500 or less.

(b) A city or county in lieu of expending the funds each year may credit the funds to a financial reserve fund in accordance with ORS 294.525, to be held for not more than 10 years, and to be expended for the purposes required or permitted by this section.

(c) For purposes of computing amounts expended during a fiscal year under this subsection, the department, a city or county may record the money as expended:

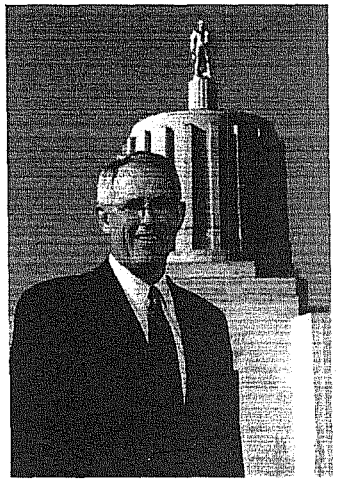
(A) On the date actual construction of the facility is commenced if the facility is constructed by the city, county or department itself; or

(B) On the date a contract for the construction of the facilities is entered with a private contractor or with any other governmental body.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

(4) For the purposes of this chapter, the establishment of paths, trails and curb cuts or ramps and the expenditure of funds as authorized by this section are for highway, road and street purposes. The department shall, when requested, provide technical assistance and advice to cities and counties in carrying out the purpose of this section. The department shall recommend construction standards for footpaths and bicycle trails. Curb cuts or ramps shall comply with the requirements of ORS 447.310 and rules adopted under ORS 447.231. The department shall, in the manner prescribed for marking highways under ORS 810.200, provide a uniform system of signing footpaths and bicycle trails which shall apply to paths and trails under the jurisdiction of the department and cities and counties. The department and cities and counties may restrict the use of footpaths and bicycle trails under their respective jurisdictions to pedestrians and nonmotorized vehicles, except that motorized wheelchairs shall be allowed to use footpaths and bicycle trails.

(5) As used in this section, "bicycle trail" means a publicly owned and maintained lane or way designated and signed for use as a bicycle route.



Senator Frank Morse
Weekly Update
2009 Legislative Session

February 2, 2009 Volume 2

Inside this Issue:

- Wednesday, Jan. 28th Floor Speech – RE: Economic Stimulus Debt
- New Legislative Measure Requests
- Featured Bills

INTRODUCTION

The most important issue last week in the Senate was SB 338, a capital bonding bill that is being pushed through the legislature for the purpose of job creation. No one would be against creating job opportunities. However, I came to a different conclusion than President Courtney, the bill's chief sponsor, about the means to create economic stimulus. What follows is the speech I gave on the floor of the Senate. The bill passed on a largely partisan vote and will be heard in the House this week.

January 28, 2009 Senate Floor Speech

Economic Stimulus Debt

Mr. President, I applaud your desire to do what you believe to be in the best interests of our state.

Contact Information:
900 Court St. NE, S-311
Salem Oregon 97301
Phone: 503-986-1708
Fax: 503-986-1585
E-mail:
sen.frankmorse@state.or.us

However, I must respectfully disagree with what we are doing today. As laudable the intent of this legislation is, it clearly is, in my judgment, not in the best interests of Oregon and ALL its citizens.

That America is in a financial crisis, unparalleled in our nation's history, is not in dispute. What is now disputed is the length and depth of the crisis and whether we can borrow our way out of this mess. The federal government largely has no choice but to stabilize the financial markets and try to stimulate the economy, all by the means of debt. The question before us today is **what path will the Oregon Legislature take**? Will we follow in the same path as the federal government and borrow to create jobs? In the face of a free falling economy with no bottom in sight, do we borrow $180 million today and much more tomorrow? Do we borrow to the $1.5 billion limit set by the Debt Policy Advisory Commission?

Before we jump off a financial cliff, we should remind ourselves why we have historically been very circumspect about increasing debt. Why have we always crafted the capital budget at the end of session? Before we make these decisions, I believe we need to test any amounts of borrowing against solid financial principles. The framework for increasing debt must be much more than a short term stimulus for the sole purpose of creating jobs, no matter how important that goal may be.

What is the return on capital? Has this been considered?

To the largest extent possible, we should focus on capitalizing those projects that are either mandated by the Federal government (for example, the state mental hospital and emergency preparedness) or are enterprise related such as higher education and community colleges. Replacing lighting fixtures at the Central Distribution Center in Salem for $475,000 hardly qualifies as a strategic investment. Nor does parking for fishermen, nor do heat pumps for ODFW residences, nor does sealing cracks in walls in a Forestry carpentry building.

What are our greatest priorities? Has this been considered?

What is our priority today? Is it to create a very short term economic stimulus by throwing money around for low priority projects or is it to create long term strategic value? At the end of the day, with all that is in this bill, I don't believe we will have increased the trust of discerning Oregonians if we pass this bill.

	What is the risk that debt service will erode future revenues that are needed for critical services? Has this been considered? Of all the criteria we should consider, this is the most troublesome. We are, without question, in uncharted territory with highly uncertain outcomes, all of which compound risk. Unprecedented in the memory of those who have a very long standing association with the Oregon legislature, was the recent request by our state economist for a mid-quarter meeting with the Joint Revenue committees. Tom Potoiwsky related that the fourth quarter revenue collections for 2008 fell more precipitously than at any other time in the history of Oregon. Further, he projected that we will not return to the same level of total non-farm employment as experienced in the first quarter of 2008 until the second quarter of 2012. Parallels are often drawn between business and government. Sometimes there are distinctions worth noting, sometimes there are not. But I would share a parallel, I believe **is** worth noting. In my business career, at various times in recessionary cycles, I spent many a sleepless night, worrying whether our business would be able to maintain the debt coverage ratios in our bank loan covenants. Would we be able to make all our current payables? Long term payables? Could we service our bank debt? And now, serving in government, I also am spending many a sleepless night, more that I would ever have imagined. But my restlessness has **nothing** to do with the risk that Oregon can't meet its debt obligations. **My restlessness has everything to do with the risk that Oregon will not meet its obligations to its most vulnerable citizens**. Mr. President, and colleagues, what will we tell our seniors and persons with disabilities? That we can't fund their desperate needs because we are paying debt on the lowest of priority maintenance projects for the next 20 years? What will we tell our most vulnerable clients in need of mental health treatment? That sealing cracks and replacing heat pumps in other funded agencies is more important than their well-being? By our actions today, we are telling those who lost their way in the governor's budget, namely our most vulnerable citizens, that the pursuit of temporary jobs with debt that will live with us for 15 years, is more important than their needs. Colleagues, many of our most vulnerable citizens are in the twilight of their lives and have precious little options to make their lives whole. They depend on us. The debt service on this bill reduces our ability to fund their needs. Can we look them in the eye and say we have done all that we could do?

Clearly, the risk is high for a deep and prolonged recession. And if that is so, prudence and caution should be our guide lest we take money away from schools, human services, and public safety.

What is the total debt to be incurred this session? Has this been considered?

In these, the most uncertain of times, to be asked to make a decision on borrowing $176 million this early in the session for maintenance projects without an understanding of the total amount to be borrowed at the end of session places legislative members in an untenable position. As a businessman, I know intuitively that increasing debt in the face of declining revenues is inherently risky. And no one doubts revenues are continuing to decline.

Further, debt is always used for the purpose of advancing the enterprise, and it is almost always used for those projects that either have the highest return or for which there is no other alternative. Job creation is a worthy ancillary of capital projects, but it should never be the primary purpose. We are not the federal government with the ability to deficit finance job creation. We do not have the luxury of the federal government to postpone the day of reckoning. Our day of reckoning is here today, beginning July 1, 2009!

Simply put, hurry-up bonding in this most treacherous economy, all for the purpose of increasing employment by 9/100ths of 1% borders on reckless. **Incurring debt for jobs today may well be offset by the pain tomorrow of continued precipitous declines in revenue, when we just don't have the money to keep afloat, let alone pay $31 million in additional debt service and forego $50 million in federal matching funds**. At the close of session, when the May forecast is delivered, will we look back and wonder why we did this?

New Legislative Measure Requests

LC 2786	LC 2792
- Still being drafted - Relates to building codes and municipal authority to administer civil penalties	- Still being drafted - Relates to initiative & referendum ballot titles. Would require declaration of fiscal or revenue impact to appear with

	ballot/referendum explanation.
LC 2828 - Still being drafted - Relates to health insurance providers. Proposes that a health dividend be given to the insured after proven progress and completion in an approved program	LC 2939 - Still being drafted - Relating to school board elections. - Would require that school board elections be held only during primary elections. Requires certification of School Board Association
LC ?? - This bill was just submitted to Legislative Counsel yesterday - This request proposes changes to local budget law affecting counties	LC ?? - This bill was dropped on 1/30/09 - Relates to exemptions from Mined Land Reclamation Law for aggregate removal on road bed.
LC ?? - Submitted on 1/30/09 - Relates to Tort Reform; proposes limitation on noneconomic damages in claims against health care providers.	LC?? - Submitted on 1/30/09 - Relating to Tort Reform; membership & procedures for medical legal panels
LC ?? - Submitted 1/30/09 - Relating to Tort Reform; financing health care coverage expenses with provider taxes	LC?? - Submitted 2/2/09 - Relating to County Courthouse funding; formation of a capital improvement fund

Featured Bills

This section of my newsletter has been created at the request of one of my constituents. It was brought to my attention that the measure requests section of the newsletter, while helpful, can be a bit vague. In order to clear up some of the confusion about what the measures I requested will do, I have started this Featured Bills section. This section will highlight 3-4 of the measure requests that I

have submitted thus far and provide further detail as to why the request was made and what the measure would do if enacted into law. We will continue to include this section in the weekly newsletter until all of my measure requests have been covered.

SJR 11 Indirect Initiative

Background:
The current initiative process leaves the door open for poorly drafted measures that produce unintended consequences to be voted on. Voters who are trying to decipher the complicated language of a ballot measure often have nothing to refer to other than a quick 30 second sound byte/ad from the radio or TV. Consequences of these measures include higher than anticipated costs to taxpayers as well as litigation to resolve ambiguities, inconsistencies and overlooked contingent circumstances.

The LC request:
Proposes a Constitutional amendment to the Oregon Constitution that would require a proposed initiative law or initiative amendment that qualifies for the ballot to be submitted to the next regular Legislative Assembly for consideration. The Legislative Assembly would be directed to hold hearings, make legislative findings, and conduct an advisory vote on the law or amendment. The findings and vote information would then appear with the proposed law or amendment on the next general election ballot.

This does not prohibit or inhibit the initiative system, it simply creates a public review process for those who want to access additional information, either during the hearing process or information in the voters pamphlet. This is an attempt by the legislature to help inform the electorate, not to deny access to the initiative process.

Both Republicans and Democrats see that the initiative system has gotten out of control. In recent years, **50% of the legislature's discretionary spending has been mandated by ballot measures.**

In a biennium like the one we're facing, with tough decisions about child and senior services, past ballot measures have placed the state in a very difficult situation with even further reduced discretionary funding, severely limiting the options of the Legislature in the budgeting process.

Ultimately, this question will be posed to the voters so they can decide whether they would like this reform or not. SJR 11 was formerly SJR 7, which I introduced, in the 2005 Legislative Session.

LC 2792 Balanced Budget Language

Background:
Voter publications do not readily provide important information regarding the fiscal consequences of proposed ballot measures. Voters must be able to easily decipher the fiscal impact of a ballot measure they are voting on.

Explanation: The Revenue Restructuring Task Force applauds recent legislation (2005) that increased the latitude given to the Financial Impact Committee (consisting of the State Treasurer, Secretary of State, Director of the Department of Revenue and the Director of the Department of Administrative Services) that examines the revenue and fiscal impacts of initiative measures to include secondary fiscal and economic effects in their voter's pamphlet statement. However, the Task Force recommends that further efforts need to be made that highlight for voters the fiscal consequences of ballot measures. The November 2008 ballot had Measures (58, 59, 60, 61 and 62) that had a potential combined fiscal impact of $2.165 billion (13%) on the 2009-11 General Fund-Lottery budget. The impact of any of these measures on the state budget, if adopted, would have been significant. The cumulative effect of more than one would have been substantially more so. The fiscal or revenue impact of a ballot measure is important information that should be called to voters' attention when they are asked to vote on it.

In developing its recommendation the Task Force reviewed the work of a National Conference of State Legislatures committee which issued a report in 2002. The report emphasized the potential budget disruptions caused by initiatives that either mandate new spending without a revenue source or reduce revenue without identified alternative revenue or spending reductions. The study cited 11 states with various laws designed to establish restrictions on imposing fiscal policies through the initiative process. See Appendix F for the list of states with restrictions.

The LC Request:
Apply a balanced budget rule to ballot initiatives.

The Revenue Restructuring Task Force recommends that the 2009 Legislature enact legislation amending current statutes to do the following:

- Require the ballot titles of initiative measures to include a declaration of significant fiscal or revenue impact when they, if enacted, will have a significant unbudgeted fiscal or revenue impact that will require eliminating or reducing funding for current programs and services.
- Incorporate financial impact statement into ballot title where appropriate.
- Establish a dollar amount (indexed for inflation) establishing what constitutes a "significant unbudgeted fiscal or revenue impact."

LC 1938 Regarding state finance, rainy day fund, kicker & budget forecast

Background:
The Revenue Restructuring Task Force spent considerable time examining the consequences of the 2001 recession. There was agreement that the state should avoid the disruptive program cuts that occurred in the 2001-03 and 2003-05 biennia, particularly the cuts in school budgets. The Task Force also recognized the need to avoid a recurrence of the situation that occurred in 2003, when the state issued $450 million in appropriation credit bonds in order to balance the 2001-03 budget. These bonds will not be fully paid off until 2013.

The Task Force reviewed the details of the state's two reserve funds created in response to the 2001 downturn and asked the Advisory Council to analyze the adequacy of these funds to protect state programs in future recessions. The Advisory Council responded with the following recommendations:

- The target for the reserve funds (the Education Stability Fund plus the Rainy Day Fund) saving rate should be to maintain average growth in spending during the average recession.
- Meeting the target would require a savings rate between 3 and 4% of General Fund revenue during expansions.
- The maximum for the reserve funds should be 12 to 15% of the biennial budget.
- The current policy of adding the General Fund ending balance up to 1% of General Fund appropriations should be continued. However, historical analysis shows that this method

	would not have been sufficient to fully fund the current Rainy Day Fund. ○ Sources should be identified that would provide an additional 0.5% to 1.5% of General Fund revenue on average during periods of economic expansion. ○ One proposal is to change the forecast method to allow for any revenue up to one standard deviation above the current forecast method to be allocated to the current Rainy Day Fund. Historical analysis shows that this change would have restored the Rainy Day Fund within two biennia of recent recessions, and it is recommended as the most promising method of additional funding. **The LC Request:** ***Establish methodology for more reliable forecasting and more prudent budgeting; direct ending balances into the Rainy Day Fund.*** The Task Force recommends that the Legislature prepare a joint resolution to amend the state constitution for consideration by voters. The constitutional amendment should contain the following elements: • Place Rainy Day Fund in constitution • Require Governor to develop both a point estimate for corporate income tax revenue and all other General Fund revenue and a range for both estimates. • Specify that the range is based on historic forecasts compared to actuals. • Require all revenue above the top of the forecast range to be returned to taxpayers • Require revenue that exceeds the point estimate up to the top of the range to go into the Rainy Day Fund unless fund is full. • Increase cap on Rainy Day Fund from 7.5% of General Fund revenue in the prior biennium to 10% of General Fund revenue in the prior biennium. • Specify that when cap is reached, revenue above cap is returned to taxpayers. When making deposits into the fund, corporate income tax revenue above the point estimate is calculated first then all other General Fund revenue. • Put current statutory Rainy Day Fund triggers in constitution, including 3/5 vote requirement. • Put 2/3 withdrawal limit in constitution but change date from beginning of biennium to beginning of fiscal year. Some Task Force members expressed concern that putting the 2/3 withdrawal limit into the constitution along with the 3/5 vote requirement could be too restrictive. The Task Force recommends further legislative discussion of this issue

Put statutory ending balance calculation (up to 1% of prior biennium appropriations) into constitution. This bill will be introduced as a committee bill in the Senate Revenue Committee.

LC 2828 Healthy Lifestyle Dividend

Background:
The World Health Organization (WHO), in 2000, ranked the U.S. health care system as the highest in cost, first in responsiveness, 37th in overall performance, and 72nd by overall level of health (among 191 member nations included in the study)n rapidly.

According to expert Dr. Steve Aldana, the combination of poor diet, sedentary lifestyle, and obesity contributes 35-40% of an employer's total health care costs.

According to the Surgeon General, preventing chronic disease is cost effective. For every $1 spent on healthcare, 75 cents is to treat chronic disease.

Study results of the Georgia Stroke and Heart Attack Prevention Program showed that every $1 spent on prevention equaled a $9 savings.

The Health Partners Research Foundation found that by implementing 90 minutes of physical activity each week for sedentary adults over the age of 50, medical costs decreased an average of $2000 the following year.

To permanently change the health of individuals that are caused by poor diet and lack of exercise, a social effort in health education and lifestyle must take place.

This effort must involve families, community and our insurance network.

Community involvement is necessary in order to create support groups which will be essential to help families/individuals make permanent change in life style.

Family/individual's need an incentive to:

- Bring the need for change into their conscience.
- Encourage change.
- Support change.

Insurance companies must be involved to help lower the unit costs for insurance.

The LC Request:
Allowing all insurance plans to offer a "Healthy Lifestyle Dividend" to clients who demonstrate a commitment to a healthy lifestyle and involvement in a health-certified program.

Goals for a health-certified program will be defined by insurance groups by 09/1/2010.

Any community based group or agency could design a program that would then be accepted by insurance companies. Such groups or agencies might be; YMCA, faith groups, hospitals, health clubs, community college adult education programs, etc.

Program to be implemented by Jan 1, 2011. All programs will have a process to report data on individuals in certified programs. In- term study results to be submitted to Legislature in 2013 & 2015 for possible continuation of the program. If results/discussions are not positive in 2015, i.e. no significant differences created by the program, the program will be terminated.

For an individual to be eligible for this dividend, they must participate in a defined and approved program that submits data on a regular basis regarding the individual's participation and progress that can be used for long term analysis of the program's effectiveness.

An initial dividend should be offered as a small cash reward, to insured clients, for participation in an approved program.

For Example:
A 1% dividend (approx $120/yr) would be given on an evidence based certificate of participation that meets defined goals. Examples would be a non-smoker who demonstrates weight control

	through a certified program; people who have received a certificate of completion for participation in a individual/family nutrition program. Additional discounts might be considered for continuation of fitness programs. Hopefully this could easily be done through walking/hiking/swimming logs and perhaps done through the support groups.

Project Status Report

Project: Van Buren Bridge
County: Benton/Linn
Key #: 12827

Region: 2
Authors: Norm Rauscher/
Rod Thompson

As of 31 January 2009

Projected Schedule

Baseline & Roadway Reports--Dec 05
EA/EIS---------- 2009*
Public Hearing---------- 2009*
Recommendation Document--- 2009*
REA/FEIS---------- 2010*
FONSI/ROD---------- 2010*
Bid Let Tgt Date--(Project only funded thru environmental phase)*

Critical Items Needed:
- Traffic Study, primarily TDM/TSM analysis
- Verify scope of project (problem to solve)
- Decide on alternative(s) to pursue
- Decision to proceed with CE, EA or EIS
- Update Purpose and Need (EA or EIS)?

*Note: The traffic study now underway is needed to determine the feasibility of alternatives (and perhaps with other options to arrive at an "area fix"). We have expanded the traffic study to arrive at a more comprehensive solution. The schedule will not be solidified until we complete the traffic study and coordinate with the City of Corvallis and other stakeholders.

Project Overview:
January activities were primarily centered on two issues:

1) Traffic Analysis with focus on TDM/TSM. The traffic analysis continues to be refined. All solutions now under consideration assume replacement of the existing OR-34/Corvallis Bypass Intersection with an interchange (flyover, full, etc).
At this point, two alternatives have been identified for inclusion into a potential EA/EIS analysis:

- No-Build Alternative, and
- North Leg of the Corvallis Bypass/2-lane Van Buren Bridge alternative.

The effect that Transportation System Management (TSM)/Transportation Demand Management (TDM)/Transit might have on the other alternatives is now being evaluated. From that analysis, it will be determined which of the other alternatives could be included in a potential EA/EIS. For comparative analysis purposes, TSM/TDM/Transit is being evaluated in combination with the following alternatives:

- North Leg of the Corvallis Bypass/One-lane Van Buren Bridge
- Two-lane Van Buren Bridge

This TSM/TDM analysis is anticipated to be completed in March 09.

This initial traffic study has also brought forward the need for an analysis on TDM needs in the Corvallis area (Examples include a regional bus/van pool service, purchasing buses, etc). The identified issue is that regional traffic is a significant component in the Corvallis traffic congestion picture. In order to understand that component, a regional analysis is needed. The study would likely include cities in Linn County (certainly Albany and Lebanon; others to be determined) due to the amount of people that commute into Corvallis on a daily basis. Another important issue will be how to fund these programs and services given the limitations on gas tax usage and funds raised by tolling.

2) Project Leadership Team Meeting - January 16, 2009.

The second major activity was the ODOT Project Leadership Team Meeting held on January 16, 2009 (See meeting notes for additional details). The meeting objective was to develop a strategy for the Van Buren project that will allow a work plan to be developed. The team feels the traffic analysis is now coming to a point where we will have to focus on how we are going to move forward with this project. The original bridge project, with the additional traffic analysis, now shows a larger congestion problem on state roads in and around eastern Corvallis. This overall congestion problem requires a large, long term fix that may involve an interchange at the OR 34/Corvallis Bypass intersection, the North Leg of the Corvallis Bypass, as well as construction of an additional Van Buren Bridge. The fiscal and political reality is that all of these cannot reasonably be anticipated to be completed in the near term. Consideration must be given to each project element including independent utility and some priority of cost effectiveness. Bottom line, what can reasonably be funded that will improve operations and contribute to a long term solution –with minimum throwaway?

Since the City of Corvallis has been a prime sponsor of the project through the ACT, the Project Team Leader will now hold discussions with the local jurisdictions to focus our efforts on a mutual goal. Sort of getting us all in sync with where we should now go.

The project leadership team also discussed the roles and responsibilities for the Project Team Leader, the Environmental Project Manager, the Planner, and the Consultant Project Manager, the transition from the traffic study phase into the NEPA phase, and a rough deliverable schedule and timeline.

Planned Meetings:

A Van Buren TAC Meeting has been scheduled to be held from 130 – 330pm on Tuesday, February 17, 2009 at the ODOT - Albany Maintenance Office.

Project Web Site

Region 2 has a Van Buren Bridge Project web-site at
http://www.oregon.gov/ODOT/HWY/REGION2/VanBurenStreetBridge.shtml

To: Corvallis City Council

From: Charles Tomlinson, Mayor CCT

Subject: Council Liaison Changes

Date: February 12, 2009

The following Council liaison changes are being made effective immediately.

Jeanne Raymond will be liaison to the Corvallis Uzhgorod Sister Cities Association and the Benton County Commission on Children and Families. Mike Beilstein will be liaison to the Willamette Criminal Justice Council and the Community Policing Forum.

cc: Jon Nelson, City Manager

Elections Division
120 NW 4th Street
P.O. Box 888
Corvallis, OR 97339-0888
(541) 766-6756
FAX (541) 766-6757
www.co.benton.or.us

RECEIVED
FEB 05 2009
CITY MANAGERS OFFICE

TO: Benton County Cities and Special Districts

FROM: Benton County Elections Office

DATE: February 4, 2009

SUBJECT: County Voters' Pamphlet for May Election

The Board of County Commissioners wishes to determine if there is interest in producing a County Voters' Pamphlet for the upcoming May 19th Special District Election.

Cities and special districts that intend to submit a measure or will have elected offices on the May 19th 2009 Special District Election ballot must submit a written request to the Benton County Elections Office requesting a voters' pamphlet for the voters within their jurisdiction. The County Commissioners set a **deadline of Monday, March 2nd 2009 for cities and districts to notify the County Elections Office** of their decision.

If requests are received by the deadline and it is decided a Voters' Pamphlet will be printed, only the candidate and measure filings affiliated with the requesting cities and special districts will appear in the pamphlet. Additionally, only participating districts will be billed for the costs associated with producing and distributing the pamphlets.

Requests should be sent to the attention of Jill Van Buren, Supervisor of Elections for Benton County as soon as possible.

Thank you

COPY

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

Sam Hoskinson

Petitioner

v.

City of Corvallis,

Respondent.

LUBA No. 2009-_____

RECEIVED

FEB 1 2 2009

CITY MANAGERS OFFICE

NOTICE OF INTENT TO APPEAL

I.

Notice is hereby given that petitioners intend to appeal the City of Corvallis' land use decision approving a Conceptual and Detailed Development Plan / Tentative Subdivision Plat for **Western Station,** which became final on January 20, 2009 and which involves granting numerous variances to Corvallis LDC and Comprehensive Plan to allow the construction of a four story commercial/residential building with 4 lots. The decision became final on January 20, 2009.

II.

Petitioner,
Sam Hoskinson
827 SW 10th Street
Corvallis Oregon 07333
541-752-6518

III.

Respondent,
City of Corvallis
PO Box 1083
Corvallis, OR 97339
541-766-6900

is represented by:
Corvallis City Attorney
456 SW Monroe Ave #101
Corvallis, OR 97333
541-766-6906

FEB 1 1 2009

IV.

As indicated by the City of Corvallis' records, the Corvallis Planning Division mailed written notice of the land use decision to the people listed below:

Law Office of Bill Kloos Attn Bill Kloos 375 W 4th ST STE 204
Eugene OR 97401

7th Street Station LLC 1900 Front ST NE Salem OR 97303

Devco Engineering Attn: Lyle PO Box 1211 Corvallis OR 97339

Alan Bakalinsky750 SW C Ave #4 Corvallis OR 97333
Ruby Moon 608 SW 7th ST Corvallis, OR 97333
Nancy Hagood 750 SW C Ave #17 Corvallis OR 97333
Sam Hoskinson 827 SW 10th ST Corvallis OR 97333
Mather Bolduc 1020 SW 10th ST Corvallis OR 97333
Karl Hartzell750 SW C Ave #15 Corvallis OR 97333
Leslie Bishop 827 SW 10th ST Corvallis OR 97333
Dale Hubbard 927 SW 10th ST Corvallis OR 97333
Hugh Richard White 146 NW 28th ST Corvallis OR 97330

NOTICE

Anyone who desires to participate as a party in this case before the Land Use Board of Appeals must file with the Board a Motion to Intervene in this proceeding pursuant to OAR 661-010-0050.

Dated this 10th day of February 2009.

Samuel L. Hoskinson, Petitioner
827 SW 10th Street Corvallis, Oregon 97333
541-752-6518

CERTIFICATE OF FILING

I hereby certify that on February 10, 2009, I filed the original and two copies of this Notice of Intent to Appeal, together with a check for the filing fee and deposit for costs in the amount of $325, by certified first-class mail to the Land Use Board of Appeals at 550 Capitol Street NE, Suite 235, Salem, Oregon 97301-2552.

Samuel L. Hoskinson

PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2009, I caused to be served true and correct copies of this Notice of Intent to Appeal on all persons listed in paragraphs III and IV of this notice, pursuant to OAR 661-010-0015(2), by first-class mail to the mailing addresses listed.

Samuel L. Hoskinson
PETITIONER

CORVALLIS
ENHANCING COMMUNITY LIVABILITY

****

CITY MANAGER'S REPORT

FEBRUARY 12, 2009

****

2009-01

REPORTING PERIOD: JANUARY 2009

I. ORGANIZATIONAL HIGHLIGHTS

- The 2009-2010 Council was sworn into office January 5th, beginning a new term of Council leadership for the community.
- The Council unanimously approved naming Fire Station No. 5 after former-Councilor Scott Zimbrick on October 20, 2008, for his public service and community contributions. Scott Zimbrick Memorial Fire Station No. 5 was dedicated January 24th.

II. MAYOR'S DIARY

The Mayor met with Council leadership. On January 23rd, I delivered the State of the City address to the Rotary Club of Greater Corvallis and then videotaped the address for broadcast on cable television channels. Celebrate Corvallis was well attended, and I accepted the Senior Citizen of the Year Award for Hans Neukomm with his wife, Adele. I represented the community at the Martin Luther King, Jr., Celebration, the Corvallis Montessori School celebration of Dr. King's birthday, the English Language Institute welcome for foreign students, and Chamber Coalition ribbon cuttings events. I chaired the League of Oregon Cities Energy Policy Committee meeting, attended a Business Enterprise Center Board retreat, the Cascades West Council of Government's Board meeting, and the Sustainability Coalition Steering Committee meetings.

III. CITY MANAGER'S OFFICE

A. Department Highlights

- Received one Notice of Tort Claims; information is available for review in the Assistant to City Manager/City Recorder's office.
- Presented results of the 2008 Citizen Survey to Council.
- Provided the final two orientation meetings to City Council.
- Completed Employee Survey, with 289 employees participating.

- Designed and delivered three sessions of training on the new American Federation of State, County, and Municipal Employees contract for supervisors and Union officials.
- Completed Web site user survey, with 234 responses.
- Assisted Community Development with the layoff process for two employees.
- Held first meeting of the community communications technical advisory committee, as called for in the Communications Plan and budget enhancement.
- Hired Jeff Huntley for job share Risk/Human Resources Coordinator position.

IV. COMMUNITY DEVELOPMENT

A. Department Highlights

- One Essential Repair housing rehabilitation loan in the amount of $45,981 was closed during January.
- Housing received 63 Rental Housing Program-related contacts outlining a record 144 separate issues, with 61 related to habitability and 83 of a non-habitability nature. Thirty-six of the habitability issues reported are or may be subject to the Rental Housing Code, so those making contact are being advised of the process to follow to pursue resolution.
- Received proposals seeking $162,000 in Community Development Block Grant (CDBG) Human Services funding, $240,000 in CDBG capital funds, and $850,000 in HOME Investment Partnerships Program capital funds. Staff anticipates that funds adequate to address both sets of capital requests will be available and is in the process of reviewing proposals for eligibility/feasibility. Approximately one-half ($80,000) the amount of Human Services funding being requested is expected to be available.
- Housing staff continue to monitor developments in Washington, DC, related to 2009 economic recovery package proposals and the effects they might have on the City's CDBG and HOME programs and funding levels.
- Planning Division processed two land use applications through City Council (one was a remand from Land Use Board of Appeals).
- Planning Division processed a Health Hazard Exemption request through City Council.
- Planning Division processed a single land use application through the Planning Commission.
- Development Services staff processed 14 residential and 16 non-residential plan reviews for proposed construction projects. Of these, nine reviews were completed within one day, resulting in permits being issued.
- Residential construction activity for new homes remains very slow. Six new home permits were issued during January. Commercial construction activity is very slow but normal for this time of year.

- The layoffs of one Building Inspector and one Plans Examiner were effective January 15th. The Division continues to monitor expenditures closely, particularly in light of languishing revenues due to construction slowdown.
- Development Services staff conducted 1,208 construction inspections.
- Created 32 new code enforcement cases as a result of citizen complaints received; conducted 92 site inspections.
- Of the 106 mechanical and electrical permits issued during January, 32 (or 30 percent) were issued online.
- Completed revisions of the Division's Building Department Operating Plan and received approval of the plan from the State Building Codes Division.
- Facilitated quarterly Evanite noise monitoring committee meeting with members of the neighborhood committee and Evanite.

V. FINANCE

A. Department Highlights

- Completed annual census questionnaire for United States Department of Commerce.
- Initiated the first Purchasing Card in a test phase and began documenting purchase/payment processes.
- MIS staff reconfigured the City's Internet contact form, making it more difficult to exploit spamming City employees without making it more difficult for legitimate contacts. The result was a 96-percent reduction in the amount of SPAM generated by exploiting the internet contact form.

VI. FIRE

A. Department Highlights

Operational

Response Activity - January 2009	City	Non-City	Total
Fires	7	2	9
Overpressure/Rupture	1	0	1
Requests for Ambulance	253	79	332
Rescue (Quick Response Team)	110	21	131
Hazardous Condition	9	2	11
Service Requests	26	4	30
Good Intent	24	14	38
False Calls	35	3	38
Other	0	0	0
TOTAL RESPONSES OVERALL	**465**	**125**	**590**

- The City and the firefighters' union will begin a limited contract negotiation process in February.
- The Benton County Community Wildfire Protection Plan is out for review and public comment. The draft plan was created by representatives from area fire districts, Oregon Department of Forestry, United States Forest Service, private land managers, various Benton County departments, and others. It includes recommendations of actions to be taken by fire districts, property owners, local government, and others but does not impose regulations on private properties.
- The Department's strategic plan update process continues. An external survey was completed, and an internal assessment is underway.

VII. LIBRARY

A. Department Highlights

- The new pre-loaded audio book collection is proving very popular with staff and patrons alike, and there are rarely any to be found on the shelves.
- The Oregon Reads kickoff event featured koto musician Mitsuki Dazai and storyteller Alton Chung. Approximately 60 people attended.
- Lori Stephens, architect for the new Monroe Library, and Community Library Specialist Lori Pelkey were invited to speak to the South Benton Lions Club. Ms. Stephens brought her laptop and presented the new library design visually to their group. South Benton Library Project's brochure has been printed, and copies can be found at the main library and all library branches.
- Community Library Specialist Mary Rounds was invited to the Philomath Linn-Benton Community College (LBCC) Parent Education class for an art and literacy evening. She showed parents how to set up simple art stations for a family art night and how to let youth get creative at home without having huge messes to clean up. Sharing some of our library's great collection of preschool/toddler arts and crafts books lets parents know that resources are always available.
- Alsea Library has had many recent requests for computer help from folks submitting unemployment claims online. The telephone lines are jammed, and people are forced to gain basic internet skills in order to sign up for unemployment. Patrons are also asking for help word processing their resumes, doing job searches, and completing online job application forms. And now it's tax time, too.
- Plans for summer reading 2009 are well underway. This summer's theme is "Get Creative @ Your Library."

B. Other

- A wireless microphone system was installed in the Main Meeting Room. The system was funded by a donation from the Oregon State University (OSU) Master Gardeners, who use the room every year for their "Gearing Up For Gardening" lecture series. Their lectures this month have had huge attendance.

VIII. PARKS AND RECREATION

A. Department Highlights

Administration/Planning

- Reviewing the administrative sections of the upcoming spring/summer activity guide.
- Preparing the Fiscal Year 2009-2010 budget.

Aquatic Center

- Participation Statistics:
  - 492 children registered in Swimming and Water Safety classes.
  - 78 citizens certified in cardiopulmonary resuscitation (CPR), First Aid, Babysitter's Training, or Wilderness First Aid basics
  - More than 1,000 visits to the AquaFitness, Yoga, and Pilates classes.
  - 250 participants in Seventh Annual Polar Bear Swim New Year's Day.
  - More than 2,000 people participated in 27 private facility rentals.
- Hosted 5 swim meets, including the Corvallis Aquatic Team open and High School Rumbaugh Invitational (12 teams). Approximately 1,500 athletes and spectators came to Corvallis.
- Hosted 150 children from Salem-Keizer School District in the annual "Discover SCUBA" event.
- Conducted pre-construction meeting with Boiler Mechanical Contractor and Control Systems Contractor. Osborn indoor pools scheduled to close March 16th through 29th for the construction.
- Points for Profit Awards Banquet: Osborn received a $5,000 donation for the family assistance program.

Parks and Natural Areas

- Parks staff has been re-painting vehicles in-house.
- Urban Forestry Management plan stakeholder meetings have begun.
- Recruitment is underway for the two Parks Operation Supervisor positions.
- Various Parks staff are serving as Acting in Capacity Parks Supervisor in the interim.

- Contract for the Americans with Disabilities Act playground assessment has been finalized. Work will begin in February.

Recreation

- The Youth Volunteer Corps received a $7,500 grant for outreach to Latino Youth.
- Staff is working on the Spring/Summer Activity Guide to be published in March.
- Winter Volleyball and High School and Adult Basketball programs were very popular.
- Staff is working on improving the quality of the recreation storage to protect the investment in materials.
- Staff partnered with Benton County Emergency Services, training youth and preparing emergency kits for distribution in the event of a disaster.

Senior Center

- The Senior Center recently was awarded a technology grant from the Senior Health Insurance Benefits Assistance (SHIBA) Volunteer program. This is resulting in two new computers purchased for the Senior Center lab.
- The Health and Wellness program is expanding offerings and now includes evening yoga and a Nia class. The Heart Healthy Cooking series is continuing due to popularity, and a new session begins in early-February.
- The Tax Aid program begins February 2nd, with telephone reservations already underway. Last year the program served more than 2,200 local people.
- The Senior Trips Program offered exciting adventures this month to Portland with the Bright Light of Broadway overnight and on the Portland Spirit for a Dinner/Lights Cruise.
- During January, 70 volunteers contributed 540 hours to Senior Center programs.

IX. POLICE

A. Department Highlights

Officers investigated 2,081 incidents this month. Following are the highlights:

- Officers responded to several counterfeit bill cases this month. At least five different cases occurred this month. Bills ranging from $5 to $50 were used throughout Corvallis businesses.
- Detectives arrested a 35-year-old man and charged him with six counts of Negotiating a Bad Check and one count of Theft in the First Degree. The investigation revealed the Washington man had written checks totaling over $3,500 to businesses in Corvallis on a closed bank account.

- A night shift Officer attempted to stop a vehicle for a speeding violation; the driver attempted to elude the Officer and sped north onto the Oregon State Highway 34 Bypass at speeds reaching 80 to 90 miles per hour. The suspect failed to turn east onto Highway 34 and drove straight onto the Trysting Tree Golf Course, where he crashed the stolen vehicle and fled on foot. Several local agencies responded to assist in the search for the suspect, who was located nearly two hours later. He was charged with Unauthorized Use of Motor Vehicle, Criminal Mischief I, Attempt to Elude Police in Vehicle, Attempt to Elude Police on Foot, Reckless Driving, Driving While Suspended (DWS) Misdemeanor, and two Albany Municipal Court Warrants for DWS Misdemeanor and Failure to Appear.
- Records staff processed 929 police reports and entered 380 traffic citations. Staff generated 148 incident reports, 21 percent of the total reports taken during this reporting period.
- Street Crimes Detectives arrested a 39-year-old Springfield man for Robbery in the First Degree, Conspiracy to Commit Robbery in the First Degree, and Aggravated Theft in the First Degree for his participation in the robbery of a Corvallis business. The investigation is continuing,and more arrests may follow.
- Officers arrested two adult men for stealing two welders ($1,000 value) from Home Depot. The driver crashed the car on United States Highway 20, Benton County Sheriff's Office and Albany Police Department located the passenger after he fled the scene. Using surveillance video, Corvallis Officers later identified the third suspect, who stole other high-priced items on previous days. One of the suspects was already sentenced to 80 months in prison.
- Detectives arrested a 43-year-old woman for one count of Prostitution and one count of Promoting Prostitution. Detectives working undercover conducted an investigation after seeing an advertisement placed on a website. The Philomath woman was subsequently arrested and charged with the listed crimes.

9-1-1 Center Calls for Service

- The Corvallis Regional Communications Center dispatched 3,136 calls for police, fire, and medical assistance this month as follows:

POLICE		FIRE AND MEDICAL	
Corvallis Police	2,081	Corvallis Fire/Ambulance	479
Benton County Sheriff	433	Other Fire/Medical	29
Philomath Police	114		
TOTAL	2,628	**TOTAL**	508

B. Other

- Officer Dunn was selected as a Police Training Officer.
- Recruit Officer McPartlin started January 16th. Officer McPartlin previously worked for Lincoln County Sheriff's Office and prior to that was a Cadet with Corvallis Police Department.
- The Cadets celebrated their annual awards event, presented by Chief Boldizsar.
- Detective Stauder attended the 23rd Annual San Diego International Conference on Child and Family Maltreatment.
- Detective Posler attended the Tenth Annual Major Crimes Conference conducted by the Oregon Police Officers Association. The four-day conference was held in Eugene, Oregon.
- Lead Dispatcher Eric Baxter attended the Department of Public Safety Standards and Training Supervisory academy.
- Department personnel attended Bloodborne and CPR/First Aid training.
- Sworn personnel took part in handgun qualifications.
- Crime Analyst Neet received basic level certification as a Criminal Intelligence Analyst through the International Association of Law Enforcement Intelligence Analysts (IALEIA).
- Corvallis Regional Communications Center staff is assisting Linn-Benton Community College Emergency Medical Services program by giving approximately 30 students an overview of 9-1-1 operations. Each student is observing operations for four hours.

X. PUBLIC WORKS

A. Department Highlights

Administration Division

- Met with a consulting firm to discuss the feasibility of a carbon sequestration project at the Corvallis Forest.
- Held the quarterly meeting of the Corvallis School District 509J/City Joint Corvallis Community Access Television Advisory Board. The progress on 2007-2008 goals was reported, including programming improvements, emphasis on more local and regional programs, new training sessions for local residents, and enhanced bulletin board system.
- Updated business plans for the eleven funds the department operates in, finalized the Fiscal Year 2009-2010 department budget slide show, and drafted service enhancement requests.

Engineering Division

- Design is in progress for the following projects: 2009-2010 Storm Drain Replacement, Moose Lodge Building demolition, 2009-2010 Street Reconstruction (NW Walnut Boulevard), 2009-2010 Water Distribution System Rehabilitation, 2009-2010 Sanitary Sewer Rehabilitation, Wastewater Master Plan project, and Storm Water Master Plan project.
- The request for proposals for design of the Wastewater Reclamation Plant (WWRP) Electrical Equipment Replacement project is being advertised, and proposals are due February 3rd.
- Construction is complete on the Baldy Reservoir Cover Replacement project.

Transportation Division

- Staff conducted tours of the Corvallis Municipal Airport and Airport Industrial Park for the Corvallis Benton Chamber Coalition, new Airport Commissioners, Mayor Tomlinson, and new City Councilors.
- Conducted two meetings of the Airport Commission Development Sub-Committee. The first meeting reviewed a draft of a new Benton County "Airport Zone" to meet new State laws and to update county zoning at the airport to better coincide with the Airport Industrial Park Master Plan. The second meeting included a representative from Pacific Power to discuss current and future power availability to the Airport Industrial Park and reservation of a site for a future power substation.
- Completed the six-year budget update for Benton County's Special Transportation Program.
- January Transit rider ship:
  - Corvallis Transit System – 62,058; a 9-percent increase over January 2008.
  - Philomath Connection – 1,777; a 14-percent increase over January 2008.
  - Beaver Bus – 96 rides per evening; a 46-percent increase over January 2008. To celebrate the return of the Beaver Bus following OSU's winter break, free rides were provided to all Beaver Bus patrons January 8th through 10th.
- Met with 509J to assess current Safe Routes to School projects.
- Made a presentation to the Downtown Corvallis Association on the bicycle rack program for downtown businesses.
- Submitted several projects to the Federal Transportation Administration, Oregon Department of Transportation (ODOT), ODOT Public Transportation Division, Corvallis Area Metropolitan Planning Organization, and congressional delegation for consideration in the economic stimulus packages.

Utilities Division

- Began periodic sampling of wastewater treatment plant influent for a multi-community drug monitoring study being conducted by OSU.
- Work was done at the United Chrome site in preparation for pumping from deep aquifer well DW-8 to mitigate contamination from the upper aquifer to the lower aquifer.
- Received a grant from the Oregon Water Resources Department to fund a public process to gauge awareness and interest in re-use opportunities for reclaimed water from the WWRP.
- Continued work on annual catch basin cleaning program.

XI. MISCELLANEOUS

- Attached is the City Attorney's Office Report to the City Council for January.

Jon

Jon Nelson
City Manager

CORVALLIS
ENHANCING COMMUNITY LIVABILITY

CORVALLIS CITY ATTORNEY
456 SW Monroe, #101
Corvallis, OR 97333
Telephone: (541) 766-6906
Fax: (541) 752-7532

CITY ATTORNEY'S OFFICE
REPORT TO CITY COUNCIL: HIGHLIGHTS

January 2009

The following are highlights of the City Attorney's Office activities during January 2009.

1. Assistance on Council Policy Manual change regarding city park exclusion policy.
2. Assistance with personnel issues.
3. Assistance to Fire Department regarding volunteers and the Temporary Fire Fighting Program.
4. Assistance with drafting of ballot title for urban renewal district.
5. Meeting regarding new Oregon Indoor Clean Air Act (OICA).

Ongoing/Future Matters:

1. Representation of the City before Oregon Court of Appeals re: *McElroy v. March* (nka *McElroy v. Carlson* - Mandamus Appeal), *McElroy v. City & Building Codes Structures Board;* and before the Land Use Board of Appeals re: *Safe Equities LLC v. City* (The Regent LUBA Appeal), *7th Street Station LLC v. City* (Closure of SW "D" Ave. Appeal of LUBA decision to Ct. of Appeals), *Knapp/Dean v. City* (Walnut Professional Ctr. LUBA Appeal), and *Knapp v. City* (Land Dev. Code Text Amendments LUBA Appeal).
2. Enforcement actions regarding code violations (building, sidewalk, land development code, etc.).
3. Continued work on public records requests.
4. Preparation of materials/policies in compliance with Oregon Victim's Rights legislation.
5. Continued assistance to Community Development regarding urban renewal.
6. Continued assistance with internal investigations.

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COUNCIL REQUESTS

FOLLOW-UP REPORT

FEBRUARY 12, 2009

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1. Living Wage (Nelson)

The Corvallis Living Wage changes annually based on changes to the Consumer Price Index - All Wage Earners (CPI-W). The implementation plan uses the December 31st CPI-W data for a new living wage effective the following July 1st, which allows time for staff to budget appropriately and vendors to prepare. For December 31, 2008, the CPI-W was 0.46% lower than the December 2007 CPI-W. If implemented, the Living Wage effective July 1, 2009, would decrease from $11.18 to $11.13 per hour. Decreasing the Living Wage seems contrary to the intent of the legislation. As a result, staff recommends holding the Living Wage stable at $11.18 for Fiscal Year 2009-2010 and will provide notice to this effect unless the City Council directs otherwise.

2. City Wi-Fi Update (Nelson)

The city-wide wireless initiative is a joint venture between Oregon State University (OSU), Benton County, Corvallis School District 509J, and the City (Consortium) to build a WiFi broadband network to provide mobile Internet access to citizens, businesses, and visitors.

The Consortium issued a request for proposals and tentatively awarded the contract to Stephouse Networks of Portland, Oregon. The WiFi business model is based on the wireless vendor developing, operating, and maintaining the citywide wireless network, while Consortium members act as core tenants in addition to citizens and businesses who subscribe to the network. In late-October, the vendor deployed a proof-of-concept wireless network covering a one-mile radius. The pilot covers the area of SW 14th Street, SW First Street, NW Monroe Avenue, and SW Adams Avenue (to see a map of the trial area, visit http://www.ci.corvallis.or.us/wifi-gmap. Since the pilot went live, it has provided wireless Internet service to more than 3,700 unique accounts; of those, ten percent subscribed or paid for the service.

OSU students, at a substantially discounted price and in exchange for a bulk purchase through a student fee, would be the largest "anchor tenant" of the

network. OSU student leadership (Associated Students of OSU [ASOSU]) plans to put a student fee increase on the spring election ballot (April 22nd and 23rd). Students have two options: increase fees by either $3 per term ($171,000 per year estimating 19,000 students and excluding summer term) to access OSU resources only or $18 per term ($1 million per year) to access the Internet anywhere and anytime, including OSU resources.

If the student vote passes, the vendor will begin building the network in early-summer. In order to get on the ballot for the spring election, ASOSU should have a proposal accepted by the Student Fees Committee and the ASOSU Judicial Branch in the next few weeks. Once that proposal is accepted, five percent of the students will need to sign the fee increase petition requesting the initiative be on the ballot. ASOSU will then need to have a campaign drive to get the initiative passed on the ballot. According to the elections guideline, a two-thirds majority will be required for the fee ballot measure to pass. However, if the initiative passes with a simple majority, the case could be made for the ASOSU Senate to accept the fee, and the project can move forward to build the network.

Meanwhile, contract negotiations between Stephouse Networks and Pacific Power continue regarding pole attachment and facility use. Once the funding and contracts are in place, building the network is estimated to take nine months to complete.

A city-wide wireless network will enhance service delivery to citizens, improve the efficiency of public safety services, streamline operations, and increase productivity. A wireless network will also benefit community livability and economic development and sustainability efforts.

Jon

Jon Nelson
City Manager

CITY OF CORVALLIS – COUNCIL REQUESTS – TRACKING REPORT
PENDING REQUESTS

Council Request Item	Requested By	Date of Request	CM Report Due Date	Assigned to	Response in CM Rpt No.	Comments
Homeless/Wetlands	Hamby	12-10-08	02-24-09	Nelson		Mark Knapp
City Wi-Fi Update	Nelson	02-02-09	02-10-09	Brewer, N.	CCR 01-12-09	
Living Wage	Nelson	02-02-09	02-10-09	Brewer, N.	CCR 01-12-09	

ADMINISTRATIVE SERVICES COMMITTEE
SCHEDULED ITEMS

February 12, 2009

MEETING DATE	AGENDA ITEM
February 18	• Municipal Code Revision to Chapter 8.03, "Fees Chapter"
March 4	• Second Quarter Operating Report • Council Policy Reviews: CP 10.01 through 10.08, "Financial Policies"
March 18	• Ambulance Rate Review
April 8	• Allied Waste Services Annual Report • Economic Development Allocations Second Quarter Reports • daVinci Days Loan Agreement Status Annual Report
April 22	• Red Flag Policy
May 6	• Economic Development Allocations Orientation
May 11 (special)	• Economic Development Allocations Presentations
May 14 (special)	• Economic Development Allocations Deliberations
May 20	
June 3	• Third Quarter Operating Report
June 17	• Land Development Code Fee Review
July 8	• Economic Development Allocations Third Quarter Reports
July 22	
August 5	
August 19	
September 9	• Fourth Quarter Operating Report
September 23	

October 7	• Council Policy Reviews:
	  • CP 94-2.08, "Council Liaison Roles"
	  • CP 94-2.09, "Council Orientation"
	  • CP 98-2.10, "Use of E-Mail by Mayor and City Council"
	  • CP 91-3.04, "Separation Policy"

October 21	• Economic Development Allocations Fourth Quarter Reports • Council Policy Review: CP 08-1.11, "Identity Theft Prevention and Red Flag Alerts"

MEETING DATE	AGENDA ITEM
November 4	• Utility Rate Annual Review • Economic Development Application Process and Calendar • Funding Agreement Annual Report – Corvallis Environmental Center
November 18	• Comprehensive Annual Financial Report
December 9	
December 23	• Economic Development Allocations First Quarter Reports • First Quarter Operating Report

ASC PENDING ITEMS

- Benton County Fair Annual Report – Fiscal Year 2008-2009 — Community Development
- Utility Rate Structure Review — Public Works

Regular Meeting Date and Location:

Wednesday following Council, 3:30 pm – Madison Avenue Meeting Room

HUMAN SERVICES COMMITTEE
SCHEDULED ITEMS

February 12, 2009

MEETING DATE	AGENDA ITEM
February 18	• Social Services Semi-Annual Report • Smoking Ban at Library Premises • Taxi Driver Permit Appeal (Williams)
March 3	
March 17	• Indoor Furniture Placed Outdoors • Public Art Selection Commission Annual Report • Corvallis Arts Center Annual Report • Council Policy Reviews: • CP 97-4.09, "Guidelines for Free Use of Park Facilities"
April 7	• Willamette Neighborhood Housing Services Second Quarter Report
April 21	• Majestic Theatre Annual Report • Boys and Girls Club Annual Report
May 5	• Liquor License Annual Renewals
May 19	• Corvallis Fall Festival Annual Report

June 2	• Boards and Commissions Sunset Review:
	  • Commission for Martin Luther King, Jr.
	  • Corvallis-Benton County Public Library Board
	  • Library 2010 Legal Reserve Allocation Board
	• Corvallis Farmers Markets Annual Report

June 16	• Social Services Allocations – Fiscal Year 2009-2010
July 7	
July 21	• Willamette Neighborhood Housing Services Third Quarter Report
August 4	• Parks and Recreation Annual Fee Review
August 18	• Social Services Semi-Annual Report
September 9	
September 22	• Rental Housing Program Annual Report

October 6	• Council Policy Reviews:
	  • CP 91-4.03, "Senior Citizens' Center Operational Policies"
	  • CP 92-4.04, "Park Utility Donations"
	  • CP 92-4.05, "Library Meeting Rooms Policy"
	  • CP 92-4.06, "Library Displays, Exhibits, and Bulletin Boards"
	  • CP 95-4.08, "Code of Conduct on Library Premises"

MEETING DATE	AGENDA ITEM
October 20	• Council Policy Review: • CP 92-5.04, "Hate/Bias Violence"
November 3	• Willamette Neighborhood Housing Services Fourth Quarter Report
November 17	
December 8	• Chronic Nuisance Property Ordinance Review
December 22	

HSC PENDING ITEMS

- Bicycle Taxi/Pedicab Licensing — Police
- Council Policy Review: CP 00-6.05, "Social Service Funding Policy" — Community Development
- Municipal Code Revision to Chapter 5.01, "City Park Regulations" (Alcoholic Beverages in Parks) — Parks & Recreation
- Reducing Potential for Fire Spread Involving Natural Resources — Fire
- Smoking Hiatus Ordinance Review (CMC 5.03.080.160.13) (January 2011) — CAO/Police

Regular Meeting Date and Location:

Tuesday following Council, 12:00 pm – Madison Avenue Meeting Room

URBAN SERVICES COMMITTEE
SCHEDULED ITEMS

February 12, 2009

MEETING DATE	AGENDA ITEM
February 19	• Bicycle Lanes – NW Garfield Avenue from NW Highland Drive to NW Ninth Street • Airport Lease – Gerding
March 5	• City Hall Block Public Restroom Design • Systems Development Charge Annual Review
March 19	• Wastewater Reclamation Plant Total Maximum Daily Load Alternatives
April 9	
April 23	
May 7	• Council Policy Review: • CP 02-7.15, "Fee-in-Lieu Parking Program"
May 21	
June 4	• Boards and Commissions Sunset Review: • Capital Improvement Program Commission
June 18	
July 9	
July 23	
August 6	
August 20	
September 10	• Council Policy Review: • CP 03-7.16, "Guidelines for Donations of Land and/or Improvements for Parks as an Offset to Systems Development Charges for Parks"
September 24	

October 8	• Council Policy Review:
	  • Cp 91-7.07, "Sanitary Sewers; Responsibility For"
	  • CP 05-7.17, "Utility/Transportation Facility Extensions through Public Areas"

October 22	
November 5	
November 19	

MEETING DATE	AGENDA ITEM
December 10	
December 24	

USC PENDING ITEMS

- Council Policy Reviews: CP 91-7.08, "Sidewalk Policy" — Public Works
- Fire Protection Services in Health Hazard Residential Areas — Fire
- Fire Records Management System — Fire
- Habitat Conservation Plan — Parks and Recreation

Regular Meeting Date and Location:

Thursday following Council, 4:00 pm – Madison Avenue Meeting Room

UPCOMING MEETINGS OF INTEREST

City of Corvallis

FEBRUARY - JUNE 2009
(Updated February 12, 2009)

FEBRUARY 2009

Date	Time	Group	Location	Subject/Note
12	7:00 pm	Budget Commission	Downtown Fire Station	public comment – final deliberations
13	*1:00 Pm*	*City/509J Subcommittee*	*509J Board Room*	
14		No Government Comment Corner		
16		City Holiday - all offices closed		
17	**12:00 pm**	**City Council**	**Downtown Fire Station**	
17	5:00 pm	Housing and Community Dev Cmsn	Madison Avenue Mtg Rm	
17	**7:00 pm**	**City Council**	**Downtown Fire Station**	
18	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
18	*3:30 pm*	Administrative Services Committee	Madison Avenue Mtg Rm	
18	*5:00 pm*	*Housing and Community Dev Cmsn*	*Madison Avenue Mtg Rm*	
18	5:30 pm	Watershed Mgmt Adv Cmsn	~~Madison Avenue Mtg Rm~~ *Library Board Room*	
~~18~~	~~7:00 pm~~	~~Planning Commission~~	~~Downtown Fire Station~~	
19	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
19	6:30 pm	Parks, Natural Areas, and Rec Brd	Downtown Fire Station	
21	10:00 am	Government Comment Corner	Library Lobby - Richard Hervey	
25	9:00 am	City Legislative Committee	City Hall Meeting Room A	
25	12:00 pm	Cmsn for Martin Luther King, Jr.	City Hall Meeting Room A	
25	4:00 pm	Urban Forestry Strategic Plan Stakeholders Committee	Osborn Aquatic Center	
26	4:00 pm	Boards/Commissions/Committees Chairs with Mayor	Madison Avenue Mtg Rm	training
28	10:00 am	Government Comment Corner	Library Lobby - Mike Beilstein	

MARCH 2009

Date	Time	Group	Location	Subject/Note
2	**12:00 pm**	**City Council**	**Downtown Fire Station**	
2	**7:00 pm**	**City Council**	**Downtown Fire Station**	
3	7:00 am	Airport Commission	Madison Avenue Mtg Rm	
3	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
3	5:30 pm	Downtown Parking Committee	Madison Avenue Mtg Rm	
4	*3:30 pm*	Administrative Services Committee	Madison Avenue Mtg Rm	
4	7:00 pm	Planning Commission	Downtown Fire Station	
4	7:30 pm	Library Board	Library Board Room	
5	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
5	7:15 pm	Committee for Citizen Involvement	Madison Avenue Mtg Rm	
6	7:00 am	Bicycle and Pedestrian Adv Cmsn	Madison Avenue Mtg Rm	
7	10:00 am	Government Comment Corner	Library Lobby - David Hamby	
9	7:00 pm	Mayor/City Council/City Manager Quarterly Work Session	Madison Avenue Mtg Rm	
10	7:00 pm	Historic Resources Commission	Downtown Fire Station	

Date	Time	Group	Location	Subject/Note
11	8:20 am	Citizens Adv Cmsn on Transit	Madison Avenue Mtg Rm	
11	9:00 am	City Legislative Committee	City Hall Meeting Room A	
11	12:00 pm	Housing and Community Dev Cmsn	Madison Avenue Mtg Rm	
11	3:00 pm	Community Policing Forum	Police Conference Room	
11	5:30 pm	Downtown Commission	Madison Avenue Mtg Rm	
12	8:00 am	Citizens Adv Cmsn on Civic Beautification and Urban Forestry	Parks and Rec Conf Rm	
14	10:00 am	Government Comment Corner	Library Lobby - Mark O'Brien	
16	**12:00 pm**	**City Council**	**Downtown Fire Station**	
16	**7:00 pm**	**City Council**	**Downtown Fire Station**	
17	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
18	*3:30 pm*	Administrative Services Committee	Madison Avenue Mtg Rm	
18	5:30 pm	Watershed Mgmt Adv Cmsn	Madison Avenue Mtg Rm	
18	7:00 pm	Planning Commission	Downtown Fire Station	
19	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
19	6:30 pm	Parks, Natural Areas, and Rec Brd	Downtown Fire Station	
21	10:00 am	Government Comment Corner	Library Lobby - Charles Tomlinson	
25	9:00 am	City Legislative Committee	City Hall Meeting Room A	
25	12:00 pm	Cmsn for Martin Luther King, Jr.	City Hall Meeting Room A	
28	10:00 am	Government Comment Corner	Library Lobby - TBD	

APRIL 2009

Date	Time	Group	Location	Subject/Note
1	7:00 pm	Planning Commission	Downtown Fire Station	
1	7:30 pm	Library Board	Library Board Room	
2	7:15 pm	Committee for Citizen Involvement	Madison Avenue Mtg Rm	
3	*7:00 am*	*Bicycle and Pedestrian Adv Cmsn*	*Madison Avenue Mtg Rm*	
4	10:00 am	Government Comment Corner	Library Lobby - Patricia Daniels	
6	**12:00 pm**	**City Council**	**Downtown Fire Station**	
6	***5:00 pm***	***City Council***	***Downtown Fire Station***	***Plng Cmsn int'vws***
6	**7:00 pm**	**City Council**	**Downtown Fire Station**	
7	*7:00 am*	*Airport Commission*	*Madison Avenue Mtg Rm*	
7	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
7	*5:30 pm*	*Downtown Parking Committee*	*Madison Avenue Mtg Rm*	
8	*8:20 am*	*Citizens Adv Cmsn on Transit*	*Madison Avenue Mtg Rm*	
8	*3:30 pm*	Administrative Services Committee	Madison Avenue Mtg Rm	
8	5:30 pm	Downtown Commission	Madison Avenue Mtg Rm	
9	8:00 am	Citizens Adv Cmsn on Civic Beautification and Urban Forestry	Parks and Rec Conf Rm	
9	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
9	*7:00 pm*	*Budget Commission*	*Downtown Fire Station*	
11	10:00 am	Government Comment Corner	Library Lobby - TBD	
14	7:00 pm	Ward 1 meeting (O'Brien)	Grand Oaks Summit Clubhouse	
14	7:00 pm	Historic Resources Commission	Downtown Fire Station	
15	9:00 am	City Legislative Committee	City Hall Meeting Room A	
15	12:00 pm	Housing and Community Dev Cmsn	Madison Avenue Mtg Rm	
15	4:00 pm	Urban Forestry Strategic Plan Stakeholders Committee	Osborn Aquatic Center	
15	*5:30 pm*	*Watershed Mgmt Adv Cmsn*	*Madison Avenue Mtg Rm*	
16	6:30 pm	Parks, Natural Areas, and Rec Brd	Downtown Fire Station	

Date	Time	Group	Location	Subject/Note
18	10:00 am	Government Comment Corner	Library Lobby - Richard Hervey	
20	**12:00 pm**	**City Council**	**Downtown Fire Station**	
20	**7:00 pm**	**City Council**	**Downtown Fire Station**	
21	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
22	12:00 pm	Cmsn for Martin Luther King, Jr.	City Hall Meeting Room A	
22	*3:30 pm*	Administrative Services Committee	Madison Avenue Mtg Rm	
23	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
25	10:00 am	Government Comment Corner	Library Lobby - *Joel Hirsch*	
29	9:00 am	City Legislative Committee	City Hall Meeting Room A	

MAY 2009

Date	Time	Group	Location	Subject/Note
1	*7:00 am*	*Bicycle and Pedestrian Adv Cmsn*	*Madison Avenue Mtg Rm*	
2	10:00 am	Government Comment Corner	Library Lobby - TBD	
4	**12:00 pm**	**City Council**	**Downtown Fire Station**	
4	**7:00 pm**	**City Council**	**Downtown Fire Station**	
5	*7:00 am*	*Airport Commission*	*Madison Avenue Mtg Rm*	
5	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
5	*5:30 pm*	*Downtown Parking Committee*	*Madison Avenue Mtg Rm*	
5	*7:00 pm*	*Budget Commission*	*Downtown Fire Station*	
6	*3:30 pm*	Administrative Services Committee	Madison Avenue Mtg Rm	
6	7:15 pm	Committee for Citizen Involvement	Madison Avenue Mtg Rm	
6	7:30 pm	Library Board	Library Board Room	
7	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
7	7:00 pm	Planning Commission	Downtown Fire Station	
9	10:00 am	Government Comment Corner	Library Lobby - *Joel Hirsch*	
11	*5:30 pm*	*Economic Development Committee*	*Madison Avenue Mtg Rm*	
~~12~~	~~5:30 pm~~	~~Economic Development Committee~~	~~Madison Avenue Mtg Rm~~	
12	7:00 pm	Historic Resources Commission	~~Downtown Fire Station~~ *Madison Avenue Mtg Rm*	
12	*7:00 pm*	*Budget Commission*	*Downtown Fire Station*	
13	*8:20 am*	*Citizens Adv Cmsn on Transit*	*Madison Avenue Mtg Rm*	
13	9:00 am	City Legislative Committee	City Hall Meeting Room A	
13	3:00 pm	Community Policing Forum	Police Conference Room	
13	5:30 pm	Downtown Commission	Madison Avenue Mtg Rm	
14	8:00 am	Citizens Adv Cmsn on Civic Beautification and Urban Forestry	Parks and Rec Conf Rm	
14	4:30 pm	Economic Development Committee	Madison Avenue Mtg Rm	
16	10:00 am	Government Comment Corner	Library Lobby - David Hamby	
18	**12:00 pm**	**City Council**	**Downtown Fire Station**	
18	**7:00 pm**	**City Council**	**Downtown Fire Station**	
19	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
19	7:00 pm	Ward 5 meeting (Beilstein)	*United Pentecostal (444 NW 15th Street)*	
20	12:00 pm	Housing and Community Dev Cmsn	Madison Avenue Mtg Rm	
20	*3:30 pm*	Administrative Services Committee	Madison Avenue Mtg Rm	
20	*5:30 pm*	*Watershed Mgmt Adv Cmsn*	*Madison Avenue Mtg Rm*	
20	7:00 pm	Planning Commission	Downtown Fire Station	
21	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
21	6:30 pm	Parks, Natural Areas, and Rec Brd	Downtown Fire Station	
23		No Government Comment Corner		
25		City Holiday - all offices closed		

Date	Time	Group	Location	Subject/Note
27	9:00 am	City Legislative Committee	City Hall Meeting Room A	
27	12:00 pm	Cmsn for Martin Luther King, Jr.	City Hall Meeting Room A	
30	10:00 am	Government Comment Corner	Library Lobby - TBD	

JUNE 2009

Date	Time	Group	Location	Subject/Note
1	**12:00 pm**	**City Council**	**Downtown Fire Station**	
1	**7:00 pm**	**City Council**	**Downtown Fire Station**	
2	*7:00 am*	*Airport Commission*	*Madison Avenue Mtg Rm*	
2	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
2	*5:30 pm*	*Downtown Parking Committee*	*Madison Avenue Mtg Rm*	
3	*3:30 pm*	Administrative Services Committee	Madison Avenue Mtg Rm	
3	7:00 pm	Planning Commission	Downtown Fire Station	
3	7:30 pm	Library Board	Library Board Room	
4	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
4	7:15 pm	Committee for Citizen Involvement	Madison Avenue Mtg Rm	
5	*7:00 am*	*Bicycle and Pedestrian Adv Cmsn*	*Madison Avenue Mtg Rm*	
6	10:00 am	Government Comment Corner	Library Lobby - *Joel Hirsch*	
8	***5:00 pm***	***City Council***	***Downtown Fire Station***	***Historic Res Cmsn int'views - tentative***
8	*7:00 pm*	*Mayor/City Council/City Manager Quarterly Work Session*	*Madison Avenue Mtg Rm*	*tentative*
9	***5:00 pm***	***City Council***	***Downtown Fire Station***	***Historic Res Cmsn int'views - tentative***
9	7:00 pm	Historic Resources Commission	Downtown Fire Station	
10	*8:20 am*	*Citizens Adv Cmsn on Transit*	*Madison Avenue Mtg Rm*	
10	9:00 am	City Legislative Committee	City Hall Meeting Room A	
10	5:30 pm	Downtown Commission	Madison Avenue Mtg Rm	
11	8:00 am	Citizens Adv Cmsn on Civic Beautification and Urban Forestry	Parks and Rec Conf Rm	
13	10:00 am	Government Comment Corner	Library Lobby - TBD	
15	**12:00 pm**	**City Council**	**Downtown Fire Station**	
15	**7:00 pm**	**City Council**	**Downtown Fire Station**	
16	12:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
17	12:00 pm	Housing and Community Dev Cmsn	Madison Avenue Mtg Rm	
17	*3:30 pm*	Administrative Services Committee	Madison Avenue Mtg Rm	
17	*5:30 pm*	*Watershed Mgmt Adv Cmsn*	*Madison Avenue Mtg Rm*	
17	7:00 pm	Planning Commission	Downtown Fire Station	
18	4:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
18	6:30 pm	Parks, Natural Areas, and Rec Brd	Downtown Fire Station	
20	10:00 am	Government Comment Corner	Library Lobby - Charles Tomlinson	
24	9:00 am	City Legislative Committee	City Hall Meeting Room A	
24	12:00 pm	Cmsn for Martin Luther King, Jr.	City Hall Meeting Room A	
27	10:00 am	Government Comment Corner	Library Lobby - TBD	

Bold type – involves the Council ~~Strikeout~~ type – meeting canceled *Italics* type – new meeting

TBD To be Determined

To: M/CC
No return info
2-10-09

RECEIVED
FEB 09 2009
CITY MANAGERS OFFICE

City Council of Corvallis Oregon
c/o City Manager's Office
PO Box 1083
Corvallis, OR 97339-1083

I am trusting that you will be able to forward this correspondence to the appropriate person to share my feedback.

Feedback to you as the publisher: I see that you are limiting our ability to write letters to our city agencies except through an email address. You did list a phone number in the attached article. Could you also continue to publish a quick address to address our attention to. I would appreciate it.

To the City Council of Corvallis
Re: Chronic Nuisance Property Ordinance article in The City dated February 2009

I read this article and am compelled to write to you and share my views:

Efforts to control this disruptive behavior…has become increasingly difficult.
Why?

The property owner/occupant can contact the Police Chief about why the property should not be considered a chronic nuisance property:
Who is judging that? Are the officers actually documenting conditions - noise level by decibels, etc?
How are they getting the data to support the claim?
OR Are you now allowing any citizen to complain about their neighbor and then have a permanent label put on a piece of property?

This begs me to ask are there a few isolated incidences that you are constantly getting calls for? If so, wouldn't the better approach be to mitigate / facilitate an agreement about how the groups can live together. Where is the ombudsman or why aren't the council members facilitating those discussions. Is it college kids living next door to the elderly couple?

Please change this law to read: The city must get confirmation of the receipt of the claim from the property owner - you say if they don't correct the problem. You need to ensure that INDEED the property owner is aware of the problem - especially before you start charging them.

Where is this money going?

I am vehemently opposed to a Hearings Officer having the power to shut down an occupancy - talk about having problems - you kicking people out of their home and just saying "we'll control this now" is paramount to a POLICE STATE and I oppose this ordinance and call for its repeal.

You jumped to patching up the symptom and NOT working at root cause - which is differences of how people feel - that still needs to be resolved. Get to root cause - get some skilled negotiators helping to figure it out.

Have you profiled the incidences and then identified the trends to move toward a resolution rather than police CONTROL. Is it related to college age kids? What percent aren't involving college age kids. That is a different problem than just applying ORDINANCES. The problem would continue.

This is wrong action , wrong accountability - owner - you are responsible for the behaviors and actions of people. That is like asking someone who owns a wall with graffiti to control the world from doing graffiti. If you want the OWNER to sit down with the complainer - get this to MEDIATION not police control.

This is fraught with problems. You have a root cause issue and you haven't addressed that.

How can you involve the community in analyzing and addressing the problem rather than just jumping to police control?

A citizen of Corvallis

EBRUARY • 2009 VOLUME 22 • NUMBER 2

"To better inform the community about the City's services, programs, activities, and opportunities for participation"

the City

ISIDE "the City"

PAGE 2
Work Party To Remove Invasive Species
OregonReads 2009
Downtown Parking
Civic Beautification Funding Opportunity
PAGE 3
Have a Heart
Beaver Bus
Tcha Tee Man Wi Storytelling Festival
Water-Efficiency Pays!
Come To The Sweetheart Party!
BACK PAGE
Cops & Robbers 101

Activity Guide

Around March 15 watch for Parks and Recreation's Spring/Summer 2009 Activity Guide. If you haven't received one by April 1, stop by the Parks and Recreation office, Osborn Aquatic Center, Chintimini Senior Center or other city facilities to pick it up. For more information call Parks and Recreation at 766-6918.

Council Enacts Chronic Nuisance Property Ordinance

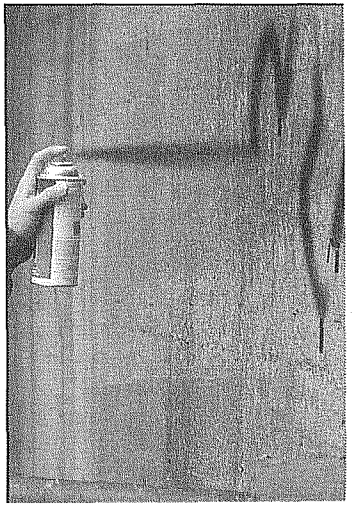
Neighborhood livability is one of the most important qualities of a great city. Corvallis has a pleasant climate, beautiful scenery, great parks, a superior education system, and is a convenient locale for trips to the coast or mountains. However, chronic noise disturbances, frequent fights, offensive littering, vandalism, and illegal drug and alcohol activity can destroy the peace and repose of any neighborhood. Efforts to control this disruptive behavior and to pro-actively respond and solve these livability problems has become increasingly difficult. Those who violate our local laws have realized that citations, arrests and penalties for these offenses are relatively minor and are often little incentive to discontinue illegal behavior.

A new ordinance, which became effective December 25, 2008, requires the Police Chief to contact the property owner and property occupant, if the occupant is not the owner, after:

- Three separate incidents that violate certain City ordinances or State laws within a thirty-day period or
- Five separate incidents that violate certain City ordinances or State laws within a ninety-day period.

The property owner and occupant then have 15 days to contact the Police Chief about why the property should not be considered a chronic nuisance property. They must also indicate what actions will be taken to address the allegations or indicate good cause why the owner cannot do so.

reasonable period, the matter will be referred to an official Hearings Officer who will work with the property owner to abate the nuisance. Failure of the property owner to work with the Hearings Officer to correct the problems could result in a civil penalty of $250 for every day the property owner fails to take action and a penalty of $500 per incident for any subsequent incident occurring on the property within six months of the declaration of a nuisance property. Should the property owner fail to stop the nuisance activity, the Hearings Officer may also close and secure the property against use and occupancy for a period of not less than ten days or more than six months. Property owners may appeal the Hearings Officer's declaration of a nuisance property to the City Council. The Chronic Nuisance Property Ordinance, Chapter 5.07 of the Corvallis Municipal Code, can be viewed on the City's Web site at www.ci.corvallis.or.us. For more information, call the Police Department at



Minutes of Access Benton County
Meeting of January 15, 2009

Present: Edith Yang, Judy Heath, Ronald Naasko, Tony Albert, Nancy Edwards, Mary Marsh King, David King, Pat Shermer, Hugh White, Bob Fenner, Jim Smith.

ABC Minutes are intended to describe the discussions, decisions, and actions that occur during ABC's monthly meeting. The minutes are to be considered only a draft until they are approved at the following monthly meeting. Persons who receive the draft of the minutes and see inaccuracies or omissions in them are asked to please inform ABC.

A. Minutes of November 20, 2008 approved as submitted.

B. Treasurer's Report:

1. **Post Office box fee of $42.00 is due. Ronald will update ABC information with Postal Service.**
2. **Current balance of $579.31 in savings.**

C. Correspondence: E-mails concerning Keith's Award sent. No incoming correspondence.

D. Old Business:

1. **Keith's Award for 2008.**

   ABC members have decided to offer Keith's Award to the Garfield School Playground. Several ABCers visited the new handicapped accessible playground in November. Since so many groups and individuals were responsible for the Playground accomplishment, we are now working on getting a comprehensive list of who to honor for Keith's Award! We hope that the Award will emphasize to our citizenry that accessibility improvements can be done even in our current economy, and that grand things can be realized when many volunteers and contributors are devoted to a project.

   We will let our readers know the arrangements of the presentation once they are made.

2. ABC Website Development. www.accessbentoncounty.org

Nancy Edwards met once more with us to get more ideas for our website. ABCers are encouraged to contact her to discuss your ideas.
We have the ability to show videos, and to give links to accessibility sites. Dear Readers: please give us your ideas: What would you like your fellow Benton County residents to know about access?

We approved adding information at the ABC site about Accessible Trails in Benton County, Benton County Public Works Special Transportation Fund, and Oregon Cascades West Council of Governments.

E. New Business:

1. "Wheel Chair Day With The Mayor". Bruce Marbin provided an update on preliminary plans about this event.
It is hoped that persons interested in volunteering to help with this Corvallis activity will "step forward". An exact date is not yet made, however, it will likely be this coming summer for a full day!

Tables would be available for organizations that have something to offer in the way of goods, services, or information for persons with disabilities and their advocates. Organizations who may be interested could include ABC, Corvallis Transportation, Parks and Recreation Department, Finley Wildlife Refuge, OSU students with disabilities, et cetera.

Other activities could include a parade of persons using mobility devices accompanied by a drum and bugle corps, wheel chair basketball game, wheel chair "roll" through downtown.

Volunteers needed to do these things: Develop a list of people to invite for the event, prepare invitations, contact assistive technology vendors, find sponsors to give recognition items to participants, contact Saturday Market administration, contact musicians, develop routes for event in downtown, contact organizations about having a "table"., develop publicity. Please contact Bruce to volunteer: Phone (541) 760-6174.
E-mail: bruce@aha-education.com

ABC consulted on the preliminary ideas for this event and will share suggestions with planning authority.

2. **Review of ABC Goals for 2009.**
   Decision: no changes with Goals/Objectives from last year.

3. **Future Guests to ABC. Will ask for a representative of OSU Disabled Services Group to join us. Will ask Lisa Namby to meet with us to update on Corvallis Transit.**

4. **Bob informed us that it will be easier to "map" the handicapped parking in downtown Corvallis with a new camera that could photograph each space and provide the GPS coordinates of the site. This data could then be used to inform the public of where the existing spaces are in Corvallis. We hope that this technology will result in people finding accessible services and opportunities in our communities more efficiently.**

5. **Discussed the ABC Holiday Luncheon held December 18th. Pastini's was very good with service and food. Since we were a group of 15, it was a bit cramped for us with our scooters, wheel chairs, and walkers. We are thinking that we may want to cater our Luncheon next year and meet in a quieter environment.**

Meeting Adjourned at 12:45 p.m. Next meeting, February19th, Noon to 1 p.m.. Benton Plaza, Commissioner's Meeting Room.

HUMAN SERVICES COMMITTEE
MINUTES
FEBRUARY 3, 2009

Present
Councilor Mike Beilstein, Chair
Councilor Jeanne Raymond
Councilor Dan Brown

Staff
Jon Nelson, City Manager
Steve Rogers, Public Works Director
James Mellein, Aquatic Center Supervisor
Carrie Mullens, City Manager's Office

Visitors
Barbara Ross, Homeless Coalition
Rich Donovan, Community Outreach, Inc.
Nancy Leman, Citizen
Jessica Broadley, Citizen
Sandy Nored, Boys and Girls Club
Greg Bostrom, Aquatic Team Coach
Jay Celorie, Citizen
Jennifer Hartman, Citizen
Cathy Phelps, Citizen
Matt Ashland, Citizen
Dale Fong, Citizen
Lisa Quick, Citizen
Karen Misfeldt, Citizen
Jason Ball, Citizen

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Project Action Request - Barbara Ross			Provide free transit passes for Project Action participants
II. Other Business	***		

Chair Beilstein called the meeting to order at 12:00 pm. He noted that the Committee received e-mail testimony from Matt Harrington (Attachment A).

CONTENT OF DISCUSSION

I. Project Action Request – Barbara Ross (Attachment)

City Manager Nelson reported that, during the January 20 Council meeting, Barbara Ross, representing the Corvallis Day Time Drop In Center, explained a new program to assist homeless individuals seeking employment. "Project Action" provides information and referral services, and has volunteer advocates working one-on-one with participants to achieve progress toward employment goals. Project Action requested Council support for free transit and Osborn Aquatic Center (OAC) passes for participants in this pilot program, scheduled through July 15, 2009. Council referred the request to this Committee for review and potential recommendation.

Mr. Nelson said participant level in Project Action is expected to be less than 12 and participants will be monitored throughout the program.

Mr. Nelson added that the City currently provides free passes for transportation to and from the cold weather shelter, and shelter monitoring has been active and appropriate. Staff recommend that Council consider providing free transit and OAC passes for Project Action. Staff will provide an impact analysis of transit and OAC use and, if Council approves the request, staff will work with Ms. Ross on how the passes will be distributed and how individuals will be monitored for behavioral issues.

Mr. Nelson said Shannon Cruise (sic) contacted him by phone about the availability of showers for homeless individuals at Community Outreach, Inc. (COI).

Councilor Raymond added that COI provides a continuum of care for homeless individuals. Project Action is proposed to augment COI services with a limited number of participants who will be carefully monitored. The proposal does not include free passes for every homeless individual.

Councilor Raymond announced that she also spoke with Ms. Cruise who expressed concern about the safety of children using OAC if this request is approved. She noted that the OAC is currently being used by homeless individuals and it continues to be a safe environment.

Barbara Ross said Project Action is for homeless individuals actively seeking employment as a personal goal along with other goals, such as job skills, appearance, and relationship improvements. Ms. Ross said, because it is important that the community feels safe using the OAC, she recommends abandoning the OAC pass request for further development of alternatives. She requested that the Committee only consider recommending approval for the transit passes at this time. She noted that the program is limited in scope, and most likely will not exceed four participants per month.

In response to Mr. Nelson's inquiry about using COI shower facilities, Ms. Ross said some homeless individuals have had bad experiences at COI and do not want to use their facilities. Some feel using OAC is more mainstream and helps them move into "regular citizen" status.

Mr. Nelson said this is a behavioral, not a person or transient-based, issue. City staff are ultimately responsible for behavioral issues in any City facility and engage Police Department staff for assistance, when necessary. Homeless Coalition volunteers have been successfully monitoring behavior at the cold weather shelter.

Ms. Ross agreed with Mr. Nelson's comments and added that she would not categorize any of the individuals taking advantage of Project Action as dangerous; however, she believes the program will only move forward if the fears are addressed.

In response to Chair Beilstein's inquiry, Ms. Ross said although she is grateful for the homeless services provided by COI, the facilities are not always available when needed and sometimes homeless individuals are required to wait for access.

Rich Donovan, COI, said the organization has Homeless Emergency Services (HES) available from 7:00 am until 7:00 pm to accommodate the daily closure of the cold weather shelter and/or Stone Soup. COI's "clean and sober" requirement does not include HES, which has a separate area away from children and others using COI facilities. Homeless have access to phones, cooking appliances, mail services, and showers. Last year, the HES shower facilities were used 3,400 times. Staff are tolerant of minor behavioral issues, and only occasionally a few people are restricted from the facility for one year. Violent and known sex offenders are not allowed use of the facility. The COI goal is to promote independence and they work with partner agencies to provide job skills, haircuts, clean clothes, etc.

In response to Councilor Raymond's inquiry about shower availability, Mr. Donovan said hours depend on staffing levels and weather. During good weather, there is little use of HES facilities during late afternoon and early evening. Occasionally staff monitoring HES cover the front desk, resulting in closure of HES for a short period of time. COI initiated HES three years ago when the cold weather shelter was organized.

Nancy Leman said the proposal is only for the showers and dressing rooms at OAC; not the entire facility. The OAC invites all kinds of people, young and old, physically and/or mentally disadvantaged. The showers could accommodate the proposal, especially if the participants were monitored or advised before arrival. She noted that the participants risk losing their clothing if they are not provided locks.

Jessica Broadley expressed concerns as the parent of a Corvallis Aquatic Team (CAT) member, at a cost of $150 per season. She said this proposal sets precedence as a place for the homeless to gather and opens the door for similar projects to be funneled through the OAC. Monitoring activities of homeless individuals will be difficult due to children using the facility all day long. Ms. Broadley said she has no issues with providing transit passes, but feels children are too vulnerable to be placed in an unmonitored open shower with homeless individuals.

Chair Beilstein said more people are going to need help in the current and anticipated economic situation. The City provides more than $20,000 in Parks and Recreation vouchers to children on a needs basis. The situation could reach a point where family passes are provided to subsidize recreational activities for adults. Chair Beilstein expressed concern that this attempt to help is considered a threat.

In response to Ms. Broadley's comments that the intent of the proposal is for shower usage only, Chair Beilstein said the City does not intend to regulate the passes for shower use only.

Sandy Nored, Boys and Girls Club School Age Program Director, reported that the Boys and Girls Club (Club) is opposed to the proposal. Youth and families use the complex consisting of the Club, OAC, and Linus Pauling Middle School on a daily basis. The Club sees 350 to 400 youth everyday, kindergarten through 12th grade, plus another 200 participants in the athletic programs. On Fridays, the Club hosts home-schooled youth and their families. During the summer, approximately 200 children participate in a Club program that includes swimming at OAC almost every day.

Ms. Nored said allowing the homeless to use the OAC showers with children sets children up to be crime victims. The community should promise the safety of children whether they are at school, the Club, OAC, or Central Park. Ms. Nored said the Club posts pictures of sex offenders residing near the Club and the police are immediately contacted if they are seen in the neighborhood.

Ms. Nored opined that COI is a more appropriate location for shower use. She acknowledged that most likely 99 percent of the homeless population is not dangerous; however, it only takes one person to molest one child sent from the Club to the OAC, and the Club cannot take that risk. Ms. Nored said she thoroughly supports Barbara Ross, but not this program. She referred to the last page of the Vision 2020 Statement that speaks to strengthening children and families, and said Corvallis needs to do that.

Greg Bostrom, CAT Coach, announced that 160 youth, ages five to 18, participate on the aquatics team, with approximately 90 attending local high schools. During the summer, team participation levels increase to 200. There have been minimal behavioral issues with unsupervised locker rooms and showers at the OAC. Mr. Bostrom expressed concern that high school boys may pick on homeless men using the showers, especially when the boys have back-up from their friends. OAC lifeguards are typically high school and college students required to supervise the pool area only. They do not have behavioral issue training.

Mr. Bostrom provided the following statistics about homeless individuals from the Conference of Mayors Web site:

- 23 percent are mentally ill,
- 46 percent are substance abusers, and
- 8 percent have AIDS or other HIV related illnesses.

Mr. Bostrom added that a high percentage of homeless individuals have Tuberculosis (TB), which is transmitted through the air, typically by coughing or sneezing.

Mr. Bostrom noted that the City's Budget Commission will be discussing OAC funding and, if this program is approved, the public impression will be that the City is allowing dangerous and/or sick individuals use of the OAC facilities. OAC memberships will drop, causing a budget crisis.

Councilor Raymond encouraged Mr. Bostrom, as the CAT Coach, to take the opportunity to explain to team members that the pool and locker rooms are used by a diverse community. She noted that as a coach, he can be a good influence on youth.

Mr. Bostrom responded that he does not hang-out in the locker rooms and if an incident occurs, he may or may not be told about it afterwards.

Jay Celorie said his children participate on the CAT. He stated appreciation and admiration for the community focus to help disadvantaged and homeless individuals. If the purpose of using OAC shower facilities is to accommodate the need to be more mainstream, then other alternatives should be explored, such as the Benton County Fairgrounds. The variety of people using the OAC facility do so with a certain amount of trust. Opening up the facility to homeless individuals will cause fear and concern and drive current members to make different choices. Many children using the OAC locker rooms and showers have never encountered homeless individuals. Even without physical contact, this can be an uncomfortable experience. If, after evaluating all alternative facilities, the City believes OAC is the best location for this activity, then controls need to be provided, such as additional OAC staffing, limited access times, and/or locker room monitoring.

Jennifer Hartman testified that her son also participates on the CAT. Groups of mentally and physically challenged individuals using the OAC are always surprised by the number of people using the pool and locker facilities. As a mother, she said it is hard to watch your seven-year-old son go into the locker room by himself to use the group shower unsupervised. Ms. Hartman added that her brother struggles with housing and substance abuse issues and when he is not doing well, she and her husband do not allow their children to have contact with him. She encouraged the Committee to deny the request for passes to the OAC.

Kathy Phelps testified as a retired teacher and Project Action volunteer. In response to her inquiry, Aquatic Center Supervisor Mellein said the pool is open to anyone at any time. Ms. Phelps said if she used the OAC, no one would conduct a background check on her and staff would depend on her to be well behaved. If she caused a disturbance, someone would call the Police Department, and she would most likely be excluded from the facility. Ms. Phelps said she hears the fear about the homeless population and relates it to the fears of 10 and 20 years ago about sexual orientation and ethnicity.

Ms. Phelps expressed hope that the City focuses on behavior and not the population in making this decision. She recalled when physically and/or mentally disabled children were finally mainstreamed in the public school system. A lot of fear was expressed, but the change resulted in both groups learning more, and at a quicker pace. She added that children are taught safety at home and at school.

Ms. Phelps agreed that there needs to be an assurance of safety for everyone. Lists and numbers can be related to any group, indiscriminately. Becoming more aware allows citizens to better help one another. Project Action is doing a lot to ensure participants are not dangerous or misbehave. She opined that it is not right to not help a certain group in a public facility.

In response to Councilor Brown's inquiries, Ms. Phelps said she has no concerns with Project Action participants using COI if they can use the facility when needed. COI has staffing issues just like other organizations and it is a problem if the showers are unavailable during normal hours due to staffing issues. Using the Benton County Fairgrounds is not a viable option due to limited public transportation to and from the facility. She believes the bus stops near COI every 30 minutes. *[After the meeting, staff verified that the COI bus stop is an hourly service on the quarter hour.]*

Chair Beilstein agreed that public transportation is more readily available to COI and the OAC than the Fairgrounds.

Matt Ashland testified as a parent of a CAT member, a local business owner, and a Corvallis Fireman. He agreed with prior testimony about how TB is spread. He said shower steam adds to that problem and TB is prevalent in a high percentage of the homeless population. Mr. Ashland said he employs and trusts mentally challenged individuals, but he would not leave his children alone with them for long periods of time. With thorough background checks and a minimal number of participants, using the OAC would probably work, but he would still be fearful of having his seven-year-old use the locker room alone. He taught his middle-school-aged daughter about treating everyone respectively; however, groups of children do not think things through. COI is a better option for shower usage as it is readily available and staff are trained to deal with the homeless population.

Dale Fong said allowing the homeless to use the OAC is a bad idea, is dangerous for children, and the potential for spreading disease is high. He pays to use the facility and for his children to be members of the CAT. He agrees with helping the homeless population, but there are other shower facilities available.

Lisa Quick, COI Health Services Director, testified as a downtown resident, OAC swimmer, and wife of a Corvallis Firefighter-Paramedic. She does not understand why OAC is being proposed for this program when COI already provides shower facilities and has staff trained to deal with the homeless population. Typically, staff do not bother anyone who can maintain long enough to use the cooking and/or shower facilities.

Ms. Quick admitted that she would not be comfortable using the locker room or pool with some of the homeless individuals she has seen around town. The OAC locker room and showers are not very clean and with increases in TB, Methicillin-resistant

Staphylococcus aureus (MRSA), and other contagious diseases, the problem will only compound. She added that COI observes positive TB skin tests weekly (meaning exposure has occurred).

Councilor Raymond said she has heard that the showers at COI are not always available and that the homeless population does not feel welcome or respected at the facility.

Ms. Quick responded that the COI staff is well trained and she observes COI staff treating everyone with respect. Occasionally, people are turned away and asked to come back at a different time due to staffing issues. She suggested that COI could better communicate available hours.

In response to Councilor Raymond's inquiry, Ms. Quick did not know if COI shower facilities would be available for someone needing a shower prior to an 8:00 am interview.

Chair Beilstein said in dealing with human needs, the best approach is to provide a wide variety of facilities. Utilizing COI, OAC, Benton County Fairgrounds, and perhaps fire stations, may be the best approach. Limitations at one facility may not be the same at another.

Ms. Quick agreed that varied resources are the best way to treat any problem, but she does not believe the OAC is the best resource for this proposal.

Karen Misfeldt said her two young boys participate on the CAT. She supports the Project Action proposal and believes it is necessary. Her concern is related to her boys using the OAC unsupervised, two and three times per week. She encouraged the Committee to explore all other available options before choosing the OAC as the homeless shower facility. If the City cannot find any other option, then it must be proactive to avoid problems before they occur. Every measure must be taken to make sure children are safe using the OAC.

Chair Beilstein reiterated that the proposal does not include free passes for all of the homeless population. The proposal is for a select group of eight to 12 people on a path to normalizing their lives. The program includes one-on-one mentoring and guidance, but does not include exclusive supervision. He said he does not understand the fear being expressed.

Ms. Misfeldt responded that her fear is related to what the participant level could increase to next year if this pilot project is successful.

Jason Ball said he understands the need to provide services for the homeless population; however, the public pays for the use of the pool. If this proposal is

approved, people will no longer pay for or participate in OAC programs. Mr. Ball expressed concern about losing the OAC and encouraged the City to pursue all other options.

Councilor Raymond said the City recognizes the fear being expressed and needs to address the concerns. She noted that there are different kinds of homeless individuals and it is important not to stereotype. She added that Corvallis is proud of the OAC and CAT. The City is responsible for all of the population, including homeless adults and children.

In response to Chair Beilstein's inquiry, Mr. Nelson confirmed that the cost of this proposal is well under $1,000. The pilot program is for a handful of transit and OAC passes that will expire July 15.

The following questions were raised by audience members:

- What is the potential lost revenue to OAC?
- Can the City survey OAC participants to determine how many will discontinue using the Center?
- If a survey cannot be conducted, can the City consider or estimate the potential number of lost participants?

<u>The Committee unanimously recommends</u> that Council provide free transit passes for Project Action participants.

Councilor Brown clarified that the recommendation is to support free transportation for Project Action participants. The recommendation is not limited to transportation to and from COI nor does it include Osborn Aquatic Center passes.

Councilor Raymond expressed concern about the lack of shower availability at COI. She suggested that the Homeless Coalition and the Parks Department further explore this issue and address the safety concerns expressed.

Councilor Brown said the hours available for the homeless facilities at COI cover most of the day. If a program participant has an 8:00 am interview, they can take a shower the night before. The OAC is a recreational facility, not a public restroom. People go to the OAC to swim, not to satisfy hygiene problems. The concern about the homeless population using the OAC is real and safety is important to City officials. A compromise is to encourage Project Action to utilize the COI facility so everyone's needs can be met without creating problems.

Chair Beilstein said public perception is that a danger would be created by providing free passes to the OAC for Project Action participants. He opined that the perception is incorrect and that the fear is unjustified; however, there is another option available and no reason to risk losing support for the City, OAC, and the homeless population.

Councilor Raymond disagreed with Chair Beilstein's comments. She said Project Action requested the passes to OAC because of the lack of alternatives and limited hours at COI. The participants Project Action works with are not a safety threat to children or adults. She said sometimes people need to confront their fear to understand what is being asked and represented.

Councilor Raymond moved to recommend that Council direct the Homeless Coalition to seek alternative showering facilities and for COI to review available shower times.

Mr. Donovan said COI cannot be all things to all people. COI recently laid off five employees and increasing hours is not feasible. COI works with the Homeless Coalition and supports their efforts.

In response to Councilor Raymond's inquiry, Mr. Donovan clarified that the COI showers are available from 9:00 to 11:30 am, 1:30 to 3:30 pm, and 4:00 to 7:00 pm.

Ms. Nored suggested staff consider allowing Homeless Coalition volunteers to help at COI to keep the showers and other homeless facilities more readily available.

The motion failed due to the lack of a second.

II. Other Business

The next Human Services Committee meeting is scheduled for 12:00 pm on Wednesday, February 18, 2009 in the Madison Avenue Meeting Room.

Respectfully submitted,

Mike Beilstein, Chair

* * * M E M O R A N D U M * * *

JANUARY 26, 2009

TO: **HUMAN SERVICES COMMITTEE**

FROM: **JON S. NELSON, CITY MANAGER**

SUBJECT: **PROJECT ACTION REFERRAL FROM CITY COUNCIL**

DISCUSSION

At the January 20, 2009, meeting, City Council referred the Project Action request from Barbara Ross to the Human Services Committee. Project Action background information is attached.

Ms. Ross requested City Council consideration of free transit and Osborn Aquatic Center passes for Project Action clients. In a subsequent conversation, Ms. Ross shared that an estimated 8 to 12 clients will participate in the program. The Project runs through July 15, 2009, but if successful could be utilized in future years.

FISCAL IMPACT

Costs are difficult to estimate because use may be varied, depending upon individual client transit and personal hygiene needs. Twenty-ride, low-income coupon books are $6.50. A 15-visit pass to Osborn Aquatic Center is $54, general admission is $4 per visit, and scholarships are available for those in need. Ms. Ross indicated that receiving free passes depended upon active and monitored program participation.

RECOMMENDATION

The Human Services Committee recommends that City Council provide free transit and Osborn Aquatic Center passes to Project Action.

If approved, staff will work with Project Action on appropriate use requirements and a post-July 15, 2009 report to City Council on usage and costs.

SR / JSN

Steve Rogers, Public Works Director

KE / JSN

Karen Emery, Parks and Recreation Director

1007

Name: Project Action

Sponsoring Nonprofit: Corvallis Day Time Drop In Center

Location: Lower level, Madison and fourth under Starbucks

Co-Chairs: Barbara Ross and Hundley Bergstad

Activities: Information and referral services to the homeless
Volunteer advocates to work one on one with participants to achieve progress toward goals.

Budget: Phone, rent,$250 a month, small petty cash for coffee etc.

Hours: 10am to 12 noon, Monday through Friday

Record Keeping, OSU Intern?

Over view of plan

We will need to train about 10 volunteers in information and referral services needed by the homeless. We will seek the assistance of COI, CARDV, CSC, Love Inc. and George Grosch, former director of the county I and R office. The office will be staffed by I & R volunteers two hours a day for five days a week.

We will recruit and train about 8 to 12 volunteer advocates to work one on one with the homeless participants.
These will be volunteers who have had some previous experience with the homeless population. They will meet with their assigned participant about once a week. In this meeting, they will discuss possible action steps that the homeless person could take. The advocate can ask questions and make suggestions, but it is up to the participant to select the actions that he wants to take in the coming week. At the end of the meeting the actions that have been chosen will be written down so everyone is clear about what steps the homeless person intends to take and what support he needs to be able to follow through, such as contact names, addresses,or transportation. Advocates can assist with such activities as seeking health care, obtaining prescriptions, applying for disability benifits, using job search resources at CSC, or hunting for part time work, or applying for low income housing. When they meet again, they will review the outcome of any attempted action and record the results.

The Purpose of the project is to determine if volunteer advocates can be effective in asisting homeless persons in taking action to improve their situation.

The record keeping will assist everyone in finding out which services are helpful in their present form and which need to be modified to assist the homeless.

It is intended that the project will last from January 15 to July 15 2009.

Attachment A

Louie, Kathy

Subject: RE: [Fwd: <web>Proposal to let the homeless shower at Osborn]

-----Original Message-----
From: Mark O'Brien [mailto:ward1@council.ci.corvallis.or.us]
Sent: Tuesday, February 03, 2009 9:32 AM
To: Louie, Kathy
Subject: [Fwd: <web>Proposal to let the homeless shower at Osborn]

K.

Please forward to HSC for today's meeting.

Cheers,

Mark

---------- Original Message ----------
Subject: <web>Proposal to let the homeless shower at Osborn
From: "Matt Harrington" <
Date: Tue, February 3, 2009 6:08 am
To: ward1@council.ci.corvallis.or.us

This is an inquiry e-mail via %s from: Matt Harrington
(Councilor O'Brian,

I am one of your constituents in Ward 1 and I recently heard about a proposal to let homeless individuals have vouchers to shower at Osborn. I disagree with this proposal and hope you vote against it. I think it is an inappropriate use of taxpayer funds to offset a need that can be filled by other charitable organizations in our city. In addition, while most are just down on their luck, there are some that will pose increased risk of exposure to communicable disease, alcohol and drug dependencies, and mental illness. These are people who would now share facilities with my own children and many others participating in swim lessons, Corvallis Aquatic Team, and other activities. Secondarily, if it is apparent that you or the rest of Council is going to go ahead and vote in favor of this idea anyway, please at least consider limiting the time that these vouchers would be usable, such as during the middle of the day when most children are in school so as to lessen the risk of anything unfortunate. I urge you to vote no on this proposal. Thank you.

ADMINISTRATIVE SERVICES COMMITTEE
MINUTES
February 4, 2009

Present
Councilor Hal Brauner, Chair
Councilor Mark O'Brien
Councilor Joel Hirsch (3:33 pm)

Staff
Jon Nelson, City Manager
Ken Gibb, Community Development Director
Kathy Louie, Assistant to City Manager/City Recorder
Sarah Johnson, Assistant Planner
Jim Brewer, City Attorney
Carla Holzworth, City Manager's Office

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Urban Renewal Plan Voters' Pamphlet Review			Accept the Revised Explanatory Statement (Attachment C) as recommended by staff and the Committee
II. Council Policy Review: 91-2.01, "Meeting Procedures"			Approve Council Policy 91-2.01, "Meeting Procedures" as amended by staff. Staff will amend the meeting guidelines attachment as requested by the Committee.
III. Other Business	*		

Chair Brauner called the meeting to order at 3:30 p.m.

CONTENT OF DISCUSSION

I. Urban Renewal Plan Voters' Pamphlet Review (Attachment)

Mr. Gibb distributed a copy of an e-mail from Norma Buckno (Attachment A) containing the State Elections Division's feedback on the City's original draft Explanatory Statement and a copy of the Revised Explanatory Statement (Attachment B) that incorporates most of the State's suggestions. The 450 word Revised Statement is within the 500 word maximum.

Changes to the Statement include estimated collections and allocations in the first five years, impacts to other jurisdictions, establishes 2009 as the base year, and clarifies that during the life of the Plan, the Urban Renewal District (URD) would receive the increment in excess of taxes due in 2009. Mr. Gibb said it is not possible to predict what programs would gain or lose as a result of the URD, so staff cannot incorporate the State's suggestion to include a related explanation. Mr. Brewer opined that the

Revised Explanatory Statement is as close as possible to meeting the simple and understandable language requirement.

In response to Councilor O'Brien's concern about the potential for the public to mistakenly connect parking and signage language in the fifth paragraph, staff agreed to clearly separate the words parking and signage, and to add the word *destination* to signage, which is consistent with language used in the Urban Renewal Plan. The Committee agreed that the Statement should be revised to read, "*...riverfront path improvements, parking, and destination signage.*"

In response to Councilor O'Brien's inquiry about percentages in the third paragraph, Mr. Brewer said both the 4.3% of assessed value and 3.3% of the City's total area are variable percentages. Ms. Johnson noted that the increment tables are based on fixed values, but those could change. Staff agreed to add the word *current* after the word City's in both places, revising the Statement to read, "*...would contain 3.3% of the City's current total area and 4.3% the City's current total assessed value.*"

The Committee unanimously recommends that Council accept the Revised Explanatory Statement (Attachment C) as recommended by staff and the Committee.

Mr. Gibb noted that the Elections Division provided a disclaimer in their e-mail absolving the State of liability associated with their review.

[A copy of the updated Explanatory Statement is included (Attachment C).]

II. Council Policy Review: 91-2.01, "Meeting Procedures" (Attachment)

Ms. Louie said the Meeting Procedures policy was reviewed in December by the previous Administrative Services Committee. In addition to staff's proposed updates, the Committee recommended, and Council subsequently concurred, that staff create meeting format guidelines for Council standing committees and boards and commissions that include Councilor Brown's suggestions. Ms. Louie said staff is returning with the proposed guidelines, noting that they are similar for both groups and allow for flexibility. Staff suggests adding a new section 2.01.040 that reflects the inclusion of guidelines for Council Standing Committee meetings.

Referring to #8 "Other Business" in the Council Standing Committee standard meeting format, Councilor O'Brien expressed concern about citizens with other business having to wait until the end of the meeting. Chair Brauner noted that before the meeting starts, the chairs of boards, commissions, and committees may ask audience members if they are present to discuss agenda topics or other business. Chairs further have the

discretion to decide if it is appropriate to refer the citizen(s) to the full Council, to address the issue ahead of scheduled agenda items, or to have the citizen(s) wait until the end of the meeting. Mr. Nelson added that citizens wishing to discuss new issues with City Council are often better served by presenting them to the full Council. Residents who started at the Committee level have been frustrated in the past because they did not feel their issue was fully explained to the Council.

In response to Councilor O'Brien's request for further clarification about citizen participation during meetings, Mr. Nelson suggested the phrase, *receive public input* could be added to #7, "Committee Business." He further suggested that the word *committee* could be included in the "facilitate discussions" phrase to clarify that public input is separate from committee deliberations. The Committee agreed the proposed language should be as follows...

> "Chair: Follow agenda - receive staff reports, **receive public input as appropriate**, facilitate **committee** discussions, solicit motions, and announce decisions."

Ms. Louie noted the Mayor will conduct a training session for boards and commission chairs at 4 pm on February 26 in the Madison Avenue Meeting Room.

The Committee unanimously recommends that Council approve Council Policy 91-2.01, "Meeting Procedures" as amended by staff. Staff will amend the meeting guidelines attachment as discussed.

[A copy of the revised policy reflecting the Committee's recommendations is included (Attachment D).]

III. Other Business

Mr. Gibb distributed a revised Economic Development calendar (Attachment E). The optional pre-application orientation session for agencies has been scheduled for March 11 and the Allocations Committee orientation was moved to Wednesday, May 6 at 3:30 pm to reflect ASC's new meeting time. Due to a Budget Commission meeting conflict, staff recommends that presentations be moved to Monday, May 11. Deliberations would remain on Thursday, May 14 as previously scheduled.

In response to Councilor Hirsch's inquiry, Mr. Gibb said presentations on May 11 would most likely begin at 5 pm. When the Allocations Committee meets for orientation, they will choose the starting time for deliberations. In the past, deliberations have begun around 4 pm or 4:30 pm, but the three citizen members of this year's Committee need to be involved in setting the time.

In response to Councilor O'Brien's inquiry, Mr. Gibb confirmed that the deadline for notices of intent has passed and about 10 or 12 agencies have expressed interest. The Committee approved the revised calendar. The item is for information only.

Mr. Brewer distributed a memo regarding campaign restrictions by employees (Attachment F). When the URD becomes a measure, public employees cannot campaign while on the job and public resources cannot be used for campaigning. Mr. Brewer noted that a variety of information about the URD has been prepared and presented by City staff, including Council meeting packets and minutes, workshops, public hearings, analysis, slide shows, Council meeting videos on TV and the City Web site, and Web site archives. The State Elections Division recommends that the City remove all Web-based references and access to City-prepared information relating to the URD until the election is over; however, having the complete record available at the Library is acceptable.

In response to Chair Brauner's inquiry, Mr. Brewer said the Urban Renewal Plan is embedded in the ordinance and having it there does not constitute advocacy.

In response to Councilor Hirsch's opinion that individuals coming to the City's Web site seeking information does not constitute the City campaigning, Mr. Brewer said use of City staff time to maintain the Web site with URD information constitutes public resources being used for that cause and is therefore considered misuse of public funds.

In response to Councilor O'Brien's observation that Library staff are also paid with City funds, Mr. Brewer said the Elections Division interprets the information being available at the Library differently.

In response to Councilor O'Brien's question about the feasibility of excluding URD information, Mr. Brewer said it is more prudent to temporarily disable public access to targeted areas of the City's Web site, rather than trying to edit out URD references and risk missing something.

In response to Councilor O'Brien's inquiry, Mr. Brewer said the campaigning law applies to employees, not elected officials, so Councilors may use their e-mail to respond to constituent questions. The Council e-mail system, including archives, is maintained by Peak Internet, not City employees.

In response to Councilor O'Brien's inquiry, Mr. Brewer said once the URD becomes a measure, City staff, such as planners serving on the Downtown Commission, cannot participate in meetings where the URD is discussed. If a citizen calls the City seeking information or clarification about the URD, employees can only give factual, impartial

information. The language the employee uses must comply with the "words which must not be spoken" list developed by the Elections Division.

In response to Chair Brauner's inquiry, Ms. Louie said the URD becomes a measure when the City Recorder files the paperwork with Benton County. Council will decide on the voters pamphlet information at their February 17 meeting, so the paperwork could be filed any time between February 18 and the County's March 19 deadline.

In response to Councilor O'Brien's inquiry, Ms. Louie said the City will place information on the Web site to explain why URD information and some areas of the site are not accessible. Mr. Brewer noted this was recommended by Elections Division.

Chair Brauner noted that the Election's Division's recommendations create a potential conflict with the public records law and he plans to bring the matter to the next City Legislative Committee meeting with State representatives.

In response to Councilor Hirsch's inquiry, Mr. Brewer said a private citizen or elected official can independently gather URD information and save it on a non-City Web site as a resource for the public.

In response to Councilor Hirsch's inquiry, Mr. Brewer said the Elections Division's rules and direction come from the Attorney General's Office.

The item is for information only.

The meeting adjourned at 4:37 pm

The next regular Administrative Services Committee meeting is scheduled for 3:30 pm, Wednesday, February 18, 2009 in the Madison Avenue Meeting Room.

Respectfully submitted,

Hal Brauner, Chair

MEMORANDUM

TO: Administrative Services Committee

FROM: Ken Gibb, Community Development Director

DATE: January 28, 2009

SUBJECT: Review of proposed Urban Renewal District Explanatory Statement

ISSUE:

Review and approval of an Explanatory Statement regarding the Proposed Downtown Urban Renewal District to be included in the Voters' Pamphlet for the May 19, 2009 election.

DISCUSSION:

Explanatory Statements are required to be impartial and are limited to a maximum of 500 words. City Staff have prepared the attached draft Explanatory Statement for the proposed Downtown Corvallis Urban Renewal District, to be published in the May, 2009, Voters' Pamphlet. The Explanatory Statement has been reviewed by the City Attorney's Office and is currently 388 words in length. The Explanatory Statement has been sent to the Secretary of State Elections Division for advocacy review. Any comments received from that office prior to the Administrative Services Committee meeting will be presented at the meeting.

REQUESTED ACTION:

The Administrative Services Committee is asked to review and comment on the proposed language and make a recommendation to the City Council.

Review and Concur:

Jon Nelson, City Manager

Jim Brewer, Deputy City Attorney

Proposed Explanatory Statement
Downtown Corvallis Urban Renewal District

The City Council is referring an ordinance to implement a Downtown Urban Renewal Plan. The proposed Plan includes tax increment financing. The City Charter requires approval of the proposed Plan by a majority vote at a City election.

The proposed Plan would establish an Urban Renewal District within boundaries that extend from Fillmore Avenue, south to the north end of Crystal Lake Drive, and from 6th Street east to the Willamette River. The primary zoning within the district boundary is Central Business, Central Business Fringe, and Mixed Use transitional, but also includes smaller areas composed of other commercial, industrial, and residential zones.

The proposed district would contain 3.3% of the City's total area and 4.3% of the City's total assessed value. The City Council found that the area includes vacant buildings, undeveloped and underdeveloped property, and low improvement to land value ratios when compared to similar downtown areas.

The Downtown Corvallis Urban Renewal Plan proposes the use and collection of tax increment funds, in an amount not to exceed $35.6 million over the life of the Plan, which is anticipated to be roughly 20 years. During the life of the Plan, tax increment funds would be collected by dedicating the increases in property tax revenues within the district area to the district for use on projects and programs authorized by the Plan.

The Plan proposes the following types of expenditures: Public Improvements; Public and Private Development; Rehabilitation and Historic Preservation; Debt Service; and Plan Administration. The Plan proposes the following specific projects within the area: structural improvements and rehabilitation of buildings, assistance for historic preservation and renovation, riverfront path improvements, and parking in the downtown area. The Plan would require approval by a majority in a City election before any increase or decrease of more than 20% spending in any category. Increasing the total tax increment revenue received by the Urban Renewal District would also require voter approval.

The Plan proposes that the City Council would serve as the Urban Renewal Agency, responsible for implementing the Urban Renewal Plan, project planning, budgeting, and authorizing funding for projects and programs within the district. The Plan proposes the Downtown Commission would act as the citizen advisory body to the Urban Renewal Agency. Any changes to the governance of the Urban Renewal District would require approval by the voters of Corvallis.

* * * M E M O R A N D U M * * *

JANUARY 28, 2009

TO: **ADMINISTRATIVE SERVICES COMMITTEE**

FROM: **KATHY LOUIE, ASSISTANT TO CITY MANAGER/CITY RECORDER**

SUBJECT: **COUNCIL POLICY REVIEW: CP 91-2.01, "MEETING PROCEDURES"**

BACKGROUND AND DISCUSSION

Council Policy CP 91-2.01, "Meeting Procedures," was reviewed by Administrative Services Committee December 16, 2008. The City Council concurred with the Committee's recommendation that staff develop and include in the Policy meeting format guidelines for Council Standing Committees and City advisory bodies. The guidelines should specifically include introduction of Committee or advisory body members, explanation of the purpose of the meeting, explanation of the meeting format, and explanation of opportunities for citizen input. Materials from the December 18, 2008, Committee meeting, Councilor Brown's suggestions, and subsequent Council minutes are attached for reference.

REQUESTED ACTION

Staff requests Committee review of the proposed meeting format guidelines and recommend that Council amend Council Policy CP 91-2.01, "Meeting Procedures."

Review and concur:

Jon S. Nelson, City Manager

CITY OF CORVALLIS

COUNCIL POLICY MANUAL

POLICY AREA 2 - COUNCIL PROCEDURES

CP 91-2.01 **Meeting Procedures**

Adopted December 3, 1973
Revised April 2, 1979
Affirmed October 7, 1991
Revised November 4, 1996
Affirmed March 5, 2001
Revised July 21, 2003
Revised February 17, 2009

2.01.010 Purpose

To establish a policy concerning Council meetings and Board, Commission, Subcommittee, and Task Force meeting days, times, and locations.

2.01.020 Policy

2.01.021 Minutes of Committee meetings shall be read verbatim to the Council only when they contain recommendations which must be acted upon by the Council and then only that portion relating to the recommendation shall be read.

2.01.022 All requests for information concerning past City practices or the historical development of current City practices shall be made to the City Manager preferably at a time allowing the City Manager to prepare a response.

2.01.023 Questions of staff by Council persons shall be facilitated by the City Manager except those posed to the City Attorney.

2.01.024 Sturgis' rules of order shall be adhered to in deliberating, reviewing, and approving Council actions. Issues are to be brought forward in the appropriate forum. The Mayor, Council President, or Committee Chairs should be consulted in determining that forum.

Council Policy 91-2.01

2.01.025 City Council and Planning Commission meetings will be recorded ~~on magnetic tape. Said tape recordings will be~~ and stored in accordance with guidelines set forth in the State's City Records and Retention Schedule. ~~Tape r~~Recordings of Committee meetings and other meetings will be made on special occasions or at any time that there is a public hearing being held by the Committee. Upon request by interested parties, copies of the recordings will be made ~~for interested parties.~~ and charged, consistent with Administrative Policy AP 1.14, "Public Records Requests."

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2.01.028 Council meetings will adjourn at 11:00 pm, allowing extension by one-half hour increments upon a majority Council vote.

2.01.030 Policy - Board and Commission Meetings

2.01.031 Board, Commission, Subcommittee, Task Force, and similar Mayor-appointed committees conducting City business shall be encouraged to meet in City-owned facilities.

2.01.032 Board, Commission, Subcommittee, Task Force, and similar Mayor-appointed committees conducting City business shall be on a day, during a time, and at a location that accommodates members, staff, and the public's participation, as determined by the Chair working in consultation with staff. Meeting room charges (rent, minimum order, etc.) will be paid for by the City. If the Chair and City staff determine that charges are too expensive, the meeting location shall be moved.

2.01.033 Chairs of boards, commissions, subcommittees, task forces, and similar Mayor-appointed committees conducting City business shall be encouraged to follow the attached meeting format.

2.01.040 Council Standing Committee Meetings

2.01.041 Chairs of Council Standing Committees shall be encouraged to follow the attached meeting format.

~~2.01.040~~
2.01.050 Review and Update

This Council Procedures Policy shall be reviewed every five years by the Council and updated as appropriate.

COUNCIL STANDING COMMITTEE

STANDARD MEETING FORMAT

1. Call to order by Chair	Chair: "I call to order this (date) meeting of the (group name)."
2. Introduction of Committee members	Chair: "Would Committee members please introduce themselves?" *(It is the Chair's discretion whether to ask audience members to introduce themselves.)*
3. Explain purpose and responsibility of Committee	Chair: "I would like to briefly explain the nature and purpose of this Committee." *(Provide a brief, simple explanation of the Committee's responsibilities, as stated in Council Policy 91-2.02, "Council Process.")*
4. Explain purpose of meeting	Chair: "Today's meeting will include discussion of _____ issues."
5. Explain role of public input	Chair: "Public input is important to the decision-making process in Corvallis government. Your comments, concerns, and ideas are appreciated. We will provide opportunity for public input after the staff report for each discussion item."
6. Review of agenda	Chair: "Are there any changes to today's meeting agenda?" Chair: "Are there any requests to re-order the items on today's meeting agenda?"
7. Committee Business	Chair: *Follow agenda – receive staff reports, facilitate discussions, solicit motions, and announce decisions.*
8. Other Business	Chair: "Is there a member of the public present who has other business for the Committee? Do Committee members or staff have other business?"

9.	Executive Session *(if appropriate)*	Chair: "The Committee will now enter Executive Session. In compliance with Oregon law, only representatives of the news media, designated staff, and other Council-designated persons are allowed to attend the executive session. News media representatives are directed not to report on any executive session discussions, except to state the general subject of the discussion, as previously announced. No decisions will be made during the executive session. Committee members and staff are reminded that the confidential executive session discussions belong to the Committee as a body and should only be disclosed if the Committee, as a body, approves disclosure. Any Committee or staff member who may not be able to maintain the Committee's confidences should leave the meeting room." Chair: *(Facilitate staff report presentations and executive session discussions.)* *(If Committee decision is necessary, return to open session before requesting motion.)*
10.	Adjourn	Chair: "The meeting is adjourned."

ADVISORY BOARD/COMMISSION/COMMITTEE

STANDARD MEETING FORMAT

1. Call to order by Chair	Chair: "I call to order this (date) meeting of the (group name)."
2. Introduction of group members	Chair: "Would all members of this advisory group please introduce themselves and also, if appropriate, state their appointment/affiliation to this group?" *(e.g., citizen at large, Council Liaison, etc.)* *(It is the Chair's discretion whether to ask audience members to introduce themselves.)*
3. Explain purpose and responsibility of group	Chair: "I would like to briefly explain the nature and purpose of this advisory group." *(Provide a brief, simple explanation of the group's charge, as stated in the Municipal Code.)*
4. Explain purpose of meeting	Chair: "Today's meeting will include discussion of _____ issues."
5. Explain role of public input	Chair: "Public input is important to the decision-making process in Corvallis government. Your comments, concerns, and ideas are appreciated. An opportunity for public comments will be provided."
6. Review of agenda	Chair: "Are there any changes to today's meeting agenda?" Chair: "Are there any requests to re-order the items on today's meeting agenda?"
7. Approval of previous meeting's minutes	Chair: "Are there any corrections to the minutes of the (date) meeting?" Chair: Invite a motion to approve the (date) meeting minutes *(as amended, if appropriate).* Chair: "All those in favor of the motion, please say 'aye.'" Chair: "All those opposed to the motion, please say 'naye.'" Chair: "The minutes of the (date) meeting are approved *(as amended, if appropriate)."*

8.	Public Comments	Chair: The Chair may solicit public comment after each agenda item staff report and/or generally. "Is there a member of the public present who would like to offer comments to the Commission/Board/ Committee, not related to business on the agenda?
9.	Unfinished Business	Chair: *Follow agenda – receive staff reports, public comment, facilitate discussions, solicit motions, and announce decisions.*
10.	New Business	Chair: *Follow agenda – receive staff reports, public comment, facilitate discussions, solicit motions, and announce decisions.*
11.	Other Business	Chair: *Follow agenda – receive staff reports, public comment, facilitate discussions, solicit motions, and announce decisions.*
12.	Executive Session *(as appropriate)*	Chair: "The (group name) will now enter Executive Session. In compliance with Oregon law, only representatives of the news media, designated staff, and other Council-designated persons are allowed to attend the executive session. News media representatives are directed not to report on any executive session discussions, except to state the general subject of the discussion, as previously announced. No decisions will be made during the executive session. (Group name) members and staff are reminded that the confidential executive session discussions belong to the Board/ Commission/Committee as a body and should only be disclosed if the Board/ Commission/Committee, as a body, approves disclosure. Any Board/ Commission/Committee or staff member who may not be able to maintain the Board's/Commission's/ Committee's confidences should leave the meeting room." Chair: *(Facilitate staff report presentations and executive session discussions.)* *(If Board/Commission/Committee decision is necessary, return to open session before requesting motion.)*
13.	Adjourn	Chair: "The meeting is adjourned."

2. First Quarter Operating Report

Councilor Raymond reported that the City's first quarter finances were generally as staff expected them to be, with a few exceptions. The Development Services Fund decreased. The Parks and Recreation Department had increased expenditures due to seasonal program expenses and allocations for construction of Capital Improvement Program projects that were in the bidding phase.

Councilors Raymond and Brown, respectively, moved and seconded to accept the first quarter operating report for Fiscal Year 2008-2009. The motion passed unanimously.

3. Funding Agreement Annual Report – Corvallis Environmental Center

Councilor Raymond reported that an Oregon State University graduate student interned with Corvallis Environmental Center.

Councilors Raymond and Brown, respectively, moved and seconded to accept the Corvallis Environmental Center funding agreement annual report. The motion passed unanimously.

4. Council Policy Review: CP 04-1.09, "Public Access Television"

Councilor Raymond reported that the City's franchise agreement required that Comcast provide funding for equipment purchases to support the City's public, education, and government television channels. The operating rules exceed the needs of the City and the community. Staff did not recommend Policy amendments.

Councilors Raymond and Brown, respectively, moved and seconded to affirm Council Policy CP 04-1.09, "Public Access Television." The motion passed unanimously.

5. Council Policy Review: CP 91-2.01, "Meeting Procedures"

Councilor Raymond reported that staff recommended two amendments to update language regarding meeting records and a suggested meeting format for advisory board and commission chairs. The Committee supported the amendments and planned to review the Policy again.

In response to Councilor Daniel's inquiry, Councilor Brown said he suggested including in the Policy a meeting format script to encourage public participation by introducing meeting participants and explaining the meeting process, particularly when public comment periods were limited. The script would be presented to chairs of the City's advisory boards, commissions, and committees.

Councilor Daniels expressed support for the suggested Policy amendments.

ADMINISTRATIVE SERVICES COMMITTEE
MINUTES
December 18, 2008

Present
Councilor Jeanne Raymond, Chair
Councilor Dan Brown
Councilor Bill York

Visitors
John Hope-Johnstone, Corvallis Tourism
Joan Wessell. Downtown Corvallis Association
Bruce Hecht, Oregon Natural Step Network
Joleen Schilling, Corvallis Environmental Center

Staff
Jon Nelson, City Manager
Ken Gibb, Community Development Director
Nancy Brewer, Finance Director
Kathleen Matthews, Community Dev Mgt Asst
Karen Emery, Parks and Recretaion Director
Steve Degehetto, Acting Recreation Director
Mary Steckel, Public Works Administrative Divn Mgr
Kathy Louie, Assistant to City Manager/City Recorder
Ellen Volmert, Assistant City Manager
Carla Holzworth, City Manager's Office

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Economic Development Allocations First Quarter Reports			Accept the First Quarter Economic Development Allocations Reports
II. Funding Agreement Annual Report: Corvallis Environmental Center			Accept the Corvallis Environmental Center's Funding Agreement Annual Report
III. First Quarter Operating Report			Accept the First Quarter Operating Report for Fiscal Year 2008-09
IV. Council Policy Review: 04-1.09, "Public Access Television"			Affirm Council Policy 04-1.09, "Public Access Television"
V. Council Policy Review: 91-2.01, "Meeting Procedures"			Incorporate the Committee's suggested changes and bring the updated policy back to the Committee for further review
VI. Council Policy Review: 91-3.01, "Appointment of Acting City Manager"			Affirm Council Policy 91-3.01, "Appointment of Acting City Manager"
VII. Council Policy Review: 91-3.02, "City Compensation Policy"			Amend Council Policy 91-3.02, "City Compensation Policy" as recommended by staff
VIII. Other Business	*		

Chair Raymond called the meeting to order at 12:00 p.m.

In response to Councilor Brown's inquiry about using the bulletin board to show the Sustainability Coalition's calendar of events, Ms. Steckel said the bulletin board functions similar to a PowerPoint slide show that a traditional calendar. She indicated that the Sustainability Coalition's events could be accommodated on Channel 29 through a non-calendar format.

The Committee unanimously recommends that Council to affirm Council Policy 04-1.09, "Public Access Television."

V. Council Policy Review: 91-2.01, "Meeting Procedures" (Attachment)

Ms. Louie said staff recommends two modifications to the policy. Updated language regarding meeting recordings is recommended in 2.01.025 to maintain flexibility and keep pace with changing technology. Compliance with State records laws will be maintained. Staff also suggests adding a new section, 2.01.033, that provides a suggested meeting script for boards and commissions chairs. The format is based on a simplified version used for land use hearings and will help ensure meeting procedure consistency. The script will also assist the Mayor with the upcoming training for new chairs.

In response to Councilor York's inquiry, Mr. Nelson said Executive Session is used by other groups, including the Airport Commission and the Community Police Review Board. Use of the script is encouraged, but not mandated.

Councilor Brown distributed a hand out (Attachment 1) with additional suggestions to improve constituent participation in City meetings. He said citizens have told him they are confused by meeting processes and procedures. Councilor Brown suggested focusing on audience needs, including introduction of those in attendance so Councilors and City staff are identified; explaining the purpose of the meeting, especially during quasi-judicial processes; and explaining the participation process so citizens understand public testimony procedures. Ms. Louie thanked Councilor Brown for his suggestions and said staff would be happy to review them for incorporation into the policy. Staff will also create a separate script for Standing Committee meetings.

The Committee unanimously recommends that staff incorporate suggested changes and bring the updated policy back to the Administrative Services Committee for further review.

3. Introduction of each member of group – with affiliation

4. Explanation of group (especially important for quasi judicial):

Purpose of meeting – ASC, HRC, Budget Commission, Policing forum are all different

Process how meetings will go –

Explain role of public input

Tom Connolly Brown 12/18/08

* * * M E M O R A N D U M * * *

DECEMBER 5, 2008

TO: **ADMINISTRATIVE SERVICES COMMITTEE**

FROM: **KATHY LOUIE, ASSISTANT TO CITY MANAGER/CITY RECORDER**

SUBJECT: **COUNCIL POLICY REVIEW:**
CP 91-2.01, "MEETING PROCEDURES"

ISSUE

Council Policy CP 91-2.01, "Meeting Procedures," is scheduled for review every five years and was last reviewed during July 2003.

DISCUSSION

The Policy has served well as a guideline for scheduling, locating, facilitating, and documenting the discussions and recommendations of the City's Council, Standing Committees, and advisory boards, commissions, and committees.

With the advancements in recording technology, more City governmental bodies are using a variety of methods to record meetings. Therefore, staff recommends that Section 2.01.025 be amended to allow use of any recording method and appropriate retention of recordings, in accordance with the State of Oregon's City Records and Retention Schedule.

Staff has also received suggestions to develop a standardized meeting script for boards and commissions. Staff recommends approval of the attached meeting script to be used by chairs of all Mayor-appointed boards, commissions, and committees.

REQUESTED ACTION

Staff asks that Administrative Services Committee recommend that the Council revise Council Policy CP 91-2.01, "Meeting Procedures," as recommended by staff.

Reviewed and Concur:

Jon S. Nelson, City Manager

CITY OF CORVALLIS

COUNCIL POLICY MANUAL

POLICY AREA 2 - COUNCIL PROCEDURES

CP 91-2.01 **Meeting Procedures**

Adopted December 3, 1973
Revised April 2, 1979
Affirmed October 7, 1991
Revised November 4, 1996
Affirmed March 5, 2001
Revised July 21, 2003
Revised December 18, 2008

2.01.010 Purpose

To establish a policy concerning Council meetings and Board, Commission, Subcommittee, and Task Force meeting days, times, and locations.

2.01.020 Policy

2.01.021 Minutes of Committee meetings shall be read verbatim to the Council only when they contain recommendations which must be acted upon by the Council and then only that portion relating to the recommendation shall be read.

2.01.022 All requests for information concerning past City practices or the historical development of current City practices shall be made to the City Manager preferably at a time allowing the City Manager to prepare a response.

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2.01.033 Chairs of boards, commissions, subcommittees, task forces, and similar Mayor-appointed committees conducting City business shall be encouraged to follow the attached meeting format.

2.01.040 Review and Update

This Council Procedures Policy shall be reviewed every five years by the Council and updated as appropriate.

Council Policy 91-2.01

ADVISORY BOARD/COMMISSION/COMMITTEE

STANDARD MEETING FORMAT

1. Call to order by Chair	Chair: "I call to order this (date) meeting of the (group name)."
2. Roll call of members present	Chair: "Recording secretary, will you please call the roll?"
3. Review of agenda	Chair: "Are there any changes to today's meeting agenda?" Chair: "Are there any requests to re-order the items on today's meeting agenda?"
4. Approval of previous meeting's minutes	Chair: "Are there any corrections to the minutes of the (date) meeting?" Chair: "Would anyone move to approve the (date) meeting minutes *(as amended, if appropriate)*?" Chair: "All those in favor of the motion, please say 'aye.'" Chair: "All those opposed to the motion, please say 'naye.'" Chair: "The minutes of the (date) meeting are approved *(as amended, if appropriate).*
5. Visitors' Propositions/Public Comments	Chair: "Is there a member of the public present who would like to offer a proposition or a comment to the Commission/Board/ Committee?
6. Unfinished Business	Chair: *Follow agenda – receive staff reports, facilitate discussions, solicit motions, and announce decisions.*
7. New Business	Chair: *Follow agenda – receive staff reports, facilitate discussions, solicit motions, and announce decisions.*

8.	Other Business	Chair: *Follow agenda – receive staff reports, facilitate discussions, solicit motions, and announce decisions.*
9.	Executive Session	Chair: "The (group name) will now enter Executive Session. In compliance with Oregon law, only representatives of the news media, designated staff, and other Council-designated persons are allowed to attend the executive session. News media representatives are directed not to report on any executive session discussions, except to state the general subject of the discussion, as previously announced. No decisions will be made during the executive session. (Group name) members and staff are reminded that the confidential executive session discussions belong to the Board/ Commission/Committee as a body and should only be disclosed if the Board/ Commission/Committee, as a body, approves disclosure. Any Board/ Commission/Committee or staff member who may not be able to maintain the Board's/Commission's/Committee's confidences should leave the meeting room." Chair: *(Facilitate staff report presentations and executive session discussions.)* *(If Commission/Board/Committee decision is necessary, return to open session before requesting motion.)*
10.	Adjourn	Chair: "The meeting is adjourned."

Attachment A

Johnson, Sarah

From: Louie, Kathy
Sent: Monday, February 02, 2009 2:45 PM
To: City Attorney Brewer; Nelson, Jon; Gibb, Ken; Johnson, Sarah
Subject: FW: Corvallis Urban Renewal Plan Explanatory Statement

Importance: High

Attachments: ORS 260.432, review guidelines.pdf

ORS 260.432, review guidelines...

The State's comments on URD ...k

-----Original Message-----
From: Norma J BUCKNO [mailto:Norma.J.Buckno@state.or.us]
Sent: Monday, February 02, 2009 1:51 PM
To: Louie, Kathy
Cc: Brenda J BAYES
Subject: Re: Corvallis Urban Renewal Plan Explanatory Statement

Dear Kathy,

Here are some suggestions for this draft explanatory statement.

For the first paragraph, I'd advise adding to the beginning of the second sentence, "For passage, the City Charter..." Otherwise, it almost sounds like its saying the City Charter requires people to vote to approve this plan.

I had some questions come to mind when reading it that may come to voter's minds and so you may want to consider adding some clarification on. In the third paragraph it explains that the amount won't exceed
$35.6 million over the life of the Plan, "which is anticipated to be roughly 20 years." My question is what determines if it is more or less than 20 years?

Other questions that came up are - Is there an estimate on the amounts that would be raised per year for at least the near future - next few years? What programs stand to, in effect, lose the amount of increase in property taxes, that would otherwise go to that program(s)? This may be a balancing factor that should be included in this explanation.

Also, we always have to mention our disclaimers for our reviews - so that's attached. Since this is an Explanatory Statement, we also note that ORS 251.345 states that the governing body for any electoral district that has referred a measure to the voters shall submit "an impartial, simple and understandable statement explaining the measure and its effect." (Emphasis added.) It is noted that the Secretary of State's review of these draft explanatory statements is limited to whether the contents are sufficiently impartial in accordance with the standards used in reviewing for possible violations of the election law ORS 260.432. The Secretary of State does not provide a service of reviewing local governing body's draft explanatory statements for the other standards they must meet as stated in ORS 251.345 - that the statement must be simple and understandable and explain the measure's effect. The local governing body and its' legal counsel are responsible for meeting these standards, because they require a comprehensive knowledge of the measure and its surrounding facts and circumstances not available to this office without sufficient research.

Hope this is helpful to you.

Thanks, Norma

REVISED Explanatory Statement
Downtown Corvallis Urban Renewal District

ATTACHMENT B

The City Council is referring an ordinance to implement a Downtown Urban Renewal Plan. The proposed Plan includes tax increment financing. For passage, the City Charter requires approval of the proposed Plan by a majority vote at a City election.

The proposed Plan would establish an Urban Renewal District within boundaries that extend from Fillmore Avenue, south to the north end of Crystal Lake Drive, and from 6th Street east to the Willamette River. The primary zoning within the district boundary is Central Business, Central Business Fringe, and Mixed Use transitional, but also includes smaller areas composed of other commercial, industrial, and residential zones.

The proposed district would contain 3.3% of the City's total area and 4.3% of the City's total assessed value. The City Council found that the area includes vacant buildings, undeveloped and underdeveloped property, and low improvement to land value ratios when compared to similar downtown areas.

The Downtown Corvallis Urban Renewal Plan proposes the use and collection of tax increment funds, in an amount not to exceed $35.6 million. ~~over the life of the Plan, which is anticipated to be roughly 20 years. During the life of the Plan, tax increment funds would be collected by dedicating the increases in property tax revenues within the district area to the district for use on projects and programs authorized by the Plan.~~ Property owners within the district would continue to pay property taxes at the same rate as all other property in the City. During the life of the plan, the Urban Renewal District would receive the increment of taxes due that is greater than the amount of taxes due in 2009. The City and other taxing jurisdictions would receive the same amount of property taxes from the district as was due in 2009.

Tax increment funds would be dedicated to the district for use on projects and programs authorized by the Plan. The Plan proposes the following types of expenditures: Public Improvements; Public and Private Development; Rehabilitation and Historic Preservation; Debt Service; and Plan Administration. The Plan estimates collection of approximately $2 million in the first five years, and proposes allocating those funds to the following specific projects within the first five years: ~~The Plan proposes the following specific projects within the area:~~ structural improvements and rehabilitation of buildings, assistance for historic preservation and renovation, riverfront path improvements, and parking and signage in the downtown area. The Plan would require approval by a majority in a City election before any increase or decrease of more than 20% spending in any category. Increasing the total tax increment revenue received by the Urban Renewal District would also require voter approval.

The Plan proposes that the City Council would serve as the Urban Renewal Agency, responsible for implementing the Urban Renewal Plan, project planning, budgeting, and authorizing funding for projects and programs within the district. The Plan proposes the Downtown Commission would act as the citizen advisory body to the Urban Renewal Agency. Any changes to the governance of the Urban Renewal District would require approval by the voters of Corvallis.

Attachment C

EXPLANATORY STATEMENT
BENTON COUNTY VOTERS' PAMPHLET

Date of Election: **May 19, 2009**

Measure Number: **02-_____, City of Corvallis Downtown Corvallis Urban Renewal Plan**

District Submitting Statement: **City of Corvallis, Oregon**

The City Council is referring an ordinance to implement a Downtown Urban Renewal Plan. The proposed Plan includes tax increment financing. For passage, the City Charter requires approval of the proposed Plan by a majority vote at a City election.

The proposed Plan would establish an Urban Renewal District within boundaries that extend from Fillmore Avenue, south to the north end of Crystal Lake Drive, and from 6th Street east to the Willamette River. The primary zoning within the district boundary is Central Business, Central Business Fringe, and Mixed Use transitional, but also includes smaller areas composed of other commercial, industrial, and residential zones.

The proposed district would contain 3.3% of the City's current total area and 4.3% of the City's current total assessed value. The City Council found that the area includes vacant buildings, undeveloped and underdeveloped property, and low improvement to land value ratios when compared to similar downtown areas.

The Downtown Corvallis Urban Renewal Plan proposes the use and collection of tax increment funds, in an amount not to exceed $35.6 million. Property owners within the district would continue to pay property taxes at the same rate as all other property in the City. During the life of the plan, the Urban Renewal District would receive the increment of taxes due that is greater than the amount of taxes due in 2009. The City and other taxing jurisdictions would receive the same amount of property taxes from the district as was due in 2009.

Tax increment funds would be dedicated to the district for use on projects and programs authorized by the Plan. The Plan proposes the following types of expenditures: Public Improvements; Public and Private Development; Rehabilitation and Historic Preservation; Debt Service; and Plan Administration. The Plan estimates collection of approximately $2 million in the first five years, and proposes allocating those funds to the following specific projects within the first five years: structural improvements and rehabilitation of buildings, assistance for historic preservation and renovation, riverfront path improvements, parking, and destination signage in the downtown area. The Plan would require approval by a majority in a City election before any increase or decrease of more than 20% spending in any category. Increasing the total tax increment revenue received by the Urban Renewal District would also require voter approval.

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Total Words: 452

Authorized Signature:

Title: Kathy Louie, Assistant to City Manager/City Recorder

Date:

Attachment D

CITY OF CORVALLIS

COUNCIL POLICY MANUAL

POLICY AREA 2 - COUNCIL PROCEDURES

CP 91-2.01 **Meeting Procedures**

Adopted December 3, 1973
Revised April 2, 1979
Affirmed October 7, 1991
Revised November 4, 1996
Affirmed March 5, 2001
Revised July 21, 2003
Revised February 17, 2009

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~~2.01.040~~
2.01.050 Review and Update

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COUNCIL STANDING COMMITTEE

STANDARD MEETING FORMAT

1.	Call to order by Chair	Chair: "I call to order this (date) meeting of the (group name)."
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3.	Explain purpose and responsibility of Committee	Chair: "I would like to briefly explain the nature and purpose of this Committee." *(Provide a brief, simple explanation of the Committee's responsibilities, as stated in Council Policy 91-2.02, "Council Process.")*
4.	Explain purpose of meeting	Chair: "Today's meeting will include discussion of _____ issues."
5.	Explain role of public input	Chair: "Public input is important to the decision-making process in Corvallis government. Your comments, concerns, and ideas are appreciated. We will provide opportunity for public input after the staff report for each discussion item."
6.	Review of agenda	Chair: "Are there any changes to today's meeting agenda?" Chair: "Are there any requests to re-order the items on today's meeting agenda?"
7.	Committee Business	Chair: *Follow agenda – receive staff reports,* ***receive public input as appropriate,*** *facilitate* ***committee*** *discussions, solicit motions, and announce decisions.*
8.	Other Business	Chair: "Is there a member of the public present who has other business for the Committee? Do Committee members or staff have other business?"

9.	Executive Session *(if appropriate)*	Chair: "The Committee will now enter Executive Session. In compliance with Oregon law, only representatives of the news media, designated staff, and other Council-designated persons are allowed to attend the executive session. News media representatives are directed not to report on any executive session discussions, except to state the general subject of the discussion, as previously announced. No decisions will be made during the executive session. Committee members and staff are reminded that the confidential executive session discussions belong to the Committee as a body and should only be disclosed if the Committee, as a body, approves disclosure. Any Committee or staff member who may not be able to maintain the Committee's confidences should leave the meeting room." Chair: *(Facilitate staff report presentations and executive session discussions.)* *(If Committee decision is necessary, return to open session before requesting motion.)*
10.	Adjourn	Chair: "The meeting is adjourned."

ADVISORY BOARD/COMMISSION/COMMITTEE

STANDARD MEETING FORMAT

1. Call to order by Chair	Chair: "I call to order this (date) meeting of the (group name)."
2. Introduction of group members	Chair: "Would all members of this advisory group please introduce themselves and also, if appropriate, state their appointment/affiliation to this group?" *(e.g., citizen at large, Council Liaison, etc.)* *(It is the Chair's discretion whether to ask audience members to introduce themselves.)*
3. Explain purpose and responsibility of group	Chair: "I would like to briefly explain the nature and purpose of this advisory group." *(Provide a brief, simple explanation of the group's charge, as stated in the Municipal Code.)*
4. Explain purpose of meeting	Chair: "Today's meeting will include discussion of _____ issues."
5. Explain role of public input	Chair: "Public input is important to the decision-making process in Corvallis government. Your comments, concerns, and ideas are appreciated. An opportunity for public comments will be provided."
6. Review of agenda	Chair: "Are there any changes to today's meeting agenda?" Chair: "Are there any requests to re-order the items on today's meeting agenda?"
7. Approval of previous meeting's minutes	Chair: "Are there any corrections to the minutes of the (date) meeting?" Chair: Invite a motion to approve the (date) meeting minutes *(as amended, if appropriate).* Chair: "All those in favor of the motion, please say 'aye.'" Chair: "All those opposed to the motion, please say 'naye.'" Chair: "The minutes of the (date) meeting are approved *(as amended, if appropriate)."*

8.	Public Comments	Chair: The Chair may solicit public comment after each agenda item staff report and/or generally. "Is there a member of the public present who would like to offer comments to the Commission/Board/ Committee, not related to business on the agenda?
9.	Unfinished Business	Chair: *Follow agenda – receive staff reports, public comment, facilitate discussions, solicit motions, and announce decisions.*
10.	New Business	Chair: *Follow agenda – receive staff reports, public comment, facilitate discussions, solicit motions, and announce decisions.*
11.	Other Business	Chair: *Follow agenda – receive staff reports, public comment, facilitate discussions, solicit motions, and announce decisions.*
12.	Executive Session *(as appropriate)*	Chair: "The (group name) will now enter Executive Session. In compliance with Oregon law, only representatives of the news media, designated staff, and other Council-designated persons are allowed to attend the executive session. News media representatives are directed not to report on any executive session discussions, except to state the general subject of the discussion, as previously announced. No decisions will be made during the executive session. (Group name) members and staff are reminded that the confidential executive session discussions belong to the Board/ Commission/Committee as a body and should only be disclosed if the Board/ Commission/Committee, as a body, approves disclosure. Any Board/ Commission/Committee or staff member who may not be able to maintain the Board's/Commission's/ Committee's confidences should leave the meeting room." Chair: *(Facilitate staff report presentations and executive session discussions.)* *(If Board/Commission/Committee decision is necessary, return to open session before requesting motion.)*
13.	Adjourn	Chair: "The meeting is adjourned."

Attachment E

MEMORANDUM

DATE: February 4, 2009

TO: Administrative Services Committee

FROM: Ken Gibb, Director, Community Development Department

RE: Economic Development Allocation Calendar Revisions for FY 09-10

Due to a scheduling conflict with the Budget Commission's public hearing, which has been scheduled for May 12th, staff is recommending that the Economic Development Allocation presentations be rescheduled from Tuesday, May 12th to Monday, May 11th. The deliberations would remain as previously scheduled on Thursday, May 14th.

The calendar has also been revised to reflect the new regular meeting time for ASC, for the orientation session for Committee members (from Thursday, May 7th to Wednesday, May 6th).

As well, the optional pre-application meeting for organizations has been rescheduled from March 4th to March 11th.

The proposed revised calendar is attached for your review.

Revised Calendar FY 2009-10
Economic Development Allocations

This is the calendar for the FY 09-10 Economic Development Funding Allocations process, which has been revised to reflect the new regular meeting date for ASC meetings and a change of date for the Presentations and Optional Pre-Application Orientation Session for Applicants (revised dates are in bold type).

CD Staff mails Notices of Intent to Interested Parties and places ad in the Gazette Times	by Friday, December 19, 2008
Notices of Intent Due to Community Development Department	Friday, January 30, 2009
CD Staff mails RFP packets	Friday, February 6, 2009
Optional Pre-Application Orientation Session for Applicants	**Wednesday, March 11, 2009**
Nominations for citizen members to Allocations Committee due	Monday, March 9, 2009
Funding Applications due to CD	Tuesday, March 31, 2009
Finance Office Review of Financial Information	April 1 - April 24, 2009
Mayor appoints citizen members of Corvallis	Monday, April 6, 2009
CD sends confirmation letters and invitation to Orientation Session to citizen members	Wednesday, April 8, 2009
CD Staff sends out packets to Committee members	Friday, May 1, 2009
Orientation Session for Committee Members	Regular ASC Meeting **Wednesday, May 6, 2009**
Presentations to Committee	**Monday, May 11, 2009**
Deliberations by Committee	Thursday, May 14, 2009
Council Review and Decision	Monday, June 1, 2009

Attachment F

CORVALLIS
ENHANCING COMMUNITY LIVABILITY

CORVALLIS CITY ATTORNEY
456 SW Monroe, #101
Corvallis, OR 97333
Telephone: (541) 766-6906
Fax: (541) 752-7532

MEMORANDUM

To: Jon Nelson, City Manager
Kathy Louie, Assistant to City Manager/City Recorder

From: Jim Brewer, Deputy City Attorney

Date: February 4, 2009

Subject: Restrictions on Political Campaigning by Public Employees/ Website and television rebroadcasts

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Issue:

What steps must be taken to ensure that City employees do not violate Oregon's restrictions on political campaigning by public employees?

Background:

Public employees in Oregon may not campaign for or against measures or candidates while at work and on the job. This rule does not apply to elected officials, but does apply to volunteers and appointed members of boards and commissions. An elected official may not direct employees or volunteers to campaign for or against measures or candidates while at work and on the job.

The City's past experience shows that employees are vulnerable to elections complaints, investigations, and fines from the Secretary of State's Election Division, when information prepared prior to a ballot measure becoming a measure, remains available through the City website. You have asked our office for advice regarding how staff should deal with information contained in minutes, Council packets, memoranda, and staff reports (prior to a measure becoming a measure). Our office has carefully reviewed the relevant state law, the administrative rules promulgated by the Elections Division, and the interpretive memos issued by the Elections Division which provide details regarding the administrative rules, particularly those sections devoted to audio-visual materials, public access broadcasts, websites and emails.

Finally, once the City Council began to discuss referring the Urban Renewal Plan to the voters, our office contacted the Elections Division by phone and asked for specific advice concerning the City's on-line archives, and links to various on-line audio and video files. Norma Buckno at the Elections Division advised us that once a prospective measure is a measure, the City should disable links to any video or audio file that includes advocacy for or against the measure. She also advised that the City should disable links to archives that include advocacy for or against the measure. Ms. Buckno advised that putting the material from these sources into the reference

section of the Library, and providing links that inform the public that the material from the archives was available at the Library "would probably be acceptable." She did not recommend referring people to the City Manager's office or to the staff that provided the reports or information to the Council.

Discussion:

As you know, state law prohibits public employees from campaigning for or against candidates or measures while on the job during working hours, and prohibits the use of public funds for public employee work time that supports or opposes candidates or measures. The law specifically permits public employees to campaign when not on the job during working hours. The law allows public employees to prepare and provide information that is "impartial". The Secretary of State's election division has promulgated administrative rules and detailed memoranda regarding what information would be considered "impartial" for purposes of meeting the requirements of the state law. These restrictions may be surprising, as an objectively factually accurate statement may still be considered biased (and therefore a violation of the prohibitions against public employee campaigning). For example, the State considers the word "will" in reference to the future operation of a measure to be evidence of bias, and its use is therefore prohibited. The word "would" in the same context is generally considered impartial. Use of the word "need" is forbidden in most contexts. Quoting a person is prohibited. Reporting that a public body voted unanimously is prohibited. Reporting on the position that an elected official has taken on the measure is prohibited. Use of public employee titles (City Manager, etc.,) is prohibited. The use of personal pronouns or other personalizing language is prohibited. Language that qualifies, describes, or compares the measure to other alternatives is prohibited. The State warns public employees that body language and nonverbal communication, even when transmitting impartial information, can constitute a violation.

Employees who might answer questions, either in person or on the phone, regarding any measure or candidate, may give only impartial information, and may not give any indication of bias towards the support or opposition of the candidate or measure. The Elections Division recommends that employees who might answer questions have and read a copy of the seven-page "short" memo from the Elections Division. For most measures, our advice is that public employees should not answer questions, as inadvertent violations of the Election Division rules are probably unavoidable. Elected officials and the supporters and opponents of a measure must conduct the political campaign without the aid of employees and volunteers. We recognize that this is a particular problem when staff has been given the task of preparing information, staff reports, analysis and recommendations on topics which later become a measure. Staff therefore has the knowledge and expertise regarding the measure that is valuable to proponents or opponents. At the time staff does this work, it is not a violation of state law for that work to advocate for or against an action, to provide analysis, to come to conclusions or to make recommendations that lead to the future measure. Staff does not violate any law by using language which the Elections Division prohibits. But once the measure is certified, staff may no longer prepare or distribute information that is not "impartial". Previously prepared or published materials that are not impartial may not be included within work prepared by public employees. The Elections Division has made it clear that for a public employee to redistribute staff work (that did not violate elections laws at the time it was prepared) is a violation, once the measure becomes a measure.

The Elections Division's memorandum includes specific advice regarding audio-visual materials, rebroadcasting meetings on public access television, and websites and email. The advice in the memorandum is to edit out those portions of the tape or digital record that include advocacy, perhaps with a disclaimer explaining why the portions were edited and where the original might

be viewed. The elections division does not see a problem with public librarians providing the original, upon request. Similarly, the elections division takes the position that a public agency must take appropriate steps to ensure that its website does not contain advocacy materials, and that it does not contain links that benefit one side of a campaign.

While the Elections Division suggests that websites and public access broadcasts could be edited, and the City could remove only those portions of the archives, minutes, television broadcast or other materials that contained advocacy, our conversations with the City Recorder lead us to the conclusion that the City does not have the resources to remove only advocacy materials with any confidence that all advocacy materials would be removed. Consequently, our advice is to disable all of the links to the City archives, and remove the materials related to meetings that contained advocacy. These materials may be placed at the Library, and notices on the City website can direct people to the Library so that inconvenience to the public can be kept to a minimum.

Conclusion:

The law prohibiting campaigning by public employees extends to advocacy materials on the website and public access television maintained and operated by City employees. Once a measure is certified, materials that could be seen as advocacy in favor or against a measure should be removed from the website and broadcast schedules. These materials may be made available at the Library. If it is not practical to remove only the advocacy materials, then the entire record that contains the advocacy materials should be removed or disabled until the election process is complete.

URBAN SERVICES COMMITTEE
MINUTES
February 5, 2009

Present
David Hamby, Acting Chair
Richard Hervey

Absent
Patricia Daniels (excused)

Visitors
Linda Duncan Allen
Brad Upton

Staff
Jon Nelson, City Manager
Ken Gibb, Community Development Director
Dan Carlson, Development Services Division Manager
Mike Fegels, Assistant Building Official
Chris Westfall, Code Enforcement Supervisor
Emely Day, City Manager's Office

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Council Policy Review: CP 91-7.04, "Building Permits"			Amend Policy as recommended by staff
II. Council Policy Review: CP 91-9.05 "Street Naming and Addressing Policies and Procedures"			Amend Policy as recommended by staff
III. Sidewalk Café Regulations Review	Yes		Staff administratively address situation of Enoteca Wine Bar sidewalk café fence and pedestrian clearance; full sidewalk café regulation review during 2009
IV. Other Business			

CONTENT OF DISCUSSION

Councilor Hamby called the meeting to order at 4:14 pm.

I. Council Policy Review: CP 91-7.04, "Building Permits" (Attachment)

Development Services Division Manager Carlson noted that the Policy was scheduled for a periodic review. The Policy allows issuance of building permits in developments where public improvements are not yet accepted by the City. The Policy facilitates approved development projects by allowing exceptions for early construction and provides specific direction for staff in these situations.

Staff sought Policy review input from Public Works, Community Development, and Fire staffs. This input prompted suggested minor amendments for clarification, as indicated in the draft Policy revision. The amendments would clarify issues of excavation and grading permits and references to the City Engineer as the approving authority.

Mr. Carlson noted that the Policy has been beneficial to staff.

In response to Councilor Hamby's inquiry regarding Policy provision 7.04.020.d.5), which allows for "a reasonable amount of time" for required corrections, Mr. Carlson explained that staff previously considered the magnitude of the required correction in determining the allowable time limit. The City Engineer must approve the requested corrections, so it seemed appropriate for the Engineer to determine the correction timeframe.

Based upon a motion moved and seconded by Councilors Hervey and Hamby, respectively, the Committee unanimously recommends that Council amend Council Policy CP 91-7.04, "Building Permits Where Public Improvements are not Completed and Accepted by the City of Corvallis," as recommended by staff.

II. Council Policy Review: CP 91-9.05, "Street Naming and Addressing Policies and Procedures" (Attachment)

Mr. Carlson reported that the Policy has served staff well since its 1975 adoption and has been updated as necessary. The Policy provides a process for street naming and address changing.

Staff sought Policy review input from Public Works, Community Development, Fire, and Benton County staffs. This input prompted suggested minor amendments for clarification, as indicated in the draft Policy revision. Suggested amendments included:

- Indication that the Policy applies to public and private streets.
- Correcting names of businesses and agencies to be notified of street name and address changes (e.g., Corvallis Disposal Company is now Allied Waste Services and AT&T Cable is now Comcast Cable).
- Revising section headings for subject clarification.

Mr. Carlson explained for Councilor Hervey that Policy Section 9.05.021 was re-titled to indicate that it involves street numbering, as street naming is addressed in Policy section 9.05.023.

Mr. Carlson confirmed for Councilor Hamby that the City has authority to control the names of private streets.

Based upon a motion moved and seconded by Councilors Hervey and Hamby, respectively, the Committee unanimously recommends that Council amend Council Policy CP 91-9.05, "Street Naming and Addressing Policies and Procedures," as recommended by staff.

III. Sidewalk Café Regulations Review (Attachment)

Community Development Director Gibb reviewed that the Committee conducted an extensive review and revision of the sidewalk café regulations last year and approved conducting another review one year after the new regulations were implemented. He noted the considerable amount of community interest in the regulations last year, which was incorporated into the revised standards applied to the 2008 sidewalk café permit season. Staff issued 19 permits last year. Staff worked with permit holders and conducted outreach to facilitate implementation of the new standards and permit application requirements. The permits were in compliance by November 2008. The greatest issue in revising the regulations involved increasing the clearance width from three to four feet and requiring that fencing be anchored to the sidewalks. Fences were deemed optional, unless they were required as part of an Oregon Liquor Control Commission (OLCC) license.

Mr. Gibb opined that implementation of the revised sidewalk café regulations was fairly successful. Several cafes used painted delineation lines, as allowed under the regulations. Concerns and complaints related to cafés with fences.

Mr. Gibb referenced from his January 19th memorandum some minor administrative issues staff would like to resolve through a possible legislative amendment. The existing regulations can be applied for the 2009 sidewalk café season.

Mr. Gibb said the greatest concern expressed to staff involved the sidewalk café fencing at Enoteca Wine Bar (EWB) outside the Renaissance on the Riverfront building at SW Washington Avenue and the riverfront. The café area is large and must be fenced, per OLCC. Much of the café fencing is adjacent to green space or planter islands that are part of the streetscape. As indicated in his memorandum, staff identified a possible solution to this and similar situations of no adjacent street curbs. The revised sidewalk café regulations require six feet of clearance from street curbs and four feet from all sidewalk obstructions; the two-foot clearance difference would allow for cars overhanging street curbs and curbside parking meters, sign and light poles, and tree wells. During the 2008 sidewalk café season, staff applied the four-foot clearance at the Enoteca site. Staff recommended requiring the full six-foot clearance from the landscaping curbs at Enoteca to provide a greater sense of pedestrian passage.

Mr. Gibb said staff would like more experience with the revised regulations before the Committee conducts a full review of the regulations. Sidewalk café permits expire December 31st each year; however, staff would like to extend the 2008 permits for the 2009 sidewalk café season, to allow further review of the regulations and permitting process at a staff level.

Brad Upton, Chair of the Bicycle and Pedestrian Advisory Commission (BPAC), noted that the Commission was extensively involved in the sidewalk café regulation revisions two years ago. He opined that the revised regulations were working well. The Commission received comments regarding the sidewalk café at EWB. He distributed and reviewed a

summary of his June 16, 2008, testimony to the City Council and photographs taken last June of the EWB sidewalk café (Attachment A). He viewed the Enoteca sidewalk café recently, and the situation had not changed from last June. He said, from a distance, it appeared as though the sidewalk around Enoteca was closed because of the café fencing across the sidewalks, leaving only the landscaping pavers uncovered. The sidewalk café regulations allow vertical obstructions of up to one-half inch. While pavers might be displaced by less than one-half inch, they create an uneven surface that is difficult for people with mobility challenges to cross.

Mr. Upton said he was not offering suggestions for regulation revisions; however, he wanted to express the opinion of the BPAC and bring to the Committee's attention the situation at EWB, which did not meet the intent of the revised sidewalk café regulations. He suggested that staff implement administrative changes to specify that four feet of clear sidewalk must remain around sidewalk cafés or amend the regulations.

Councilor Hervey inquired as to the differing references to sidewalks and pavers.

Mr. Upton said he spoke with people, some of whom have mobility challenges, who indicated difficulty traversing across pavers. Additionally, pavers appear to be a decorative zone, rather than a pedestrian zone. He was not aware of a definition for sidewalks.

Councilor Hervey surmised that a paver section of concrete at the same level as the sidewalk would not create a problem.

Mr. Upton responded that he would consider the described scenario an improvement; however, a pedestrian, from a distance, might interpret by the fencing around EWB that the sidewalk was closed to pedestrians because the fencing extends to the tree wells. Mobility access would be improved by a full concrete surface. The four-foot minimum clearance is maintained for approximately ten to 15 feet, creating a narrow corridor, rather than merely clearance around an obstacle.

Mr. Upton confirmed for Councilor Hervey that a building entrance is just south of the fencing. One resident of the building uses a wheelchair and must travel south from the building entrance approximately 75 feet to access a sidewalk to the multi-modal path along the river in order to then travel north; he is unable to cross the pavers in his wheelchair.

Laura Duncan Allen would like staff to administratively resolve the situation of the sidewalk café fence at EWB, which she considered the primary area of concern. She recalled that sidewalk café regulation discussions involved six feet of clearance from fencing to street curbs. She said the plans for Riverfront Commemorative Park referenced curbing at the edge of landscape areas, although they were not considered street curbs. She said four feet of clearance for an extended period creates a situation where people, particularly with strollers, walkers, or wheelchairs, cannot pass one another. She urged Committee members to visit the Enoteca site to understand the impression to pedestrians of the

sidewalk surrounding the café. She said the fenced café appears to be private space and is not pedestrian friendly.

Ms. Allen requested additional opportunity for public comment. She works with disabled individuals in the Downtown area, who are unable to maneuver a pushcart through a narrow, winding area, such as the pedestrian passageway around the EWB sidewalk café fence. She would like to be able to notify people when they could comment to the Committee.

Code Enforcement Supervisor Westfall distributed the approved diagram for the EWB sidewalk café and a photograph staff took earlier this week of the café area along the north side of the building. (Attachment B).

Mr. Gibb said staff's photograph demonstrated the difference between six feet of clearance from curbs and four feet of clearance from obstructions. He said staff suggested moving the EWB sidewalk café fence back to six feet from curbs, whether the curbs are adjacent to the street and parking or landscaping areas. This would also impact the café area depicted in Mr. Upton's photographs by moving the fence two feet closer to the building. The pavers would still be considered a pedestrian travel area, as allowed in the café regulations, provided the pavers were within the one-half-inch vertical obstruction allowance. The regulations allow surfaces other than flat concrete to be considered pedestrian passageways, provided they meet the standards for accessibility, as defined in the City's sidewalk regulations. Staff's recommendation would require Enoteca to move portions of its fence two feet closer to the building to allow a full six feet of clearance from all curbs.

Mr. Gibb said the issue of pavers in pedestrian passageways is important in areas where tree wells are within the paver area. It would be difficult to prohibit pavers as an acceptable pedestrian surface. Some sidewalk cafés would not be allowed because they cannot provide the required clearance width without considering pavers as pedestrian passageways.

Mr. Westfall read the definition of "adjacent sidewalk area" from Municipal Code Chapter 8.08, "Sidewalk Cafés." The definition prompted staff's determination that the pavers could be included in the pedestrian passageway area.

In response to Councilor Hervey's inquiry, Mr. Westfall read the definition of "clearances" from Municipal Code Chapter 8.08, "Sidewalk Cafés."

Councilor Hervey opined that the grass along the east side of the Renaissance on the Riverfront building would be considered an obstruction, warranting six feet of clearance outside the EWB sidewalk café.

Mr. Westfall responded that staff reviewed the EWB sidewalk café permit application in terms of what would constitute a curb. Standard street section curbs are adjacent to

streets. Concrete edges adjacent to grass and landscape areas are not considered curbs. The six-foot clearance requirement applies to areas bordered by street curbs; the four-foot clearance requirement applies to other obstructions. The paver area did not exceed the vertical obstruction limit; therefore, staff considered it an allowed, unobstructed area, subject to the four-foot clearance requirement. The café fence alongside SW Washington Avenue parking spaces is six feet from the street curb. When the sidewalk no longer abuts the street (east of the parking spaces), the clearance decreases to four feet, since pedestrians would not need to deal with cars overhanging the curb in that area.

Mr. Gibb added that the six-foot clearance along the parking spaces provides a sense of greater pedestrian clearance. He confirmed for Councilor Hamby that the EWB sidewalk café meets the existing regulations for pedestrian clearance. Staff suggested issuing an administrative interpretation that the fence must be six feet from any curb, whether it abuts a street or a landscape area. Under this proposal, the pavers along the east side of the building could be used as an acceptable pedestrian passageway, provided they do not exceed the allowed versicle obstruction limit.

City Manager Nelson commented that, during discussions regarding design of Riverfront Commemorative Park, citizens expressed a desire for pavers to "break up" the use of pavement. This involved balancing the values of a rougher surface and pedestrian accessibility.

Councilor Hamby said he did not like the appearance of the EWB sidewalk café but said it seemed inappropriate to require the café fence to be six feet from all curbs. The two-foot clearance difference was intended to allow for cars overhanging curbs, which would not exist along a curb abutting a landscape area. He said he was not overly concerned about the pavers because many sidewalks in Corvallis have pavers. The pavers should be maintained as a level surface.

Mr. Westfall explained that tree wells are considered separate review criteria. Any surface in the tree well is considered differently from pavers.

Mr. Gibb added that the two-foot clearance difference was intended to allow obstructions in addition to overhanging cars and provide a sense that a sidewalk café did not occupy an entire sidewalk width. He was not aware of another sidewalk café with a long section not adjacent to a street; therefore, an administrative interpretation applied to the EWB sidewalk café would not apply to other locations.

Councilor Hamby noted that the Committee was to discuss today whether to conduct a sidewalk café regulation review. He questioned whether the EWB sidewalk café situation could be addressed without a full review of the sidewalk café regulations.

Mr. Gibb responded that staff could address the EWB situation administratively for the 2009 sidewalk café season. If the Committee wanted to conduct an extensive regulation review this year, staff would need to begin the notification process soon.

Councilor Hamby expressed support for staff administratively resolving the EWB sidewalk café situation and the Committee conducting a full review of the sidewalk café regulations next year, after staff has been able to gather more data and determine whether other regulation amendments are needed.

Councilor Hervey concurred, saying he would need to visit the EWB site before deciding on another solution. He admitted that crossing pavers via bicycle was uncomfortable, but he believed the short distance someone would need to travel over pavers to pass the EWB sidewalk café would be an acceptable interim solution.

IV. Other Business

A. Committee members and staff agreed to postpone discussion of the City Hall Block Public Restroom Design issue until the Committee's March 5th meeting, so Councilor Daniels would be able to participate.

B. The next regular Urban Services Committee meeting is scheduled for February 19, 2009, at 4:00 pm, in the Madison Avenue Meeting Room.

Councilor Hamby adjourned the meeting at 4:55 pm.

Respectfully submitted,

David Hamby, Acting Chair

Attachment A

Summary of June 16 2008 testimony to City Council by Brad Upton, BPAC Chair

The Corvallis Municipal Code (Chapter 8.08 – Sidewalk Cafés) specifies that an accessible route with clearances must be maintained along a sidewalk café in Corvallis.

However, neither the "clearance" nor the "accessible route" definition include that they be on a sidewalk (Section 8.08.030). Clearance is only defined relative to obstructions, and accessible route is only defined as a "path of travel."

Therefore, a sidewalk café in Corvallis can occupy the entire sidewalk as long as clearance from obstacles is maintained.

In the case of the café at Enoteca, for example, because of the difference in pavement materials it looks like the pedestrian is relegated to the "furniture zone." The accessible route, in this example, is the minimum width for a long distance rather than just a short distance to provide clearance around obstacles.

Clearly, this is not within the City's stated purpose of implementing sidewalk cafés (Section 8.08.010), which includes that sidewalk cafés "encourage a pedestrian-oriented environment [and] help to create a visually attractive atmosphere and streetscape."

I am not here today to submit specific recommendations on the city's sidewalk café code. I anticipate that BPAC will formally submit recommendations in the near future.

However, I do recommend that councilors evaluate the sidewalk café at Enoteca, as it is obvious that this implementation does not provide adequate sidewalk access.

06.11.2008

06.11.2008

06.11.2008

06.13.2008

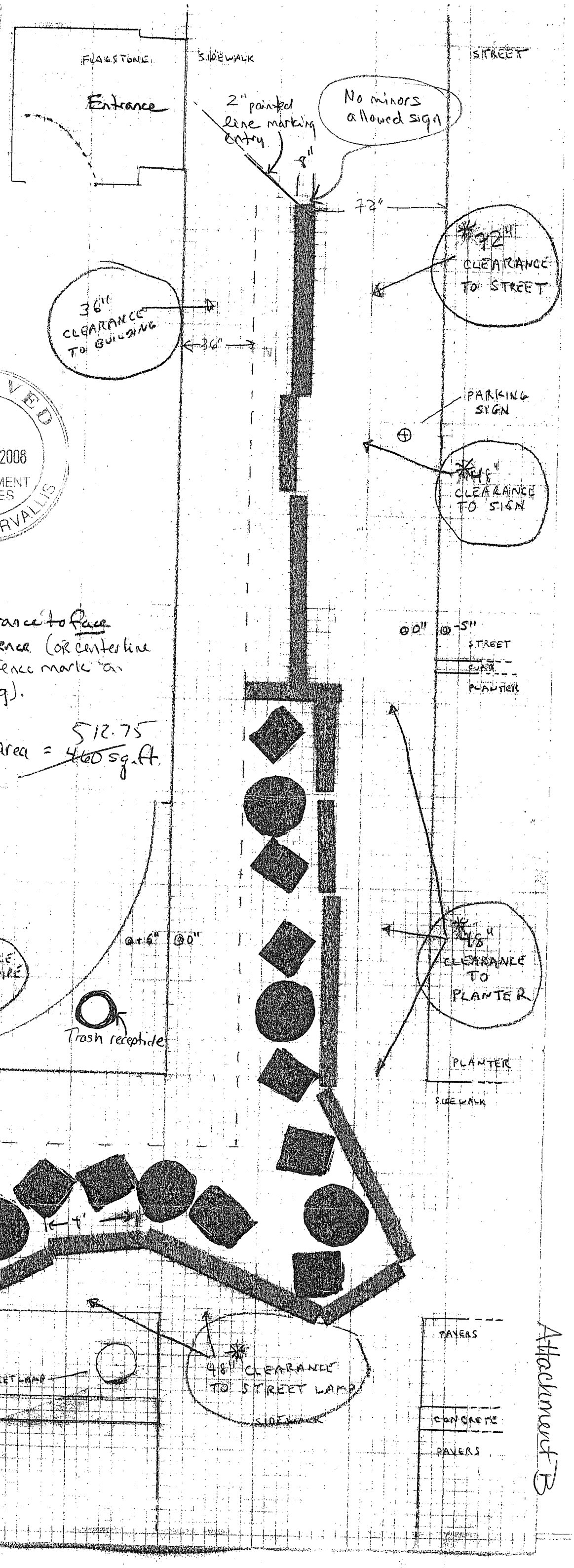
Final Submittal

Tables = 32" (7 tables)
Chairs = 19" x 18" (14 chairs)

1/4" = 1'

= 1" (or 4 feet)

APPROVED
MAY 29 2008
DEVELOPMENT SERVICES
CITY OF CORVALLIS



Note: * = clearance to face ~~of fence~~ (or centerline of fence mark on dwg).

Outside Cafe area = ~~460~~ 512.75 sq. ft.

ENOTECA

Enoteca

Attachment B

City of Corvallis Archives

Help | Logout | My WebLink

Browse Search

Page 1 of 3 Go

29.83% Pages 1 to 3

Corvallis > Community Development > Development Services > Permit Plan Documents > CASES > VIO Violations > 2009 > VIO09-00032 > 2-3-09 SITE VISIT F

Template: Community Development
Permit Number
VIO09-00032
Project Name

Planning - Old Case Number

Associated Permit Numbers

Project Number

Doc Type

Doc Description
2-3-09 SITE VISIT PICS
Order #

Correspondence

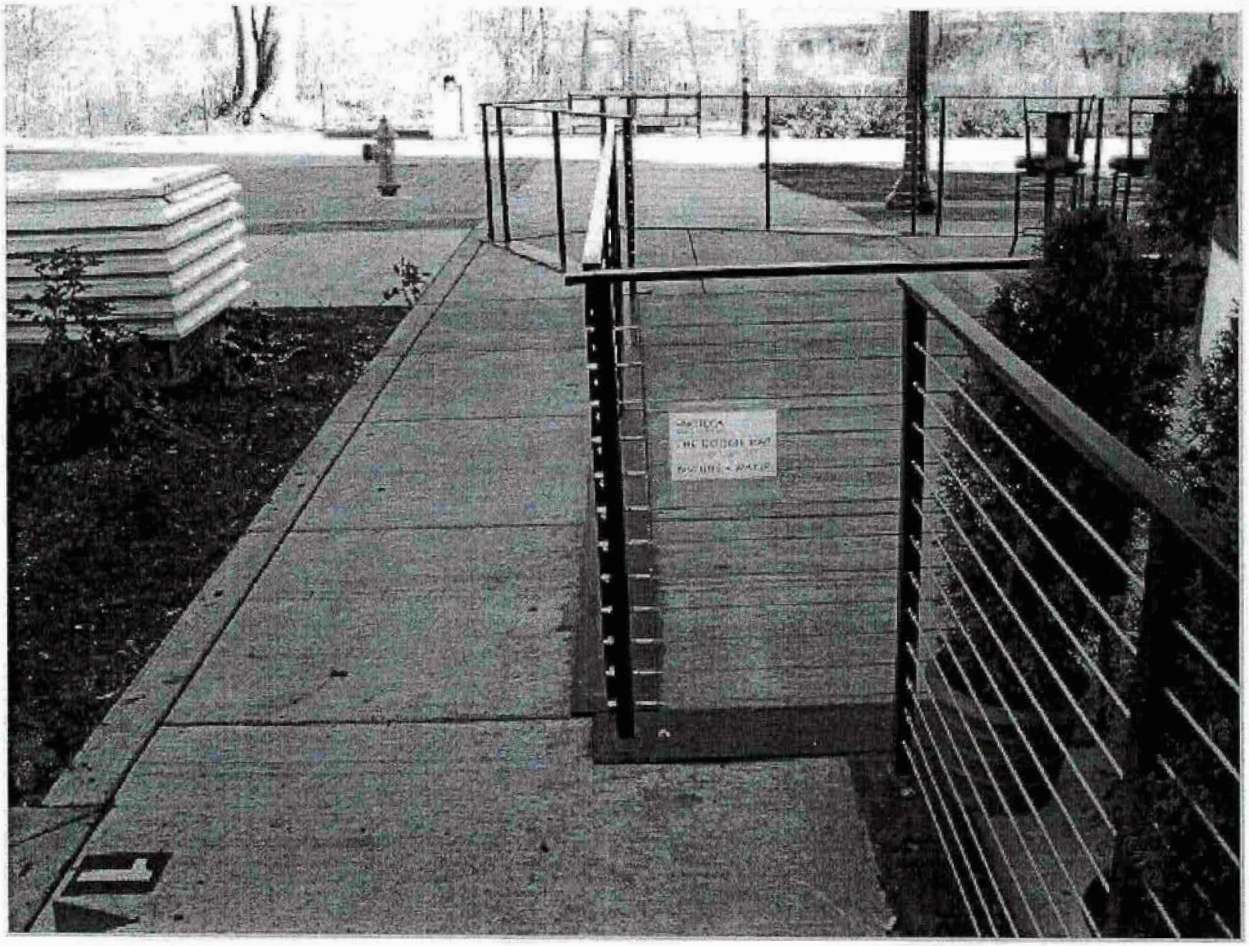
Correspondence Date In

Correspondence Date Out

Assessor Parcel Number

Ref Street Number
136
Ref Street Direction
SW
Ref Street Name
WASHINGTON
Ref Street Suffix

Applicant Name



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* * * M E M O R A N D U M * * *

JANUARY 27, 2009

TO: **MAYOR AND CITY COUNCIL**

FROM: **JON S. NELSON, CITY MANAGER**

SUBJECT: **LIVING WAGE EXCEPTION**

The attached ordinance implements Council direction on the living wage and animal shelter service providers.

Suggested contract language will be addressed through the Corvallis Police Department and Heartland Humane Society contract discussions.

Scott Fewel, City Attorney

Gary Boldizsar, Police Chief

Attachment

2010

ORDINANCE 2009-____

AN ORDINANCE RELATING TO EXCEPTIONS TO THE LIVING WAGE, AMENDING MUNICIPAL CODE CHAPTER 1.25, "LIVING WAGE," AS AMENDED

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. Municipal Code Section 1.25.050 is hereby amended to include a new subsection 10), as follows:

Section 1.25.050 Exceptions.

Exceptions to the requirement for a contractor to pay the Living Wage are:

1) Employees who are hired through a youth employment program or as student workers;
2) Interns who participate in an established educational internship program;
3) Apprentices working in an approved apprenticeship program;
4) Volunteers working without pay;
5) Small independent contractors;
6) Employees working in a non-profit Qualified Rehabilitation Facility as defined in ORS 279;
7) Support staff or indirect employees;
8) Employees working for agencies that receive financial assistance from the City;
9) Collection agencies;
10) Employees working for a non-profit agency which provides animal shelter and animal education services.

PASSED by the City Council this _____ day of _____, 2009.

APPROVED by the Mayor this _____ day of _____, 2009.

EFFECTIVE this _____ day of _____, 2009.

_____
Mayor

ATTEST:

_____
City Recorder

MEMORANDUM

February 2, 2009

TO: Mayor and City Council

FROM: Ken Gibb, Community Development Director

RE: Northwest Natural Easement Request

I. Issue

The City has received a request from Northwest Natural to grant them an easement (document copy attached) through City-owned property at Seavey Meadows so they may install a new natural gas line.

II. Discussion

Northwest Natural currently has gas lines running along the north edge of NE Seavy Avenue and along the south edge of NE Sorrell Place (see attached map). They report inconsistent line pressure and would like to have the flexibility to reverse the direction of gas flow as needed, so they would like to loop the gas distribution system that serves the area.

To achieve their goals Northwest Natural would like an easement, as shown on the map, which would allow them to push a gas line beneath the City's property to complete the loop. The City's surveyor has calculated the area of the proposed easement at 2,530 square feet.

Housing staff act as property managers for the Seavey Meadows and other City surplus properties, and have discussed the details of the requested easement with Northwest Natural. The request has been forwarded to Planning and Public Works for consideration, and both concur that the request is acceptable. If the easement is granted by the City, Northwest Natural will coordinate their line installation activities with Public Works. Because they would push the gas line underground rather then dig a surface trench, it is very unlikely that a wetland permit from the Oregon Department of State Lands would be required. Only if more than 50 cubic yards of soil are disturbed would such a permit be required, and it is likely that the holes to be dug at each end of the easement to facilitate the push would be considerably smaller, in total, than this threshold. To hedge against unanticipated site conditions that might change the approach to gas line installation, the easement document stipulates that Northwest Natural must acquire any needed wetland permits.

Granting the easement as requested will prevent future placement of buildings or trees within its area. However, because the City has committed to the placement of a conservation easement over the Seavey Meadows land area that will not be developed as housing by

Willamette Neighborhood Housing Services (WNHS), and the requested easement falls within the conservation area, there is no long term intent to develop there nor need to protect the area for future building placement.

Finally, because the easement falls within a City-owned parcel rather than in a right-of-way, staff have negotiated compensation from Northwest Natural in the amount of $2,530. If City Council approves granting the easement, staff requests further approval for the $2,530 easement fee to be deposited to the CD Revolving (250) Fund, where it will be held for future use to help pay the costs of wetland mitigation work on the north side of NE Conser Street, which will be undertaken by WNHS in conjunction with their City-funded affordable housing development project.

III. Requested Action

Staff request City Council approval of the proposed Northwest Natural easement through the City-owned Seavey Meadows property and authorization for the City Manager to execute the easement document. If this approval is granted, staff further requests Council approval to deposit the $2,530 that will be paid by Northwest Natural in return for the easement to the CD Revolving Fund, where it will be held for future application to costs associated with WNHS's wetland mitigation work.

Review and Concur:

Jon S. Nelson, City Manager

Nancy Brewer, Finance Director

Steve Rogers, Public Works Director

Scott Fewel, City Attorney

Attachments: Gas pipeline easement document
Map of easement area

EXHIBIT "A"

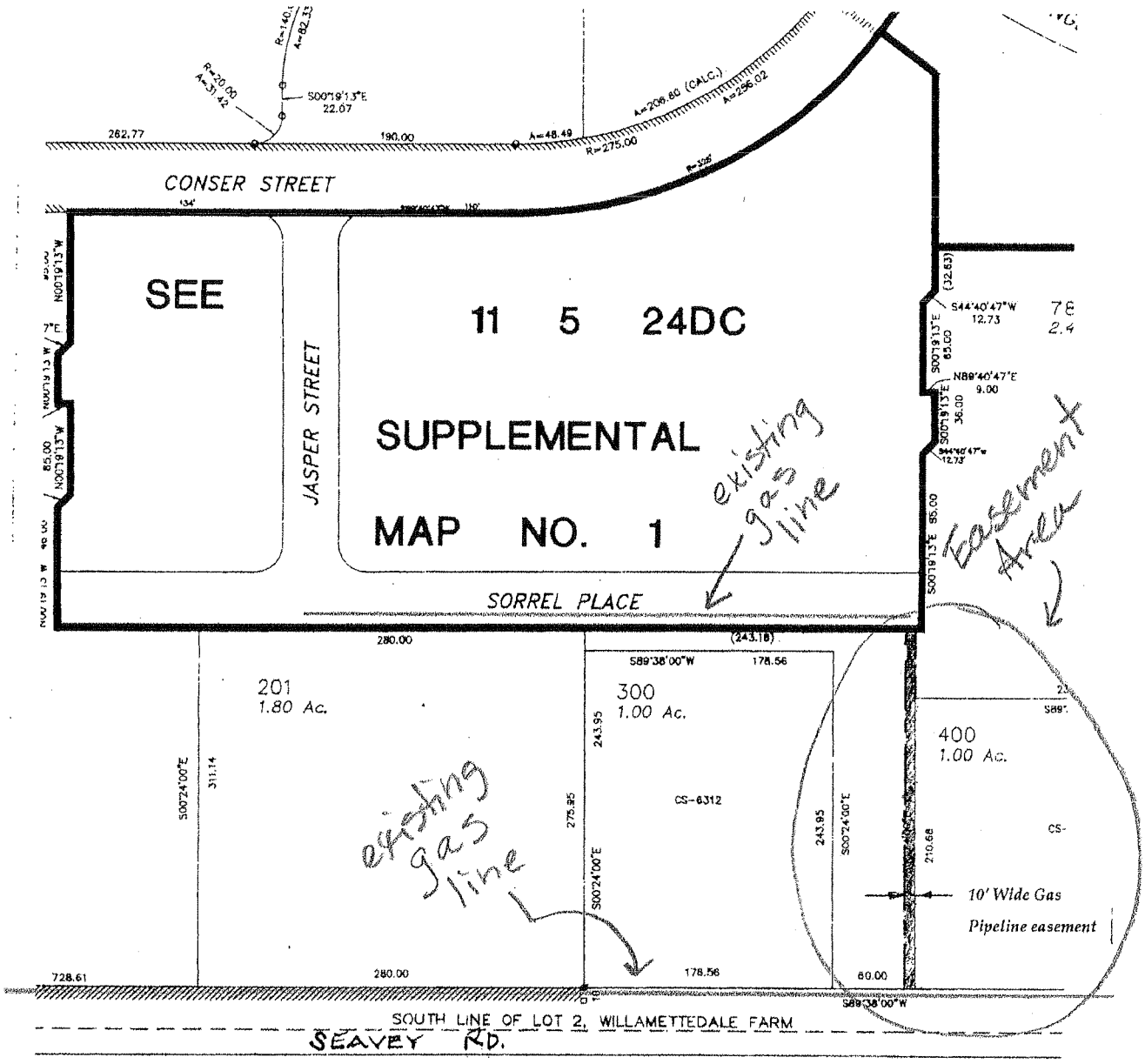
N

NORTHWEST NATURAL
GAS COMPANY

Section 24DC, Township 11 South, Range 5 West

Benton County

City of Corvallis Easement



After recording return to:
Northwest Natural Gas Co.
Risk and Land Department
220 NW Second Avenue
Portland OR 97209

GAS PIPELINE EASEMENT

Grantor(s): **CITY OF CORVALLIS**

Grantee: **NORTHWEST NATURAL GAS COMPANY**

For the sum of ~~one~~ two thousand five hundred thirty dollars ($2,530.00) and other valuable consideration, Grantor(s), **CITY OF CORVALLIS,** hereby grant(s) and convey(s) to Grantee, **NORTHWEST NATURAL GAS COMPANY,** and its successors and assigns, an easement to install, operate, maintain, replace and change the size of a gas pipeline or pipelines and related equipment in and upon the following described property:

A 10.00 foot gas pipeline easement over and across that tract as shown in Benton County survey number 7497, and located ~~in Tax Lot 7800~~ in the Southeast quarter of Section 24, Township 11 South, Range 5 West, Willamette Meridian, Benton County, Oregon and being more particularly described as follows:

Beginning at a point 70.36 feet South 81° 15' 00" East along the North line of Tract 2, Willamettedale Farm, Benton County, Oregon, from the Northeast corner of said Tract 2; thence continuing South 81° 15' 00" East along said North line 979.16 feet to the Northeast corner of the tract described by deed recorded in Book 181, Page 156, Benton County Deed Records; thence South 07° 27' 15" West along the West line of said tract recorded in Book 181, Page 156, 175.66 feet; thence South 89° 33' 00" West 478.44 feet; thence South 14° 16' 37" West, 836.66 feet; thence South 00° 24' 00" East 210.68 feet to a point 30.00 feet North of the South line of said Tract 2 the centerline of Seavy Avenue (Benton County road number 14034) and the True Point of Beginning of this easement; thence South 89° 38' 00" West parallel with said South line of said Tract 2 10.00 feet along the north line of said Seavy Avenue; thence North 00° 24' 00" West 253.00 feet more or less to the South line of Sorrel Place (a 40 foot right of way as platted in Seavy Meadows Book 8, Page 133); thence North 89° 38' 00" East 10.00 feet along said South line to a point; thence South 00° 24' 00" East to the True Point of Beginning and the termination of this easement.

This easement includes the right of the Grantee to enter and use the above-described property to do or to take any of the actions described in this document.

Grantee will install the pipeline with the least amount of disturbance to Grantor(s)'s property as possible and will, to the extent practical, restore Grantor(s)'s property to the condition existing prior to Grantee's construction. Grantee will reimburse Grantor(s) for any damage to Grantor(s)'s property caused by Grantee during its use of the easement. Grantee will comply with all regulatory requirements pertaining to work occurring within a wetland.

Grantor(s) agree(s) that no buildings or other structures or potentially large growing trees will be placed upon the easement and that no actions will be allowed that would jeopardize or interfere with the safe operation of the pipeline.

Signed this ____ day of _____, 2008

CITY OF CORVALLIS

By _____

Title _____

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on _____, 2008

By _____ as _____ of
CITY OF CORVALLIS

_____
Notary

EXHIBIT "A"

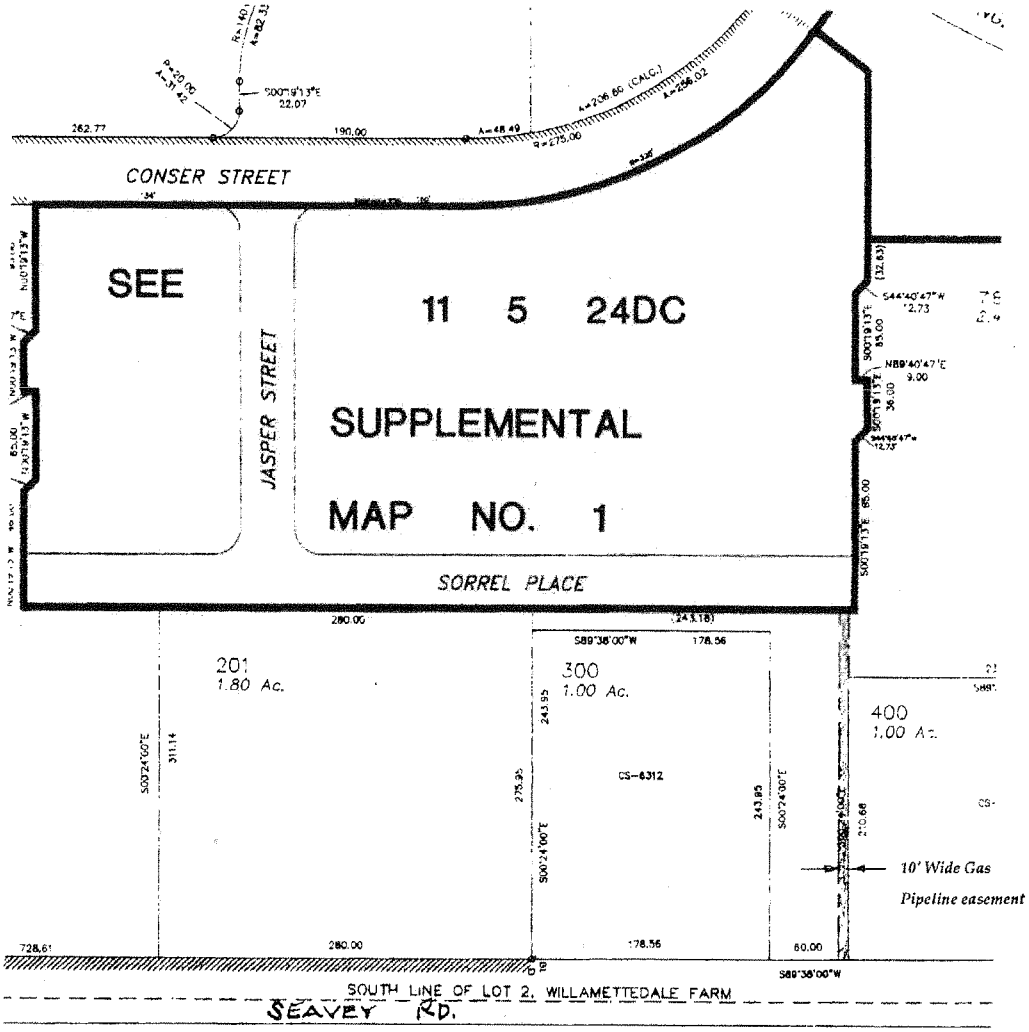
N

NORTHWEST NATURAL
GAS COMPANY

Section 24DC, Township 11 South, Range 5 West

Benton County

City of Corvallis Easement



CORVALLIS
ENHANCING COMMUNITY LIVABILITY

Office of the Mayor
501 SW Madison Avenue
P.O. Box 1083
Corvallis, OR 97339-1083
(541) 766-6985
FAX: (541) 766-6780
e-mail: mayor@council.ci.corvallis.or.us

PROCLAMATION

Enhancing Community Livability

National Association for the Advancement of Colored People

February 12, 2009

WHEREAS, our community's well-being is enhanced by the efforts of citizens, every day, in a variety of ways; and

WHEREAS, the community wishes to celebrate and honor the efforts of our neighbors in Enhancing Community Livability; and

WHEREAS, service clubs, non-profit organizations, cultural groups and athletic programs are critical to the social and civic health of our community; and

WHEREAS, the NAACP was founded 100 years ago in a small apartment in New York City by a multiracial group of activists; and

WHEREAS, the mission of the NAACP is to ensure the political, educational, social and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination; and

WHEREAS, the vision of the NAACP is to ensure a society in which all individuals have equal rights and there is no racial hatred or racial discrimination; and,

WHEREAS, the local branch of the NAACP was founded in 1973 and has helped promote Corvallis as a Community that Honors Diversity.

NOW, THEREFORE, I, Charles C. Tomlinson, Mayor of the City of Corvallis, do hereby proclaim February 12, 2009 as **National Association for the Advancement of Colored People Day** in the City and encourage people throughout Corvallis to celebrate and further the mission and vision of the NAACP and to work together, as the local branch does, to enhance community livability.

Charles C. Tomlinson

Charles C. Tomlinson, Mayor

February 12, 2009

Date

A Community that Honors Diversity

	<----- City Role ----- >					
	No City role	Accomplished or operational	Working on or scheduled -- leading role	Working on or scheduled -- supporting role	New initiative -- leading role	New initiative -- supporting role
Comm Inc. 1.1.1						X
Comm Inc. 1.1.2				X		
Comm Inc. 1.1.3	X					
Comm Inc. 1.2.1	X					
Comm Inc. 1.2.2	X					
Comm Inc. 1.2.3	X					
Comm Inc. 1.3.1						X
Comm Inc. 1.3.2						X
Comm Inc. 1.3.3	X					
Comm Inc. 2.1.1		X				
Comm Inc. 2.1.2	X					
Comm Inc. 2.2.1				X		
Comm Inc. 2.2.2	X					
Comm Inc. 2.2.3	X					
Econ. 1.1.1	X					
Econ. 1.1.2	X					
Econ. 1.1.3						X
Econ. 1.2.1	X					
Econ. 1.2.2	X					
Econ. 1.2.3	X					
Econ. 2.1.1	X					
Econ. 2.1.2	X					
Econ. 2.2.1	X					
Econ. 2.2.2	X					
Econ. 2.2.3	X					
Econ. 2.3._	X					
Econ. 3.1.1	X					
Econ. 3.2.1	X					
Econ. 3.2.2	X					
Econ. 3.2.3			X			
Ed. 1.1.1	X					
Ed. 1.1.2	X					
Ed. 1.1.3	X					
Ed. 1.2.1	X					
Ed. 1.2.2	X					
Ed. 1.2.3	X					
Ed. 1.3.1	X					
Ed. 1.3.2	X					
Ed. 1.3.3	X					
Ed. 2.1.1	X					
Ed. 2.1.2	X					
Ed. 2.1.3	X					
Ed. 2.2.1	X					
Ed. 2.2.2	X					
Ed. 2.2.3	X					
Ed. 2.3.1	X					
Ed. 2.3.2	X					
Ed. 3.1.1						X
Ed. 3.1.2						X
Ed. 3.1.3						X
Ed. 3.2.1		X				
Ed. 3.2.2		X				

	<----- City Role ----->					
	No City role	Accomplished or operational	Working on or scheduled -- leading role	Working on or scheduled -- supporting role	New initiative -- leading role	New initiative -- supporting role
Ed. 3.3.1	X					
Ed. 3.3.2	X					
Ed. 3.3.3	X					
Eng. 1.1.1	X					
Eng. 1.1.2	X					
Eng. 1.1.3					X	
Eng. 1.2.1	X					
Eng. 1.2.2	X					
Eng. 1.2.3					X	
Eng. 1.3.1					X	
Eng. 1.3.2						X
Eng. 1.3.3						X
Eng. 2.1.1					X	
Eng. 2.1.2					X	
Eng. 2.1.3					X	
Eng. 2.2.1					X	
Eng. 2.2.2	X					
Eng. 2.2.3			X			
Eng. 2.3.1				X		
Eng. 2.3.2				X		
Eng. 2.3.3				X		
Eng. 3.1.1				X		
Eng. 3.1.2	X					
Eng. 3.1.3	X					
Eng. 3.2.1						X
Eng. 3.2.2				X		
Eng. 3.2.3						X
Eng. 3.3.1					X	
Eng. 3.3.2					X	
Eng. 3.3.3					X	
Food. 1.1.1	X					
Food. 1.1.2	X					
Food. 1.1.3	X					
Food. 1.2.1	X					
Food. 1.2.2	X					
Food. 1.2.3	X					
Food. 1.3.1	X					
Food. 1.3.2	X					
Food. 2.1.1	X					
Food. 2.1.2	X					
Food. 2.1.3	X					
Food. 2.2.1	X					
Food. 2.2.2	X					
Food. 2.2.3	X					
Food. 2.3.1	X					
Food. 2.3.2						X
Food. 2.3.3	X					
Food. 3.1.1	X					
Food. 3.1.2	X					
Food. 3.1.3	X					
Food. 3.2.1	X					
Food. 3.2.2	X					

	<----- City Role ----->					
	No City role	Accomplished or operational	Working on or scheduled -- leading role	Working on or scheduled -- supporting role	New initiative -- leading role	New initiative -- supporting role
Food. 3.2.3	X					
Food. 3.3.1	X					
Food. 3.3.2	X					
Food. 3.3.3	X					
Health. 1.1.1	X					
Health. 1.1.2	X					
Health. 1.1.3	X					
Health. 1.2.1	X					
Health. 1.2.2	X					
Health. 1.2.3	X					
Health. 1.3.1	X					
Health. 1.3.2	X					
Health. 2.1.1						X
Health. 2.1.2						X
Health. 2.1.3						X
Health. 2.2.1			X			
Health. 2.2.2	X					
Health. 2.2.3	X					
Health. 2.3.1	X					
Health. 2.3.2	X					
Health. 2.3.3	X					
Health. 3.1.1				X		
Health. 3.1.2	X					
Health. 3.1.3	X					
Health. 3.2.1	X					
Health. 3.2.2	X					
Health. 3.3.1	X					
Health. 3.3.2						X
House. 1.1.1					X	
House. 1.1.2					X	
House. 1.1.3					X	
House. 1.2.1				X		
House. 1.2.2				X		
House. 1.2.3		X				
House. 1.3.1						X
House. 1.3.2				X		
House. 1.3.3	X					
House. 2.1.1						X
House. 2.1.2					X	
House. 2.1.3	X					
House. 2.2.1				X		
House. 2.2.2		X				
House. 2.2.3					X	
House. 2.3.1					X	
House. 2.3.2	X					
House. 3.1.1	X					
House. 3.1.2	X					
House. 3.1.3	X					
House. 3.2.1						X
House. 3.2.2		X				
House. 3.2.3					X	
House. 3.3.1		X				

	<----- City Role ----- >					
	No City role	Accomplished or operational	Working on or scheduled -- leading role	Working on or scheduled -- supporting role	New initiative -- leading role	New initiative -- supporting role
House. 3.3.2		X				
House. 3.3.3	X					
House. 3.4.1					X	
House. 3.4.2					X	
House. 3.4.3		X				
House. 4.1.1	X					
House. 4.1.2	X					
House. 4.1.3						X
House. 4.2.1				X		
House. 4.2.2				X		
House. 4.2.3	X					
House. 4.3.1				X		
House. 4.3.2		X				
House. 4.3.3	X					
Land. 1.1.1					X	
Land. 1.1.2		X				
Land. 1.1.3		X				
Land. 1.2.1		X				
Land. 1.2.2					X	
Land. 1.2.3			X			
Land. 1.3.1			X			
Land. 1.3.2					X	
Land. 1.3.3		X				
Land. 1.4.1		X				
Land. 1.4.2						X
Land. 1.4.3					X	
Land. 2.1.1				X		
Land. 2.1.2		X				
Land. 2.1.3					X	
Land. 2.2.1					X	
Land. 2.2.2			X			
Land. 2.2.3					X	
Land. 2.3.1		X				
Land. 2.3.2		X				
Land. 2.3.3			X			
Land. 3.1.1		X				
Land. 3.1.2					X	
Land. 3.1.3			X			
Land. 3.2.1						X
Land. 3.2.2	X					
Land. 3.2.3					X	
Land. 4.1.1					X	
Land. 4.1.2					X	
Land. 4.1.3		X				
Land. 4.2.1			X			
Land. 4.2.2					X	
Land. 4.2.3	X					
Land. 4.2.4			X			
Land. 4.3.1	X					
Land. 4.3.2		X				
Land. 4.3.3	X					
Nat. 1.1.1			X			

	<----- City Role ----->					
	No City role	Accomplished or operational	Working on or scheduled -- leading role	Working on or scheduled -- supporting role	New initiative -- leading role	New initiative -- supporting role
Nat. 1.1.2			X			
Nat. 1.1.3				X		
Nat. 1.2.1						X
Nat. 1.2.2						X
Nat. 1.2.3			X			
Nat. 1.3.1	X					
Nat. 1.3.2					X	
Nat. 1.3.3	X					
Nat. 2.1.1			X			
Nat. 2.1.2		X				
Nat. 2.2.1				X		
Nat. 2.2.2	X					
Nat. 2.2.3					X	
Nat. 2.3.1			X			
Nat. 2.3.2			X			
Nat. 2.3.3			X			
Nat. 3.1.1	X					
Nat. 3.1.2				X		
Nat. 3.1.3			X			
Nat. 3.2.1			X			
Nat. 3.2.2			X			
Nat. 3.2.3			X			
Nat. 3.3.1				X		
Nat. 3.3.2			X			
Nat. 3.3.3			X			
Trans. 1.1.1					X	
Trans. 1.1.2						X
Trans. 1.1.3				X		
Trans. 1.2.1				X		
Trans. 1.2.2	X					
Trans. 1.2.3						X
Trans. 1.3.1	X					
Trans. 1.3.2	X					
Trans. 1.3.3					X	
Trans. 2.1.1					X	
Trans. 2.1.2	X					
Trans. 2.1.3						X
Trans. 2.2.1	X					
Trans. 2.2.2		X				
Trans. 2.2.3	X					
Trans. 2.3.1	X					
Trans. 2.3.2					X	
Trans. 2.3.3	X					
Trans. 3.1.1					X	
Trans. 3.1.2					X	
Trans. 3.1.3			X			
Trans. 3.2.1					X	
Trans. 3.2.2						X
Trans. 3.2.3						X
Trans. 3.3.1					X	
Trans. 3.3.2					X	
Trans. 3.3.3					X	

	<----- City Role ----- >					
	No City role	Accomplished or operational	Working on or scheduled -- leading role	Working on or scheduled -- supporting role	New initiative -- leading role	New initiative -- supporting role
Waste. 1.1.1			X			
Waste. 1.1.2	X					
Waste. 1.1.3		X				
Waste. 1.2.1		X				
Waste. 1.2.2	X					
Waste. 1.3.1		X				
Waste. 1.3.2		X				
Waste. 2.1.1		X				
Waste. 2.1.2	X					
Waste. 2.1.3	X					
Waste. 2.2.1		X				
Waste. 2.2.2	X					
Waste. 2.2.3	X					
Waste. 2.3.1					X	
Waste. 2.3.2		X				
Waste. 2.3.3					X	
Waste. 3.1.1						X
Waste. 3.1.2						X
Waste. 3.2.1					X	
Waste. 3.2.2				X		
Waste. 3.2.3	X					
Waste. 3.3.1	X					
Waste. 3.3.2			X			
Waste. 3.3.3	X					
Water. 1.1.1	X					
Water. 1.1.2			X			
Water. 1.1.3					X	
Water. 1.2.1		X				
Water. 1.2.2					X	
Water. 1.2.3					X	
Water. 1.3.1						X
Water. 1.3.2			X			
Water. 2.1.1		X				
Water. 2.1.2			X			
Water. 2.1.3			X			
Water. 2.2.1			X			
Water. 2.2.2					X	
Water. 2.2.3					X	
Water. 2.3.1			X			
Water. 2.3.2			X			
Water. 2.3.3			X			