CORVALLIS
CITY COUNCIL AGENDA

June 17, 2013
6:00 pm

[Planning Commission interview at 5:30 pm]

Downtown Fire Station
400 NW Harrison Boulevard

[Note: The order of business may be revised at the Mayor's discretion. Due to time constraints, items on the agenda not considered will be continued to the next regularly scheduled Council meeting.]

COUNCIL ACTION

5:30 pm – Planning Commission interview (Lizut)

6:00 pm – Regular Meeting

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. PROCLAMATION / PRESENTATION / RECOGNITION

V. VISITORS' PROPOSITIONS – This is an opportunity for visitors to address the City Council on subjects not related to a public hearing before the Council. Each speaker is limited to three minutes unless otherwise granted by the Mayor. Visitors' Propositions will continue following any scheduled public hearings, if necessary.

VI. 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. [direction]

A. Reading of Minutes
   1. City Council Meeting – June 3, 2013
   2. City Council Special Meeting – June 10, 2013
   3. For Information and Filing (Draft minutes may return if changes are made by the Board or Commission)
      a. Airport Commission – May 7, 2013
      b. Arts and Culture Commission – May 15, 2013
      c. Bicycle and Pedestrian Advisory Commission – May 3, 2013

d. Citizens Advisory Commission on Transit – April 10, 2013
e. Corvallis-Benton County Public Library – May 1, 2013
f. Historic Resources Commission – May 14, 2013
g. Housing and Community Development Commission – May 22, 2013
h. Parks, Natural Areas, and Recreation Board – May 16, 2013

B. Announcement of appointment to Downtown Commission Parking Committee (Uerlings)

C. Announcement of reappointments to various Advisory Boards, Commissions, and Committees

D. Announcement of vacancies on various Advisory Boards, Commissions, and Committees

E. Schedule a public hearing for July 1, 2013, to consider the Fiscal Year 2013-2014 to Fiscal Year 2017-2018 Community Development Block Grant/HOME Consolidated Plan

F. Approval of a permit to occupy the public right-of-way (Lancaster Bridge Community, LLC)

G. Acknowledgment of Comcast rate filings

H. Schedule an Executive Session for July 1, 2013, at 5:30 pm or following the regular meeting under ORS 192.660(2)(d) (status of labor negotiations)

VII. ITEMS REMOVED FROM CONSENT AGENDA

VIII. UNFINISHED BUSINESS

A. Selection of Historic Resources and Planning Commissioners (memo to be distributed on Monday) [direction]

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

A. Human Services Committee – June 4, 2013 **(Items 1 and 2 – Municipal Code amendments to be addressed in conjunction with Urban Services Committee item 1)**
1. Board and Commission Sunset Review: Corvallis-Benton County Public Library Board [direction]
2. Board and Commission Sunset Review: Commission for Martin Luther King, Jr. [direction]

B. Urban Services Committee – June 4, 2013
1. Board and Commission Sunset Review: Capital Improvement Program Commission
ACTION: *An ordinance relating to sunset reviews, amending Corvallis Municipal Code Chapter 1.16, "Boards and Commissions," as amended,* **to be read by the City Attorney** [direction]

C. Administrative Services Committee – June 5, 2013
   1. Third Quarter Operating Report [direction]
   2. Single Use plastic Carryout Bags Ordinance Exemption Requests [information]

D. Other Related Matters

   1. *A resolution authorizing the City Manager to enter into an agreement with the Transportation Growth Management Program to support the grant application for the Transportation System Plan Update,* **to be read by the City Attorney** [direction]

   2. *A resolution transferring appropriations within the Development Services Fund from Community Development Department operations to Non-Operating to facilitate an Interfund Loan to the Community Development Revolving Fund ($120,000),* **to be read by the City Attorney** [direction]

X. MAYOR, COUNCIL, AND STAFF REPORTS

A. Mayor's Reports

   1. OSU/City Collaboration Project update [information]

B. Council Reports

C. Staff Reports

   1. City Manager's Report – May 2013

XI. NEW BUSINESS

XII. PUBLIC HEARINGS – 7:30 pm

A. A public hearing to consider a Fiscal Year 2013-2014 budget
   ACTION: A resolution levying taxes and appropriating a budget for Fiscal Year 2013-2014, **to be read by the City Attorney** [direction]

B. A public hearing to consider Land Use Board of Appeals remand order (PLD09-00004, CDP09-00003, SUB09-00002 – Creekside Center I and II Planned Development) [information]

XIII. ADJOURNMENT

For the hearing impaired, a sign language interpreter can be provided with 48 hours' notice prior to the meeting. Please call 541-766-6901 or the Oregon Communications Relay Service at 7-1-1 to arrange for TTY services. A large print agenda can be available by calling 541-766-6901.

A Community That Honors Diversity

CITY OF CORVALLIS

ACTIVITY CALENDAR

JUNE 17 - 29, 2013

MONDAY, JUNE 17

- City Council Work Session - 5:30 pm - Downtown Fire Station, 400 NW Harrison Boulevard (Planning Commission interview)
- City Council - 6:00 pm - Downtown Fire Station, 400 NW Harrison Boulevard

TUESDAY, JUNE 18

- Human Services Committee - 2:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue
- Urban Services Committee - 5:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue

WEDNESDAY, JUNE 19

- Housing and Community Development Commission - 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
- Arts and Culture Commission - 5:30 pm - Parks and Recreation Conference Room, 1310 SW Avery Park Drive
- Planning Commission - 7:00 pm - Downtown Fire Station, 400 NW Harrison Boulevard

THURSDAY, JUNE 20

- OSU/City Collaboration Project Parking and Traffic Work Group - 5:30 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

SATURDAY, JUNE 22

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

TUESDAY, JUNE 25

- City Legislative Committee - 7:30 am - City Hall Meeting Room A, 501 SW Madison Avenue (tentative)
- Commission for Martin Luther King, Jr. - 5:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue

WEDNESDAY, JUNE 26

- Watershed Management Advisory Commission - 5:00 pm - Madison Avenue Meeting Room, 500 SW Madison Avenue

THURSDAY, JUNE 27

- OSU/City Collaboration Project Neighborhood Planning Work Group - 5:30 pm - Osborn Aquatic Center, 1940 NW Highland Drive

SATURDAY, JUNE 29

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

CITY OF CORVALLIS
COUNCIL ACTION MINUTES

June 3, 2013

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Decisions/Recommendations
Executive Session 1. City Attorney Employment Agreement Page 276	Yes		
Proclamation/Presentation/Recognition 1. IIMC Program Excellence in Governance Award Page 277	Yes		
Visitors' Propositions 1. Mobile Food Units (Walker, Walker) Pages 277-278	Yes		
Consent Agenda Page 278			
Unfinished Business 1. City Attorney Employment Agreement 2. Levy-Related Decisions 3. City Legislative Committee – May 28, 2013 4. OSU/City Collaboration Project Steering Committee Recommendation Process Pages 278-284	 Yes Yes		• Approved Agreement passed U • Approved review process passed U
Items of HSC Meeting of May 21, 2013 1. HEAL Cities Campaign 2. Municipal Code Review: Chapter 5.03, "Offenses" (Alcohol/Special Response Notice) 3. Smoking Prohibition in Public Places Pages 285-286			• RESOLUTION 2013-20 passed U • ORDINANCE 2013-08 passed U • ORDINANCE 2013-09 passed U
Items of USC Meeting of May 21, 2013 1. Municipal Code Review: Chapter 8.13, "Mobile Food Units" Page 287			• ORDINANCE 2013-10 passed U
Items of ASC Meeting of May 22, 2013 1. Visit Corvallis Third Quarter Report 2. DCA Third Quarter Report – EID 3. Municipal Code Chapter 8.14, "Single-Use Plastic Carryout Bags" Pages 287-288			• Accepted Report passed U • Accepted Report passed U • Directed development of exemption review process passed U

Agenda Item	Information Only	Held for Further Review	Decisions/Recommendations
Mayor's Reports 1. Rock Creek Watershed 2. OSU/City Collaboration Project Steering Committee Meeting Page 289	 Yes Yes		
Council Reports 1. Government Comment Corner (Traber) Page 289	Yes		
Staff Reports 1. Finance Department Staff Commendations Page 289	Yes		
Public Hearings 1. State Revenue Sharing Funds 2. Fiscal Year 2013-2014 Budget Pages 289-293		 second public hearing June 17, 2013	• RESOLUTION 2013-21 passed U • Amended proposed budget, re-published budget, scheduled second public hearing passed U

Glossary of Terms

ASC	Administrative Services Committee
CM	City Manager
DCA	Downtown Corvallis Association
EID	Economic Improvement District
HEAL	Healthy Eating Active Living
HSC	Human Services Committee
IIMC	International Institute of Municipal Clerks
OSU	Oregon State University
U	Unanimous
USC	Urban Services Committee

CITY OF CORVALLIS
COUNCIL ACTION MINUTES

June 3, 2013

Mayor Manning 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. She reminded Council members and staff that the confidential executive session discussions belonged to the Council as a body and should only be disclosed if the Council, as a body, approved disclosure. She 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 5:30 pm.

The Council discussed the prospective employment agreement with the City Attorney's Office.

The Council emerged from executive session at 5:39 pm.

Mayor Manning recessed the meeting from 5:39 pm until 6:00 pm.

I. CALL TO ORDER

The regular meeting of the City Council of the City of Corvallis, Oregon, was called to order at 6:00 pm on June 3, 2013, in the Downtown Fire Station, 400 NW Harrison Boulevard, Corvallis, Oregon, with Mayor Manning presiding.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

PRESENT: Mayor Manning, Councilors Traber, Hervey, Hirsch, Sorte, Brown, Beilstein, Hogg, Brauner, York

Mayor Manning directed Councilors' attention to items at their places, including an article from the current Oregon Mayors Association newsletter regarding the upcoming annual conference in Corvallis (Attachment A), an article from the Newport, Oregon, *News Times* concerning voters' response to a proposed ban on single-use plastic bags (Attachment B), an e-mail from Councilor Brown with a suggested amendment to the proposed alcohol-related ordinance (Attachment C), and a memorandum from Community Development Director Gibb regarding proposed amendments to the mobile food unit legislation (Attachment D).

IV. PROCLAMATION / PRESENTATION / RECOGNITION

A. International Institute of Municipal Clerks Program Excellence in Governance Award

Mayor Manning explained the nature of the International Institute of Municipal Clerks and the Program Excellence in Governance Award and described the function of the City Hall Ambassador Program. She noted that Ambassadors greeted City Hall visitors, provided directions, and assisted with inquiries about the City. She considered the Program a good example of community involvement and an innovative way for the City to achieve significant cost savings. She commended Assistant to City Manager/City Recorder Louie, who supervised the program, and Ambassadors for their service toward the City receiving the award.

Ms. Louie reported that she received the award at the recent IIMC conference. Utilizing citizen volunteers was not a new concept, but the Program was successful and appreciated by all involved. She appreciated Ambassadors' understanding and appreciation of the customer service concept. Since the Program began during April 2012, Ambassadors responded to almost 3,000 inquiries. The City has 12 active Ambassadors, two inactive Ambassadors (college students with scheduling conflicts), and a waiting list of prospective volunteers. She thanked City Manager's Office Management Assistant Holzworth for coordinating the program and acknowledged Ambassadors present.

Mayor Manning and Councilor Brown thanked Ambassadors and commended them and staff for the Program.

V. VISITORS' PROPOSITIONS

Michele Walker, owner of Crêperie du Lys mobile food cart and spokesperson for the Corvallis Food Cart Alliance, known as Cartvallis, said she supported the proposed legislative amendments regarding mobile food units as the best compromise. This was her fifth year in business in Corvallis, and she had not yet paid herself from her business. She believed the lack of opportunities and the fees established last year created more of a barrier for her, so she supported the proposed amendments.

Ms. Walker announced that the international food cart conference was underway in Singapore; one of the invited guests was a spokesperson for the Portland, Oregon, food cart association. She added that the national food cart conference was scheduled for September in Portland. She observed that food carts were a valued food option for many people. She believed the restaurant industry viewed food carts as an added part of dining establishments and no longer as a trend.

Ms. Walker suggested that the Council consider adding the Oregon State University (OSU) campus area and possibly South Corvallis as allowed locations under the mobile food unit legislation. She said Corvallis had two successful food cart vendors along NW Monroe Avenue (Monroe); one cart vendor had to move because of the legislative restriction of operating in one location for only 45 days per calendar year.

Matt Walker owned one of the food carts along Monroe and was in his second year of operation. He believed the proposed legislation would be more usable than the current legislation. After 45 days of operation this calendar year, and work to establish his business, he had to relocate. He said it was difficult to recover his business investment in 45 days of operation. He believed the proposed

legislative amendments would be beneficial to everyone. He considered food carts a nice addition to the City and manageable in a clean, controlled manner.

Councilor Hervey announced that Urban Services Committee would not propose discussing expanding the area where food carts would be permitted until after one year of activity with the proposed legislative amendments. In response to his inquiry, Mr. Walker confirmed that he did not intend to ask the Committee to reconsider that plan. If the legislation changed by removing the 45-day operation limitation, he would consider relocating to the Downtown area.

In response to Councilor Traber's inquiry, Mr. Walker said his food cart was relocated to the Pinion Property Management parking lot. He noted that he worked a regular job because 45 days of food cart operation per calendar year was insufficient to provide a living income.

VI. CONSENT AGENDA

Councilors Hervey and Traber, respectively, moved and seconded to adopt the Consent Agenda as follows:

A. Reading of Minutes
   1. City Council Meeting – May 20, 2013
   2. City Council Work Session – May 22, 2013
   3. For Information and Filing (Draft minutes may return if changes are made by the Board or Commission)
      a. Investment Council – May 9, 2013
      b. Public Art Selection Commission – May 23, 2013

B. Confirmation of Appointment to Board of Appeals (Ruttan)

C. Confirmation of an Executive Session at 5:30 pm under ORS 192.660(2)(i) (status of employment-related performance)

The motion passed unanimously.

VII. ITEMS REMOVED FROM CONSENT AGENDA – None.

VIII. UNFINISHED BUSINESS

A. City Attorney employment agreement

Councilor Hervey complimented the City Attorney's Office for its business operations and service to the City. The firm considered itself part of the City's Senior Staff and would accept or forego a fee increase commensurate with any salary adjustment for Senior Staff. He appreciated that the firm was not insistent upon a fee increase.

Councilors Hervey and Traber, respectively, moved and seconded to adopt the employment agreement addendum with the Fewel, Brewer, and Coulombe law firm to serve as the City Attorney's Office. The motion passed unanimously.

Mayor Manning thanked City Attorney Fewel for his firm's services on behalf of the City.

Mr. Fewel said he and his firm looked forward to continuing serving the City.

B. Levy-related decisions

Mayor Manning reviewed that the Council recently met in a work session to discuss budget- and levy-related matters. Several citizen members of the Budget Commission attended the work session. In her absence last week, Council President Hervey chaired a follow-up meeting of Council leadership.

Council President Hervey reported that work session discussions indicated a desire to pursue a November 2013 election for a levy. Council leadership and staff considered a timeline for a November 2013 ballot measure. Council leadership proposed a special Council meeting to receive public testimony regarding a levy.

Mayor Manning noted that, from the last Council work session concerning a levy, questions were presented about the timing of a levy election and deadlines for specific levy-related actions.

Councilor Traber acknowledged that he raised questions of when the Council would do the work necessary to render decisions. The proposed timeline was tight but provided markers for actions and decisions. The timeline included a June 10 Council work session and a July 8 special Council meeting for citizen input, and decisions at the July 15 Council meeting.

Councilor Sorte opined that the Council had sufficient time for a thoughtful and focused survey of citizens. He did not believe that receiving visitors' propositions and soliciting input via the newspaper were the best means of obtaining a comprehensive view of citizens' preferences. He suggested that the Council discuss this during its upcoming work session.

Mayor Manning concurred with Councilor Sorte.

Councilor Beilstein opined that the Council could not wait until its June 10 work session to begin work. At the work session, he expected the Council to determine the levy amount and what it would fund. If the Council needed a survey to assess citizens's willingness or ability to support a levy, the Council should immediately instruct staff to begin the survey work. He opined that the available time to determine the amount and focus of the levy was very limited. Even though the work session was scheduled for one week from tonight, he believed not beginning work until the next day would not allow enough time for the work and decisions necessary by the July 15 Council meeting. He believed work should begin immediately.

Councilor Brown opined that, if the Council decided tonight to pursue a survey, arrangements for conducting the survey could be made by the work session, during which the Council could decide the survey content.

Councilor Hervey, referencing the timeline dates, explained that Council leadership intended that, prior to the July 8 special Council meeting, the Council would have a proposal to present for citizen comment. A survey may necessitate another meeting to determine, based upon the survey results, what would be included in the levy proposal.

Councilor Sorte agreed with Councilors Beilstein and Brown, saying an extensive survey similar to the Citizen Attitude Survey could not be accomplished in the time available. However, Council work session discussions could result in a survey of less than ten questions that could be presented in a short amount of time, and input from 200 to 400 people could be obtained within two weeks. He elaborated that surveys could be conducted at venues, such as farmers' markets, rather than by telephone.

Councilor Brauner agreed that a brief survey could be conducted fairly quickly and meet the November 2013 election deadline. A lengthy survey would require more time.

Councilor Sorte accepted Mayor Manning's request to consider potential survey questions for review at the June 10 Council work session.

City Manager Patterson suggested that the survey target registered voters, who would be involved in the election. He believed there would be enough time to conduct a brief survey.

Councilor Sorte confirmed Mayor Manning's understanding that the proposed survey would complement the recent Citizen Attitude Survey and the 2010 telephone survey conducted by Davis, Hibbitts, and Midghall, Inc.

Councilor Traber added that survey results would be another means for citizen input in preparation for the Council's July 15 meeting.

Councilor Brown noted that registered voter information was available from the Benton County Elections Office. He said he would provide input toward survey questions.

Council members indicated concurrence with the proposed levy election timeline.

C. City Legislative Committee – May 28, 2013

Mayor Manning referenced from the May 20 Council meeting the citizen-proposed resolutions concerning gun-related legislation under consideration by the Oregon Senate. The Council adopted a resolution supporting a resolution regarding background checks for gun sales; the second resolution concerning gun-free school zones was referred to the City Legislative Committee for review with input from Corvallis School District 509J (509J).

Council President Hervey reported that the Committee reviewed the text of Senate Bill 347, information from 509J Board Chair Ann Schuster, and Police Chief Sassaman's perspective regarding the potential effect of the Bill on his staff. Councilor York moved to recommend that the Council adopt a resolution supporting Senate Bill 347, but the motion died for lack of a second.

Councilor Beilstein asked why the Committee did not support the resolution.

Councilor Brauner responded that he did not oppose the resolution. He wanted 509J's indication whether it supported the Bill, but 509J had not taken a position and believed their current rules worked well. He did not want to support the Bill ahead of 509J, which would be directly affected by the Bill. Further, he opined that the Council's endorsement of bills could impact legislators' actions. He preferred that the Council endorse bills that had a good chance of passage and benefit to Corvallis. He referenced indications that Senate Bill 347 would not proceed to State Legislature passage. The Bill would allow each school district or other entity controlling school grounds to establish their own rules, creating enforcement problems for local police agencies.

D. Process for consideration of Collaboration Corvallis Steering Committee recommendations

Mayor Manning referenced the Council's May 20 discussion regarding two recommendations from the OSU/City Collaboration Project Steering Committee (CPSC). During the discussions, the Council expressed a desire for a consistent process for presenting recommendations to the Council for additional consideration and action.

Councilor Hervey reported that Council leadership discussed the need for a clearer Council process to act on CPSC recommendations. The Council adopted a goal of completing approved Collaboration Project recommendations. During the May 20 Council meeting, it became clear that a process was not established for approving CPSC recommendations. Council leadership suggested that the Council discuss a process that could be followed in evaluating the remaining recommendations.

Mayor Manning distributed a May 15, 2013, memorandum from Mr. Gibb regarding the March 18, 2013, CPSC recommendations (Attachment E).

Mr. Gibb said he was asked to review from the Community Development Department's perspective how the CPSC recommendations might be handled.

1. The policing model recommendation was on track through the current levy discussions. The levy would aid the City toward achieving a recommended goal of increasing the police/citizen ratio to 1.2 per 1,000; however, the levy would not achieve the goal as it was currently being considered.
2. The Council approved utilizing a program design work group to assist staff in developing a property maintenance code model proposal.
3. Staff would consider specific property maintenance code provisions and a program to implement the code as recommended through the Collaboration Project. A program design work group could assist with the recommendation.
4. The recommendation was a long-term goal. Within two years of adoption of a property maintenance code, the City would consider whether additional measures were necessary.
5. Staff would consider additional Code Enforcement neighborhood services and fund them through the property maintenance code. This recommendation would involve work with OSU, as it increased efforts through its Student Conduct and Community Standards office.

6. As part of the recommended property maintenance code, the City would create a Housing and Neighborhood Services Division with additional capacity for outreach and connection with neighborhoods and OSU.
7. Staff was considering a position that would have responsibilities as a liaison with community neighborhoods and OSU.
8. Staff planned to investigate a mediation/conflict resolution service for community members, once OSU had additional relevant staffing.

9-13. These recommendations involved Land Development Code (LDC) amendments that would be pursued later this year in conjunction with the Council-approved Planning Division work program.

14. Urban Services Committee will consider residential parking district expansions.

Councilor York said she was concerned during the May 20 Council meeting that CPSC recommendations seemed to be forwarded from Project work groups to staff with little Council direction. She suggested a three-step process, beginning with the Council receiving, reviewing, and assigning recommendations. Generally, recommendations would be presented to the Council and referred to a Council Standing Committee. With staff assistance, the Committees would analyze and prioritize the recommendations and forward a recommendation to the Council for action. The CPSC would forward recommendations to the Council, but the Council would "own" the recommendations and determine the next steps regarding the recommendations.

Councilor Brown said he supported adopting and following a process. Councilor York's proposed process generally followed the standard process. He noted that Standing Committees were responsible for reviewing the costs of implementing recommendations. He supported Councilor York's proposed process for the 14 recommendations included in Mr. Gibb's May 15 memorandum and any additional recommendations from the CPSC.

Councilor Traber opined that Councilor York's proposed process seemed reasonable. He observed that recommendations 9 through 13 would add to the LDC amendment package for this year. He noted that the Planning Division staff was very limited and had a challenging package of LDC amendments. He questioned whether adding recommendations 9 through 13 to the work program would cause another project to be postponed. He suggested that some of the Steering Committee's recommendations could be forwarded to the Planning Commission for priority setting for LDC amendments for this year and next year.

Mr. Gibb said the March 18 LDC amendment recommendations from the CPSC were fairly narrowly focused, and staff anticipated the work necessary to process the Steering Committee's recommendations. He cautioned about Council Standing Committees processing details of LDC issues, noting the need for public hearings and prescribed public review processes by the Planning Commission and the Council. He would prefer that Standing Committee discussions involve whether the LDC amendment recommendation should be pursued, rather than focus on the merits of the recommendation.

Councilor Hervey concurred with Councilor Traber's suggestion that the Planning Commission be involved in reviewing CPSC recommendations. He noted that the term "approved" was added to the Steering Committee recommendation process so the City could

assess recommendations in relation to the budget. He liked the concept of a process to allow the Council to exercise its responsibilities of reviewing costs.

Councilor Brauner acknowledged the expressed concerns and the proposed process. Under the proposed process, recommendations would be heard by the Council, referred to a Council Standing Committee, then to the Council for a decision whether to proceed, then to staff, and then back to a Standing Committee. This could create procedural loops that would delay recommendations that warranted quicker action. He agreed that it may be appropriate for Council Standing Committees to review some recommendations. He suggested that the essence of Councilor York's proposed process be followed; however, the matrix of recommendation assessments could be amended to include staff's recommended next steps. The Council could review the matrix and approve or amend staff's recommendation. This could avoid sending some recommendations through unnecessary additional reviews.

Councilor Brown concurred with Councilor Brauner's suggestion of a comprehensive initial assessment of CPSC recommendations. Referencing Councilor York's proposed process regarding exceptions to the Council reviewing and assigning recommendations, he suggested that recommendations 9 through 13 could be forwarded directly to the Planning Commission.

Councilor Sorte expressed support for Councilor York's proposal and opined that it was not adequate to obtain staff's recommendations and then have a rushed discussion of the recommendations. Council Standing Committee reviews could be attended by interest groups that did not represent a broad group of Corvallis residents.

Councilor Hervey said he was not sure what he was asked to decide when CPSC recommendations were presented to the Council. The staff reports gave brief statements regarding the recommendations, but the materials from the Steering Committee contained extensive information. This created a question of whether the Council was deciding the narrow statement from staff or the broad description from the Steering Committee, which he may not fully support. He would like a process with more clarity regarding the suggested Council direction to staff.

Councilor York accepted Councilor Brown's suggestion of Council leadership or staff determining that a CPSC recommendation should be forwarded to the Planning Commission, a Council Standing Committee, or a City department. She did not believe the recommendation matrix from staff should be approved in the same manner as Council Consent Agenda items. She expected Councilors to identify from the matrix recommendations that needed more attention and offer direction. She concurred with Councilor Hervey regarding clarity in the process and the Council's actions.

Councilor Brauner clarified that he did not mean to imply that the recommendation matrix would be treated as the Consent Agenda, but Councilors could remove from the matrix any recommendations for which they would like more information or discussion, while the remainder of the recommendations could be approved.

Councilor Beilstein referenced from the meeting packet a similar May 15 memorandum that elaborated regarding how the recommendations would be processed. Regarding recommendations 9 through 13, the memorandum referenced a recommendation from the

Neighborhood Planning Work Group regarding developing neighborhood design standards. Since this recommendation was not specified in the listing in the memorandum, he presumed that it was included in the proposed LDC amendments.

Mr. Gibb explained that he included the statement in the memorandum to alert the Council that it may come in the future. The neighborhood design standard recommendation was recently proposed and had not been reviewed by the CPSC. He said the Work Group identified a need for clear and objective standards and would address building design and compatibility with neighborhoods, as well as clear and objective standards.

Councilor Brown referenced a recent work session discussion regarding requesting levy funding to support the Planning Division. He noted that more planning work, particularly recommendations 9 through 13, could be accomplished with more funding.

Mayor Manning summarized that the Council supported Councilor York's recommended process with some modifications, including the Planning Commission being considered with the Council Standing Committees for review of CPSC recommendations involving LDC amendments. She reviewed a suggestion that the matrix of recommendations be modified to include staff's recommended next steps for the Council's consideration.

Councilor Sorte said he did not have enough data to evaluate the recommendation suggestions. If the matrix were to be considered similar to a Consent Agenda, he would need much more information to thoughtfully consider the recommendations. He opined that additional time should be allowed at Council meetings for recommendation discussions.

Councilor Brown said he liked Councilor York's proposed process because all recommendations could be thoroughly considered in a Council Standing Committee environment.

Councilors Hervey and Brown, respectively, moved and seconded to adopt the City Council process to receive and act on OSU/City Collaboration Project Steering Committee recommendations, as proposed by Councilor York, with the modification that, when recommendations were forwarded, staff would use the disposition matrix to provide Council with suggested next steps.

Councilor Hervey clarified that he understood Councilor Brown's suggestion that process provision 1.d. could include the Planning Commission with the Council Standing Committees for reviewing bodies.

The motion passed unanimously.

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

A. Human Services Committee – May 21, 2013

1. Healthy Eating Active Living (HEAL) Cities Campaign

Councilor York explained that the HEAL Cities Campaign was endorsed by the League of Oregon Cities and promoted various methods to support and encourage a healthy lifestyle. The Council could choose to work on land use, access to healthy foods, partnerships, and workplace wellness. The Committee unanimously recommended approval of participating in the Campaign.

Mr. Fewel read a resolution joining the Healthy Eating Active Living (HEAL) Cities Campaign.

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

Councilor Beilstein noted that, with adoption of the resolution, the City, according to the Campaign model, would be rated "fabulous."

RESOLUTION 2013-20 passed unanimously.

2. Municipal Code Review: Chapter 5.03, "Offenses" (Alcohol/Special Response Notice)

Councilor York explained that some of the legislative amendments were suggested by the CPSC. The Committee unanimously supported the suggested amendments.

Mr. Fewel read an ordinance amending Corvallis Municipal Code Chapter 5.03.

Councilors Brown and Beilstein, respectively, moved and seconded to amend Section 5.03.040.010.03 by changing the word "bottle" to "container," as there were various means of transporting alcohol.

Mr. Fewel explained that the legislation used the term "bottle," based upon State law. Court cases interpreted the term "bottle" to include other vessels that held alcohol. He acknowledged Councilor Brown's observation that "bottle" seemed to limit the legislation, and the Council could amend the wording.

Councilor Brown noted the Council's effort to communicate to community residents, and he believed the language should be clear.

Councilor Traber concurred, noting that the legislation was a means of communicating to the community the types of actions that would be penalized.

The motion passed unanimously.

In response to Councilor Hervey's inquiry, Mr. Fewel confirmed that the proposed legislative amendments aligned with State laws.

Councilor Hervey inquired whether the strict liability parameter of the legislation would restrict the Municipal Judge's responses to criminal charges. The legislation was focused on loud parties, and he wondered whether the legislation would have unintended consequences of making an absent, unknowing parent responsible for a crime committed by their son or daughter and not allow the Municipal Judge some flexibility.

Mr. Fewel said he and Councilor Brown discussed Councilor Hervey's concern. The City did not want the burden of proving that anyone who provided alcohol, by any means, directly or indirectly, to a minor knew that the person was a minor. If a person provided someone else's alcohol to a minor, the owner of the alcohol would not be liable.

ORDINANCE 2013-08 passed unanimously.

3. Smoking Prohibition in Public Places

Councilor York explained that the proposed legislation would expand the definition of "public places" to include the Downtown transit center, transit shelters, and the Library block. The Committee unanimously supported the legislative amendment.

Mr. Fewel read an ordinance amending Corvallis Municipal Code Chapter 5.03, "Offenses," as amended.

Councilor Hirsch noted that the Oregon Legislature just approved a law making it illegal to smoke in vehicles with children under 18 years of age present. The proposed ordinance would potentially reduce harm from second-hand tobacco smoke.

Councilor York said the Committee received public testimony supporting the proposed ordinance.

Councilor Sorte considered the proposed ordinance evolving and expressed concern about diverting people to different places by prohibiting their actions in specific places. He noted that cigarette containers were installed at the transit center.

Councilor Beilstein commented that the proposed ordinance was developed to address a situation at the transit center and that most of the people smoking at the center did so because they no longer could smoke at the Library plaza.

ORDINANCE 2013-09 passed unanimously.

B. Urban Services Committee – May 21, 2013

1. Municipal Code Review: Chapter 8.13, "Mobile Food Units"

Councilor Hevey reported that the Committee reviewed the Municipal Code chapter regarding mobile food units, which was adopted one year ago. A Downtown Commission subcommittee investigated the effectiveness of the legislation and received public comments. The Commission determined that the legislation was somewhat of a barrier to the creation of mobile food units. Staff suggested legislative amendments to reduce the permit costs and respond to some of the issues expressed by mobile food unit vendors. The Committee received testimony from potential vendors that the legislative amendments were not significant enough. The Committee considered the amendments a good step in the process of developing the mobile food unit concept and unanimously recommended amending the legislation.

Mr. Fewel read an ordinance amending Corvallis Municipal Code Chapters 8.13, "Mobile Food Units," and 8.03, "Fees Chapter," as amended.

ORDINANCE 2013-10 passed unanimously.

Councilor Hervey said the Downtown Commission and the Committee discussed expanding the area where mobile food units would be allowed to operate more than 45 days per calendar year. The Committee would review the effectiveness of the amended legislation expanding the zone. The Committee would discuss the issue in time for mobile food unit vendors to prepare for operations at the beginning of the 2014-2015 school year, as the expanded area would likely include Monroe, across from the OSU campus.

C. Administrative Services Committee – May 22, 2013

1. Visit Corvallis Third Quarter Report

Councilors Hirsch and Traber, respectively, moved and seconded to accept the Visit Corvallis third quarter report. The motion passed unanimously.

2. Downtown Corvallis Association Third Quarter Report – Economic Improvement District

Councilors Hirsch and Traber, respectively, moved and seconded to accept the Downtown Corvallis Association third quarter report. The motion passed unanimously.

3. Municipal Code Chapter 8.14, "Single-use Plastic Carryout Bags" Follow-up

Councilors Hirsch and Traber moved and seconded to not change the Municipal Code regarding single-use plastic carryout bags and to direct staff to develop an administrative process to handle exemption requests, which must be submitted by July 1 and include documentation of hardship, including proof of inventory acquired

prior to implementation of the legislation and the length of time for the requested exemption.

Councilor Beilstein referenced a request from Debra Higbee-Sudyka of the Sierra Club Marys Peak Group regarding changing the legislative definition of "shopping bag." He thought the request seemed reasonable, and the proposed definition would be more general and would have prevented shoppers from requesting a different sized paper bag to avoid the bag fee. He asked why the Committee did not pursue Ms. Higbee-Sudyka's request to include 1/8-barrel bags.

Councilor Hirsch responded that the Sierra Club representative believed the existing legislative language was acceptable.

Councilor Hervey expressed concern regarding the schedule and notification for people applying for exemptions.

Councilor Hirsch responded that staff would notify businesses of the exemption request opportunity. The Committee would review exemption requests by its July 13 meeting. The Chamber of Commerce representative at the Committee's meeting agreed that the timeline should be sufficient.

Councilor Brauner explained that the exemption request process was prompted by testimony from Richard Mehlhaf of Mehlhaf's Clothiers. A Chamber of Commerce representative at the Committee's meeting indicated that the Chamber would notify its members of the exemption request process. Downtown Corvallis Association staff was meeting with business groups regarding the legislation. The Committee believed only a few businesses would request short-term exemptions. The exemption would be limited to inventories of bags purchased before the single-use plastic carryout bag legislation was adopted. He confirmed for Councilor Hervey that staff was developing an exemption request process while notifying businesses of the opportunity to request an exemption. He emphasized that the process should be simple and not involve extensive staff review.

Councilor Traber added that the Committee wanted to allow opportunity for exemptions without reopening the legislation and creating extensive provisions for an exemption process.

Councilor Hirsch commented that the legislation would remain in effect, but the City would offer businesses an opportunity to request a short-term exemption. He considered the timeline reasonable. He added that the majority of Corvallis residents seemed to support the legislation, and he signed a petition to place the issue on an upcoming ballot.

The motion passed unanimously.

X. MAYOR, COUNCIL, AND STAFF REPORTS

A. Mayor's Reports

Mayor Manning thanked staff for organizing the recent Rock Creek Watershed tour, which she and Councilors Hirsch and Beilstein attended, along with almost 90 other people. She said it was obvious that staff took justifiable pride in managing the watershed, which involved a collaboration with the United States Forest Service.

Mayor Manning announced that the CPSC was scheduled to meet June 4 to celebrate completion of the first year of the three-year collaboration effort. All Collaboration Project Work Group members were invited to attend. A reception was planned to follow the meeting.

B. Council Reports

Councilor Traber invited Corvallis residents to visit with him while he hosted Government Comment Corner June 8.

C. Staff Reports

Mr. Patterson read a prepared statement commending Finance Department staff for their efforts in redeveloping a proposed balanced budget, after a recent ruling regarding the valuation of Hewlett-Packard's (HP) Corvallis property (Attachment F).

XI. NEW BUSINESS – None.

Mayor Manning recessed the meeting from 7:24 pm until 7:31 pm.

XII. PUBLIC HEARINGS

A. A public hearing to consider State Revenue Sharing Funds for Fiscal Year 2013-2014

Finance Director Brewer explained that this was the first of two steps toward adopting a Fiscal Year 2013-2014 (FY 13-14) budget. State law required specific activities for communities to accept State revenue sharing funds, which were based upon Oregon Liquor Control Commission taxes on alcohol sales. The Budget Commission held a public hearing and recommended that the Council use State revenue sharing monies as an undesignated General Fund revenue. The Council must hold a public hearing. The City met another criteria by levying a property tax within the prior year. She noted that the proposed FY 13-14 budget included $515,690 in State revenue sharing as an undesignated General Fund revenue. The Council could, alternatively, choose to use the State revenue sharing monies as an off-set to property taxes or return it to the State to help fund operations.

In response to Councilor Sorte's inquiry, Ms. Brewer explained that the Oregon Legislature preferred that local communities not impose their own alcohol sales taxes and, instead, the State collected the taxes and shared the revenue with communities. Over time, the amount of alcohol sales tax shared with communities decreased. Every two to four years the

Legislature discussed discontinuing the State revenue sharing allocations, which again prompted discussions of local alcohol sales taxes.

Mayor Manning opened the public hearing.

Public Testimony – None.

Mayor Manning closed the public hearing.

Deliberations and Final Decision

Mr. Fewel read a resolution authorizing receipt of State Revenue Sharing Funds as general revenue in the General Fund.

Councilors Brown and Traber, respectively, moved and seconded to adopt the resolution.

RESOLUTION 2013-21 passed unanimously.

B. A public hearing to consider a Fiscal Year 2013-2014 budget

Mayor Manning opened the public hearing.

Staff Report

Ms. Brewer reported that the Budget Commission recommended a FY 13-14 budget, based upon Mr. Patterson's proposed budget, which included discussion regarding reductions needed to achieve a balanced budget and whether to continue contributions to reserve funds. On April 30, the Commission recommended tax levies and a balanced budget.

Subsequently, staff was notified of the Court ruling regarding HP's property valuation appeal. Benton County officials were still awaiting information from the Oregon Department of Revenue, which would impact the City's revenue estimates for FY 13-14. Therefore, staff estimated the revenue losses and impacts. Ms. Brewer clarified that the $1 million set aside for the Comcast tax appeal refund had not been paid, thereby slightly reducing the City's out-of-pocket money for the HP tax appeal refund expected during FY 13-14. Lost revenue from City direct taxes and shared revenues from the Library Service District (LSD) and the Rural Fire Protection District (RFPD) would total approximately $2.1 million.

Upon learning of the HP appeal decision, staff immediately stopped all discretionary spending, recalled bids, cancelled conference registrations, and obtained airline and hotel refunds. These efforts totaled $562,450 in savings. Many of the terminated projects involved important, needed work or deferred maintenance.

Staff recommended that the Council approve use of the one-time fund balance set-aside of approximately $980,000 and increase the debt service levy for a one-time refund. An inter-fund loan from the Water Systems Development Charge (SDC) Fund of almost $500,000 would complete the funding for the refund. Staff asked the Council to approve tonight expenditure of up to $495,400 by creating an appropriation. However, the inter-fund loan

would not occur until fall 2013, after the Fiscal Year 2012-2013 ending fund balances were determined.

Ms. Brewer said the HP appeal decision could result in the City losing approximatley $600,000 in operating revenue from the permanent levy, separate from the local option levy and the LSD for FY 2013-2014. The appeal decision would result in the local option levy generating less revenue for services supported by the levy (Library, Osborn Aquatic Center, Senior Center, and social services allocations). Staff was determining how to fund operations with the loss of revenue from the LSD.

On May 31, the Public Employee Retirement System (PERS) Board reduced almost all of the City's Fiscal Biennium (FB) 2013-2015 rate increase by 2.5 percent of payroll, based upon the cost-of -living adjustment (COLA) in Senate Bill 822; 1.9 percent of payroll associated with the unfunded liability was deferred and would likely result in a 2.3-percent rate increase in 2015. She expected additional rate increases in the near future. She had hoped that the PERS Board would not reduce the rate now, even though it would benefit the City, as it would result in a greater rate increase in the future. The total PERS savings was calculated at $682,360, completely offsetting the $600,000 tax revenue loss. However, in two years, the City will experience a greater PERS rate increase. Staff recommended using the PERS rate reduction as the best means of balancing the General Fund budget at this time, even though it would not resolve all of the problems. FY 13-14 would begin with a balanced budget, and staff would have opportunity in fall 2013 for more strategic planning toward PERS rate increases.

Ms. Brewer reviewed the budget amendments prompted by the HP tax appeal decision.

- The FY 12-13 budget savings would be absorbed into the FY 13-14 budget.
- PERS rate reductions of $682,360 in the General Fund were identified by department.
- The $495,400 inter-fund loan would increase appropriations in the Water Fund.
- The $80,000 debt levy would ensure debt service payments in FY 13-14.

Increasing the levy above the amount recommended by the Budget Commission required Council approval. Staff would then re-publish the proposed budget and conduct another public hearing June 17 for the Council to adopt the budget.

Councilor Traber inquired about possible legal challenges to the Oregon Legislature's actions regarding PERS.

Ms. Brewer said she expected legal action to be initiated. The Supreme Court would need to appoint a Special Master, who would conduct a hearing to create a record for the Court to review and render a decision. She heard opinions that the decision would not be made in time for FB 2015-2017 rate increases. The decision would not retroactively affect the FB 2013-2015 rate increases. If Senate Bill 822 was deemed unconstitutional, rate increases could affect FB 2017-2019. The actuary would set rates in September 2014 for a July 1, 2015, implementation. It was not expected that the Supreme Court would render a decision before September 2014. However, the Court could ask the actuary to recalculate rates sooner. In that scenario, the PERS Board would use contingency reserves to repay COLAs and assess employers for refunding the contingency reserves and a future rate increase.

Ms. Brewer noted that PERS earned slightly more than six percent this year to date and was not on track to achieve the assumed rate. The Oregon Investment Council (OIC) was discussing whether PERS should invest in riskier stocks. Simultaneously, the PERS Board was discussing whether to adjust the assumed earnings rate from 8 percent to 7.75 or 7.5 percent. It did not appear that PERS would generate 8.0 on a 30-year rolling-forward basis. The actuary suggested 7.5 percent, and the Board was inclined toward 7.75 percent. She noted the need to seek a balance between the Board's assumptions of PERS earnings and what the OIC needed to achieve to meet the assumed rate. With a higher assumed rate, the OIC would require riskier investments. An assumed rate of 7.5 percent would result in increases of 2.0 to 2.5 percent of payroll for employers.

Ms. Brewer reviewed staff's recommended budget amendments, noting that it would be difficult to amend the budget after the new fiscal year began without new revenue sources.

- Transfer $16,000 to close the Parks and Recreation Fund for the SDC component, based upon year-to-date performance.
- Increase the Wastewater Fund by $200,000 for additional investigation of the North and East Alternatives for meeting the total maximum daily load compliance requirements.
- Increase the Library Budget in the General Fund by $20,000 for the Margaret E. Hull Bequest; the funds would purchase furniture for the Monroe Community Library.
- Increase the Community Development Department budget in the General Fund by $20,120 for the ProjectDox software, as part of the Development Services Division's service enhancement, allowing electronic submission and approval of plans. The project was progressing slower than expected. This would be a carry-over of existing appropriations.
- Increase the Finance Department budget in the Parking Fund for the Parking e-Ticket project. Staff sought an alternative solution for the electronic parking ticket function, possibly through a third-party vendor or by the e-Ticket vendor writing specific software. This was a savings from the current year's budget.

Ms. Brewer acknowledged the efforts of Finance Department staff over the past two weeks since the HP tax appeal decision. She thanked Department Directors for postponing projects and reducing budgets.

Councilor Traber, citing the complexity of the HP tax appeal decision, concurred with the commendations of staff.

Ms. Brewer commented that the General Fund represented one-half of the City's budget. The other half of the budget would continue, as would City operations; projects would be conducted, streets would be repaired or reconstructed, and buses would operate because of alternate financing sources, which would continue. She explained that funding was often designated for specific projects and purposes and could not be used otherwise.

Questions of Staff – None.

Public Testimony – None.

Mayor Manning closed the public hearing.

Deliberations and Final Decision

Councilors Traber and Brown, respectively, moved and seconded to include in the recommended budget staff's proposed amendments in the May 31, 2013, memorandum from Finance Director Brewer to the Mayor and City Council, including increasing the debt service above the amount recommended by the Budget Commission, and direct staff to re-publish the City Council-recommended budget and schedule a second public hearing on the budget at the June 17, 2013, City Council meeting.

Councilor York noted that, during the Budget Commission's public hearing, she proposed an amendment to restore $30,000 in funding for the Library's book budget. In light of the HP tax appeal decision, she would not offer that amendment to the Council.

The motion passed unanimously.

XIII. ADJOURNMENT

The meeting was adjourned at 7:54 pm.

APPROVED:

_____

MAYOR

ATTEST:

_____

CITY RECORDER

OREGON MAYORS ASSOCIATION

NEWSLETTER

STRENGTH IN UNITY

Second Quarter 2013

PRESIDENT'S MESSAGE

A huge "Thank You" to the 50-plus mayors who joined me in Salem at the 2013 City Day at the Capitol! This annual event combined Mayors Day at the Capitol with City Day at the Capitol and, as a result, the attendance was so impressive we moved it to the Salem Conference Center. Over 200 mayors, councilors, city managers and a few others filled the Willamette Room to greet legislative officials and the governor, and to hear their brief remarks.

The day began with an optional legislative orientation, coffee and networking. It was my great pleasure to share the

(continued on page 7)

Inside This Issue

- OMA Summer Conference Preliminary Program
- City Spotlight: Cave Junction
- Newberg's Sister Cities
- In Memoriam – Alice Schlenker
- Calendar of Events
- "If I Were Mayor... "Student Contest

MAYORS TO GATHER IN CORVALLIS

FOR THE 2013 OMA SUMMER CONFERENCE

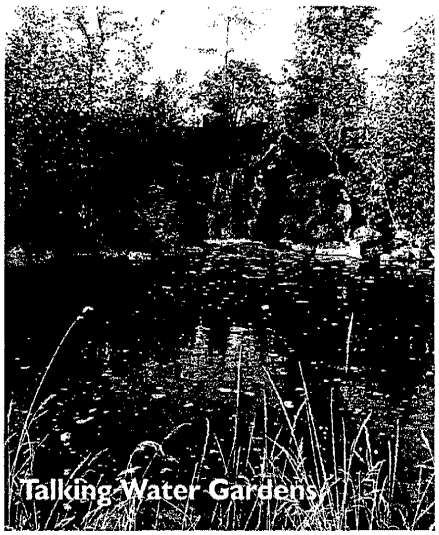
By Julie Manning, Mayor, Corvallis

You and your guest are invited to spend a few days in and around the campus of Oregon State University—no final exams required!

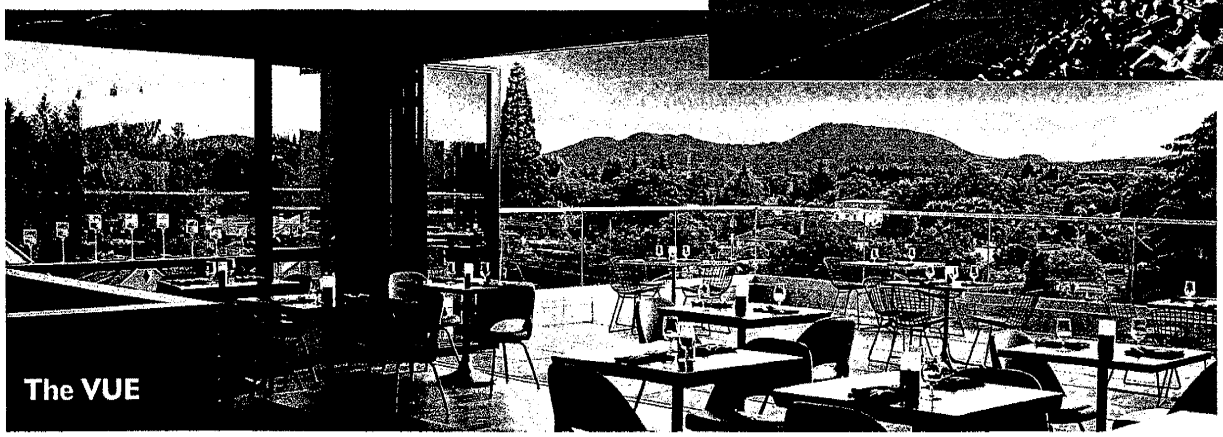
Corvallis, the home of OSU, will host the 2013 Oregon Mayors Association Summer Conference, July 25-27. Most conference activities will take place at the CH2M Hill Alumni Center *(pictured on the cover)* across from Reser Stadium on the OSU campus. The conference hotel, Hilton Garden Inn, is conveniently located across the street from the Alumni Center.

The conference planning committee is confident that you will find much to enjoy about this year's conference, as well as much to learn. Among the conference highlights:

- Visit with state agency directors.
- Educational sessions concerning how cities can gain health and economic benefits by supporting local food growers and related businesses. Other educational sessions will discuss the economic benefits of sports tournaments and sports tourism as well as activities related to historic properties and arts and culture.
- "Water Works" tour featuring OSU's unique Wave Research Facility and Albany's engineered wetlands, called the Talking Water Gardens.
- Friday night baseball in the Omaha Room at OSU's Goss Stadium, featuring a delicious catered meal, beverages and prime seats along the first base line for the game between the college-league Corvallis Knights and Wenatchee.
- A delectable al fresco luncheon at the city's Starker Arts Park, featuring locally-grown foods and a tour of the on-site community garden.
- Lunch with a view—of Mary's Peak and the Willamette River—at the VUE, a panoramic special events venue in downtown Corvallis.
- Our own "Dancing with the Stars" action-filled ballroom dance show, called "Cine-magic," and featuring favorite movie theme music with full costumes (and an opportunity for audience participation) after the annual awards dinner.


Talking Water Gardens

In short, you won't want to miss this trip to Beaver Nation July 25-27. Call the Hilton Garden Inn, (541-752-5000) and reference the Mayors Conference today to secure your reservations!


The VUE

2013 OMA SUMMER CONFERENCE
PRELIMINARY PROGRAM

Thursday, July 25

9:00 a.m. – 4:00 p.m.	Registration
9:00 a.m. – 11:30 a.m.	OMA Board of Directors Meeting
11:45 a.m. – 1:00 p.m.	OMA Board of Directors Luncheon
1:30 p.m. – 4:30 p.m.	Water Works Tour *(pre-registration required)* • OSU Wave Research Facility • Albany Talking Water Gardens (engineered wetlands)
1:30 p.m. – 4:00 p.m.	9-hole Scramble Golf Tournament (Trysting Tree Golf Course)
5:00 p.m. – 6:00 p.m.	New Mayor Orientation
6:00 p.m. – 7:30 p.m.	Get-Acquainted Reception and Silent Auction
7:30 p.m.	Dinner on Your Own
8:30 p.m. – 10:00 p.m.	OMA President's Welcome Reception

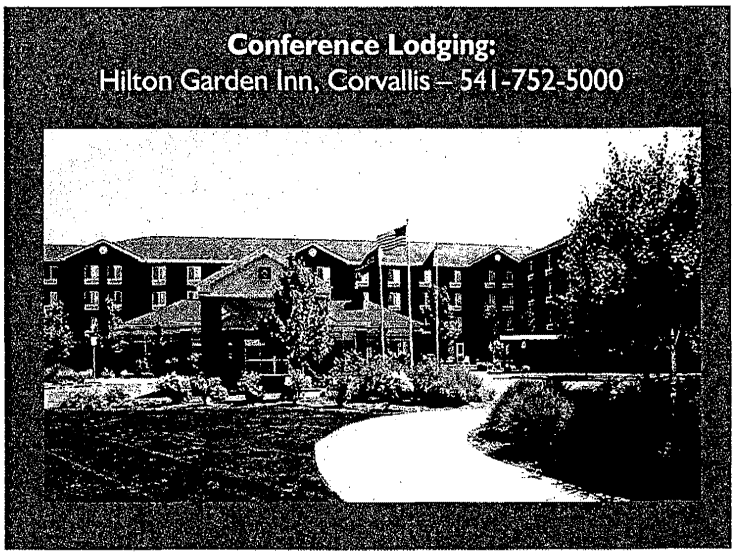
Friday, July 26

7:00 a.m. – 11:30 a.m.	Registration
7:30 a.m. – 8:45 a.m.	Networking Breakfast
9:00 a.m. – 10:00 a.m.	Opening Ceremonies, Introductions and Networking Opening Remarks: Ed Ray, OSU President
9:00 a.m. – 11:30 a.m.	Spouse/Guest Tours *(Bus transportation provided)* • Trolley tour of historic homes • Inside tour of historic home and Whiteside Theatre
10:15 a.m. – 11:45 a.m.	State Agency Directors Round Table Forum
12:00 p.m. – 12:05 p.m.	Mayors Board Buses for the VUE Event Center
12:15 p.m. – 2:00 p.m.	Lunch with Spouses/Guests at the VUE Event Center
2:15 p.m.	Mayors and Spouses Board Buses to Alumni Center/Hotel
2:30 p.m. – 3:30 p.m.	Concurrent Sessions: • Sports Tourism as an Economic Driver • Cultural Heritage/Historical Areas
3:35 p.m. – 4:35 p.m.	Concurrent Sessions Repeated
4:45 p.m.	Free Time
5:30 p.m. – 9:30 p.m.	Group BBQ Dinner and Corvallis Knights Baseball Game *(bus transportation provided)*

Saturday, July 27

8:00 a.m. – 11:30 a.m.	Registration
8:30 a.m. – 10:00 a.m.	OMA Breakfast & Business Meeting with LOC Legislative Report
9:30 a.m. – 11:30 a.m.	Spouse/Guest Tours *(bus transportation provided)* • Corvallis Farmers Market • Riverfront Art Walk /Madison Avenue Corridor • Corvallis Arts Center
10:15 a.m. – 11:45 a.m.	General Session: "Local Food for Thought" • Growing Food-Related Businesses • Developing Community Gardens on City-Owned Land • Food as a "Buy Local" Driver
11:50 a.m. – 12:15 p.m.	"If I Were Mayor, I Would…" Student Contest Awards
12:20 p.m.	Mayors, Spouses & Guests Board Buses to Starker Arts Park
12:30 p.m. – 1:45 p.m.	Lunch at SAGE Community Garden/Starker Arts Park *(bus transportation provided)*
1:50 p.m.	Board Buses to Alumni Center/Hotel
2:00 p.m. – 4:00 p.m.	Mayors Open Forum
5:30 p.m. – 9:30 p.m.	Annual Awards Banquet with special entertainment

Visit *www.oregonmayors.org* for complete conference information.



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Visitors' Propositions (Informational Only)

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Top Stories

Voters shun bag ban, children's trust measures

Modified: Tuesday, May 21st, 2013
BY: Larry Coonrod

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LINCOLN COUNTY — Voters on Tuesday rejected for the second time in seven months a county-wide property tax levy to fund children's programs. With 90 percent of the vote counted, the Children's Trust of Lincoln County was losing with 5,241 no votes to 3,829 voting yes.

In another closely watched ballot measure that could have state wide ramifications, Newport voters overwhelmingly rejected a ban on single use plastic checkout bags, with 1,348 no votes to 984 yes votes. In addition to prohibiting the use of plastic bags, the measure called for a 5-cent fee on paper bags provided to customers by stores.

Although city councils in Eugene, Portland and Corvallis have implemented plastic bag bans, Newport was the first city to put the issue to voters. Environmentalists backing the ban strenuously objected to the city council's 4-3 vote to let citizens decide the issue.

The council earlier in 2011 had voted 5-2 to move ahead with implementing a bag ban but reversed itself a few weeks later and formed a task force to study the matter before putting it on the ballot.

Port of Newport

With the question of log exporting looming over three Port of Newport Board of Commissioners races, voters gave Walter Chuck a full term in the Position 1 seat. Chuck was appointed to the commission in 2011 to fill a vacant seat.

With 90 percent of the vote counted, he held an insurmountable lead of 1,541 votes to challenger Dennis Bishop's 999.

In the Position 2 spot, incumbent David Jincks was unopposed on the ballot but faced a

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late write-in challenge from Newport business owner Molly Murphy. Election results at press time show Jincks with 1,897 votes. Write-in ballots won't be counted until later, but there's no chance Murphy will out poll Jincks.

Three candidates fought a hotly contested race for the Position 3 port commission seat. Lloyd "Oly" Olson narrowly defeated Ken Brown with 1,108 votes to 1,033. Steven Beck came in distant third with 511 votes.

Devils Lake Water Improvement District

Brian Green beat Mark Ronald Christie 811 votes to 359 to take the Position 4 seat. As of press time with 90 percent of the votes counted, the Position 5 seat remained too close to call with Jack Strayer narrowly leading David Skirvin 564 to 544.

Contact Assistant Editor Larry Coonrod at 541-265-8571 ext. 211 or email larry@newportnewstimes.com.

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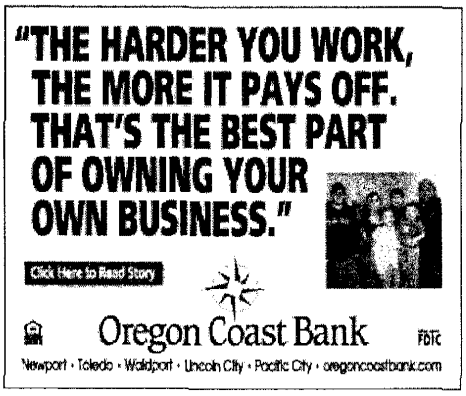
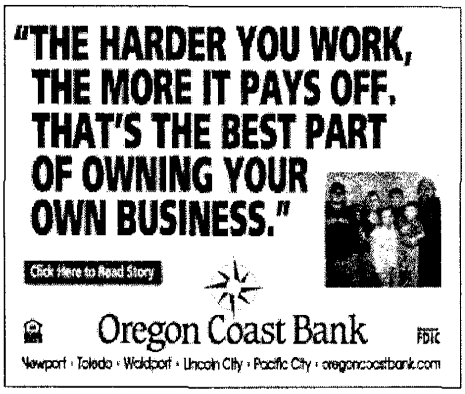




Louie, Kathy

From: Dan Brown
Sent: Monday, June 03, 2013 3:10 PM
To: Louie, Kathy; Patterson, Jim

I think the proposed language in the revisions to CMC alcohol regulations is too narrow (see red)

CMC 5.03.040.010.03.I.(2)

" . . . consumption of a **bottle** of such beverages . . . "

The alcohol in violation could be in a can, glass, cup, etc. I prefer "**container"** which appears elsewhere in the regulation.

See also 5.03.040.010.06

" . . . possession of open **container** of alcoholic liquor . . . "

See also 5.03.040.010.06.1)

". . . possess any open **container** . . . of alcoholic liquor . . . "

Please refer to city attorney for me (-:

ATTACHMENT C
Page 293-g

MEMORANDUM

Date: **June 3, 2013**

To: **Mayor and City Council**

From: **Ken Gibb, Community Development Director**

Re: **Comments Regarding Food Cart Policy Review and Recommendations**

Background:

Following the Urban Services Committee review and approval of the proposed changes to the Mobile Food Unit policy, staff received an email from a member of the public seeking additional clarification regarding the review and permitting process proposed in the ordinance. Attached to this memo is an excerpt from that email, and staff's response is provided below in bold italics.

to sarah johnson and the city council,

I have concerns and mainly wanting clarification on the proposed food cart siting policy.

Is the site review fee per property? So to say if I had my cart and 2 other carts interested in the same lot we would submit one site plan and pay the one fee of proposed $200. Plus each cart would pay a $100 proposed annual infrastructure fee?

If so, what happens if the property owner wants to change the site and allow 2 more carts that weren't there before? This could get confusing as to which cart owner is responsible. thanks Michele Walker (Cartvallis)

Michele,

Thank you for your comments regarding the proposed revisions to the Mobile Food Unit ordinance. In response to your first question regarding the site review fee, the intent was to provide a mechanism whereby City staff can review a single property with one or more food carts located there, to ensure that all code requirements for siting have been met. If conditions on the property remain unchanged from that approval, no further review fee would be paid. If conditions change a new site plan review would be required, and the fee would be paid again. So, under this process if several vendors collaborated to submit a site plan that includes each proposed food cart location, there would be one fee charged. The infrastructure impact fee is an annual fee that is to be paid on a per-unit basis, so each individual food cart owner would be responsible for paying this fee each year to offset the impacts of their operations on the surrounding built environment.

Per the second question, each time conditions change that would require a new review of the site plan and property the site plan review fee would need to be paid again. It was staff's desire in drafting the policy language not to over legislate each component of this process, so staff posited that the property owner and vendors could work together to ensure that the property is in compliance with ordinance standards, and that review of site plans is coordinated and equitable.

I hope this answers your questions. Your concerns/questions will be brought to the attention of the City Council, and staff will include this response for reference as well.

MEMORANDUM

Date: **May 15, 2013**

To: **Mayor and City Council**

From: **Ken Gibb, Community Development Director**

Re: **March 18, 2013 Collaboration Steering Committee Recommendations**

Background:

As noted in the March 27, 2013 memorandum to the City Council (Attachment 1), the Collaboration Corvallis work groups made 14 recommendations to the Steering Committee at the March 18th meeting, all of which were accepted and forwarded to Oregon State University and the City of Corvallis for action. The memorandum also suggested that for some of these recommendations, it would be advisable to have preliminary Council direction prior to engaging staff and community resources in moving these projects forward.

Discussion:

The project management team memorandum to the Steering Committee is provided in Attachment 2 and provides a description of the 14 work group recommendations. Additional background can be accessed via the documents and maps section of the Collaboration Corvallis website.

For review purposes, these recommendations are summarized below with primary implementation assignments identified in ***bold italics***:

1. Support a community policing model by establishing a goal of increasing the ratio of sworn officers from the current rate of 0.96 to 1.2 per 1000 population – ***City***
   - Part of City Council's levy discussion
2. Implement a property maintenance code with a complaint based enforcement model, develop an equitable funding structure to support the program, provide sufficient staffing and utilize education and outreach strategies to engage stakeholders – ***City***
   - Direction on PMC provided on 5/20/13 by CC
3. Utilize a progressive enforcement strategy to resolve code enforcement complaints – ***City***
   - Part of PMC package

4. Seek further information and input from stakeholders to help develop additional programs and policies to address habitability and livability concerns and review options for additional measures to address housing conditions within 2 years of implementing a property maintenance code – ***City***
   - Part of PMC recommendation. To be scheduled after PMC is in place
5. Develop and provide orientation programs to prepare students for living off-campus with topic areas including landlord/tenant laws, pertinent city ordinances, neighborhood livability issues – ***OSU and City***
   - Related to PMC package - additional neighborhood services
6. Assign a city department to provide support to neighborhood associations and students in coordination with ***OSU and City***
   - Part of PMC package – Housing and Neighborhood Services Division
7. Develop a Community/Neighborhood Welcome program – ***OSU and City***
   - Part of PMC package - neighborhood/community liaison to work on programs such as this.
8. Develop a mediation/conflict resolution service for community members – ***OSU and City***
   - Staff plans to investigate once expanded OSU staff comes on board.
9. Develop and approve Land Development Code (LDC) amendments that related to lot line adjustments and unusable yard areas – ***City***
10. Develop and approve LDC amendments related to setback requirements for single family attached units – ***City***
11. Develop and approve LDC amendments related to density calculations – ***City***
12. Develop and approve LDC amendments increasing public notice requirements for certain land use applications - ***City***
13. Develop and approve LDC amendments related to minimum density requirements for infill residential projects - ***City***

LDC collaboration package part of CC approved work program

14. Develop and implement a series of parking management actions including the expansion of parking districts in conjunction with OSU campus parking management actions such as a variable cost pricing structure and enhanced shuttle system – ***OSU and City***
   - Referred to USC

City Council Meeting

June 3, 2013

RE: Budget Preparation and Staff Performance

As you all know it is a challenge to derive a balanced budget proposal in only 4 to 6 months, in the current economic environment where deficits from one year to the next can be as high as seven figures.

The City of Corvallis Budget Commission approved a City budget on April 30th. Less than two weeks ago the City was notified of the Hewlett Packard Property Tax Appeal decision. With that decision in favor of the HP appeal, the City of Corvallis owes $2.4 million dollars dating back to 2008 and the impact of the appeal to the permanent rate property tax collection in the future is expected to be at least $600,000.

City staff, primarily our Finance Department lead by Finance Director Nancy Brewer immediately jumped into action to address the pending adoption of a balanced budget with the financial picture literally changing overnight and the June 30th deadline looming. After consultation with Department Directors and me, Finance Director Brewer along with her staff did what all professionally trained and dedicated public employees do....they did their job.

In particular Finance Director Brewer led the effort to pull together all the hard work that went into formulating a fiscally prudent plan to deal with this unexpected, unanticipated financial emergency in a calm and seamless manner. Finance Director Brewer provided an immediate heads up to the City Council at the May 20th Council meeting, again at the City Council work session on May 22nd with Budget Commissioners present and again this evening.

While Finance Director Brewer would like you to think that she just does all the talking (and boy can she talk,) while others do all the heavy lifting, make no mistake she leads by example always having the organizational good at the forefront of her mind and in what one of her colleagues said, "an incredible and unparalleled capability for what needs to be done in the public's best interest."

Nancy, from all of us who work with you and on behalf of those you lead, thank you for your great work under unusually challenging circumstances

CITY OF CORVALLIS
SPECIAL COUNCIL MEETING (EXECUTIVE SESSION) MINUTES

June 10, 2013

The special meeting of the City Council of the City of Corvallis, Oregon, was called to order at 6:30 pm on June 10, 2013, in the Madison Avenue Meeting Room, 500 SW Madison Avenue, Corvallis, Oregon, with Mayor Manning presiding.

I. ROLL CALL

PRESENT: Mayor Manning, Councilors Brown, York, Beilstein, Brauner, Hogg, Traber, Hirsch, Hervey (6:31), Sorte (6:35)

II. UNFINISHED BUSINESS

A. An Executive Session under ORS 192.660(2)(d) (status of labor negotiations)

Mayor Manning read a statement, based upon Oregon laws regarding executive sessions. 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. Mayor Manning noted that no decisions would be made during the executive session. Council and staff members were reminded 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. Council or staff members not able to maintain the Council's confidences were asked to leave the meeting room.

The Council entered executive session at 6:32 pm.

Deputy City Attorney Brewer, Police Chief Sassaman, and Human Resources Manager Altmann Hughes, updated Council on labor negotiations with Corvallis Regional Communications Center Association.

III. ADJOURNMENT

The Executive Session adjourned at 6:45 pm.

APPROVED:

ATTEST:

MAYOR

CITY RECORDER

AIRPORT COMMISSION
MINUTES
May 7, 2013
DRAFT

Present
Bill Gleaves, Chair
Rod Berklund, Vice-Chair
Louise Parsons
Todd Brown
Bill Dean
Douglas Warrick
Lanny Zoeller
Paul Woods
Biff Traber, Council Liaison

Absent

Staff
Dan Mason, Public Works, Airport Manager
Robyn Bassett, Public Works, Transportation & Buildings Division Manager
Tom Nelson, City of Corvallis, Economic Development Manager

Visitors
Ty Parsons, tenant, pilot.

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Open Meeting, Introductions			
II. Review of March 5, 2013 Minutes			Approved
III. Visitor Comments			None
IV. Old Business • None			
V. New Business • Airport Smoking Restrictions • Minimum Standards/Airport Handbook Review		X X	
VI. Information Sharing • Update on the Airport Industrial Park • Update on the Airport • Update on the City Council • Monthly Financial Report	X X X		N/A

CONTENT OF DISCUSSION

I. Open Meeting, Introductions

Chair Gleaves called the meeting to order and those present introduced themselves.

II. Review of Minutes

Commissioner Brown moved to approve the March 5 minutes; Commissioner Zoeller seconded the motion and the minutes were approved unanimously.

III. Visitor Comments

None.

IV. Old Business

None.

V. New Business

Airport Smoking Restrictions

Mr. Mason presented the existing restriction in the Airport Handbook and adopted by City ordinance. The Commission discussed whether they want to expand the restriction to include the whole airport. They decided to consider an expanded restriction with an upcoming review and update of the Airport Handbook.

Minimum Standards/Airport Handbook Review

Mr. Mason provided the Commission the minimum standards and Airport Handbook documents, which are due for review, stating that staff plans to bring a recommendation for any changes to the next Airport Commission meeting. The Commission was asked to review the documents and provide recommended changes to staff for review at the next Commission meeting.

VI. Information Sharing

Update on Industrial Park

Mr. Nelson reported that he has received three leads from the State, as well as four local businesses that have shown interest in expansion to the industrial park.

Update on Airport

Mr. Mason reported the following:

- He gave a tour to Dave Kooken, who worked at the airport as a telephone repairman during WWII when he was a U.S. Marine stationed there. Mr. Kooken is working on his memoirs, with a chapter including about his time in Corvallis.
- Corvallis Police will be conducting training at the Airport on May 7 and May 14.
- There were two incidents where automobiles ran into the fence at the south end of Plumley. A police report was made and the two suspects have been charged. Their respective insurance companies have contacted the City and have agreed to pay for the fence damage. The fence has already been repaired.
- The contract for the roof and window replacement on the main hangar is being finalized and the project should be completed this summer.

- Staff is still in discussion with the Federal Aviation Administration (FAA) and Oregon Department of Aviation about the next project the FAA will fund at the Airport.
- Engineering staff is making progress with the infrastructure plan, which is scheduled to be completed by July 1.
- The FAA is still reviewing the Airport Layout Plan from the Airport Master Plan, after a few minor changes and corrections have been made.
- Staff made some changes to security protocol after discovering that people have been trespassing on the water tower.

Ms. Bassett reported that Corvallis is attempting to acquire a $400,000 Transportation Growth Management grant to fund an update to the Transportation System Plan. The planning project will include all forms of transportation. An Intergovernmental Agreement should be ready by July 2014.

Update on City Council
Councilor Traber reported that the Ferrell Gas lease was approved by Council. He also noted that the streaked horned lark may be heading onto the protected species list. This would affect the airport because it provides the type of habitat that the bird prefers.

Monthly Financial Report
No discussion.

The meeting was adjourned at 7:57 a.m.

NEXT MEETING: June 4, 2013, 7:00 a.m., Madison Avenue Meeting Room

DRAFT

Minutes of the Arts & Culture Commission

May 15, 2013.

Attendance:

Brenda VanDevelder, Chair

Karyle Butcher

Charles Creighton

Larry Rodgers

Elizabeth Westland

Joel Hirsch, City Council Liaison

Karen Emery, Parks and Recreation Director

Heather Griesmeyer, Recorder

Elizabeth Wyatt, Guest liaison from BCCC

Content of Discussion:

I. **CALL TO ORDER.** Chair Brenda VanDevelder called the meeting to order at 5:52 p.m.
II. **INTRODUCTIONS.**
III. **CORRECTIONS TO APRIL MINUTES.** None.
IV. **VISITORS PROPOSITIONS.** None.
V. **WHITESIDE THEATER TOUR.**
VI. **STRATEGIC PLAN.** Complete plan with action steps. The project will take 60-90 days and will cost approximately $20-$25K. Karen has budgeted $10K from Parks and Recreation to the project rather than replacing park drinking fountains. If other funding sources can be determined that would be preferred.
VII. **NEXT STEPS.** Brenda VanDevelder and Larry Rogers will meet with Tom Nelson and Mary Pat Parker to discuss how they might support this strategic plan.
VIII. **CITY COUNCIL LIAISON UPDATE ON GOAL SETTING.** None.
IX. **STAFF LIAISON REPORT.** None.
X. **NEW BUSINESS.** None.
XI. **ADJOURNMENT.** Meeting ended at 6:32.

BICYCLE AND PEDESTRIAN ADVISORY COMMISSION
MINUTES
May 3, 2013

DRAFT

Present
Brad Upton, Chair
Susan Christie
Meghan Karas
Glencora Borradaile
Jeanne Holmes
Brian Bovee
Thomas Bahde
Mike Beilstein, City Council

Staff
Greg Wilson, Public Works
Lisa Scherf, Public Works

Visitors
Laura Duncan Allen

Absent

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
Call Meeting to Order/Introductions	X		
I. Review of March 29, 2013 Minutes			Approved as amended
II. Visitor Comments			n/a
III. Old Business • None			n/a
IV. New Business • CIP Project Ranking		X	
V. Information Sharing	X		
VI. Commission Requests and Reports			n/a
VII. Pending Items			n/a

CONTENT OF DISCUSSION

Call Meeting to Order/ Introductions
Chair Upton called the meeting to order at 7:04 am and those present introduced themselves.

I. Review of Minutes

Commissioner Borradaile asked for clarification to the discussion of the traffic circle at 10th and Grant, particularly with regard to the turning of large vehicles. She asked that the minutes be corrected to say that Aaron Manley had stated that large trucks occasionally do run over the curb at the intersection. **Commissioner Christie moved to approve the minutes as amended; Commissioner Karas seconded the motion and the minutes were approved unanimously.**

II. Visitor Comments

None.

III. Old Business

None.

IV. New Business

CIP Project Ranking

Chair Upton provided details on the Capital Improvement Program (CIP) process. He stated that the CIP is for large projects such as paths and bridges that typically require grant funding. Through a prioritization process, the BPAC will develop a list of ten or so projects for submittal to the CIP Commission. Chair Upton reviewed the list of bicycle and pedestrian projects currently in the CIP as well as those projects that were submitted this spring by area residents for possible inclusion this year. The Commission then discussed each proposed bike and pedestrian project, which they will rank at the next meeting.

There was discussion about how to handle the individual sub-elements in the Pedestrian Crossing and Sidewalk Infill projects. Commissioner Holmes requested that at the next meeting, the Commission review and discuss which elements to keep in both of these projects, before the overall ranking is done. They asked that Som Sartnurak (Public Works Engineering) provide them with his criteria for evaluating the need for a pedestrian actuated crossing at a particular location, as it would assist them in ranking Item B. This is a project submitted by a citizen this spring which requested additional pedestrian crossings on 9th Street, including one between Walnut and Conifer Boulevards.

Commission members felt that Items D and H were too vague as submitted to be included in the ranking process, but could be addressed at a later meeting. It was also suggested that Item E be included as an information sharing item on the agenda of a BPAC meeting at a later date. Item F was removed from consideration as it dealt with the addition of a bike lane on a road under county jurisdiction. A question arose as to whether or not it was appropriate for Item G, a multiuse path through the OSU Dairy farm to the Circle Boulevard multiuse path, to be on the list. There was discussion about the ways this path could be funded and built: developer, CIP project, and/or Oregon State University. Commissioner Borradaile asked to include a project to construct a path and bridge over the Marys River to connect Wake Robin and Brooklane Drive. Councilor Beilstein asked that this connection accommodate motor vehicles as well. Chair Upton requested the inclusion of projects to add bike lanes to both Harrison Boulevard between 30th and 35th Streets and to 9th Street between Jefferson and Monroe Avenues.

V. Information Sharing

Chair Upton reported that the annual Ride of Silence will be held May 15, beginning at Osborn Aquatic Center at 7:00 am.

Commissioner Borradaile reported that she recently attended a stakeholder meeting held by ODOT for a potential rail project in the region. President Obama has identified the corridor from Eugene to Vancouver, BC, as a high-speed rail corridor. Federal funding is available to build rail along this corridor, with the high-speed component to come later. The State of Washington has done a lot of work on their section and Oregon is starting to work on the section from Eugene to Vancouver, WA. There are a number of alignments identified for the rail line, including the possibility of going through Corvallis or along I-5. Ideally, the alignment would use as much existing rail as possible.

Commissioner Borradaile also reported that she has been attending the Parks and Recreation Department's Trails Master Plan update stakeholder's meetings. She stated that they have had a focus on using trails to connect neighborhoods. A Trails Master Plan open house is scheduled at the Osborn Aquatic Center on May 9.

Mr. Wilson reported that Get There Corvallis is happening May 4-17. Another Light it Up event will be taking place May 13 and BPAC members are welcome to volunteer.

<u>In-street Bike Corral</u>
Held for further review.

VI. Commission Requests and Reports

None.

VII. Pending Items

None discussed.

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

NEXT MEETING: June 7, 2013, 7:00 a.m., Madison Avenue Meeting Room

Draft
Subject to review &
CACOT approval

CORVALLIS CITIZENS ADVISORY COMMISSION ON TRANSIT
MINUTES
April 10, 2013

Present
Stephan Friedt, Chair
Brandon Trelstad, Vice Chair
Robert E. Wilson
Bruce Sorte, Council Liaison

Absent
Jacob Kollen
Kriste York

Staff
Tim Bates, Public Works
Brie Caffey, Public Works

Visitors
John Oliver
Eric Cornelius
Trish Daniels
Joe Raia

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Introductions	X		
II. Approval of March 13, 2013 Minutes	X		
III. CACOT/Visitor Comments			N/A
IV. Old Business			N/A
V. New Business • CTS Future System Levels	X		• Held for next meeting
VI. Information Sharing	X		
VII. Commission Requests and Reports			N/A
VIII. Pending Items			N/A
IX. Adjournment			Adjourned at 9:03 am

CONTENT OF DISCUSSION

I. Introductions

The meeting was called to order at 8:26 am by Vice Chair Trelstad, who acted as Chair for this meeting because of Chair Friedt's sore throat. Introductions were made of Commission members, staff and visitors.

II. Approval of Minutes

Commissioner Wilson and Chair Friedt, respectively, moved and seconded to approve the March 13, 2013 minutes. The motion passed unanimously.

III. CACOT/Visitor Comments

Trish Daniels reported that the Arts & Culture Commission created an "Arts for All" program which offers $5 tickets to Oregon Trail Card holders. She asked staff to determine appropriate verbiage about CTS to be included in their brochure. Staff agreed to provide this information.

Mr. Bates mentioned that guests John Oliver and Eric Cornelius have applied to be commissioners on CACOT. He said Steve Harder, Executive Director of Dial-A-Bus, has also applied and is also expected to be confirmed in time for CACOT's May 8th meeting.

IV. Old Business

None.

V. New Business

Corvallis Transit System's Future System Levels - Chair Friedt requested this discussion be postponed until the new Commission members are appointed.

Downtown Transit Center's Current Environment - Councilor Sorte reported that business owner Skip Hamilton testified at the April 1st Council meeting about non-riders congregating at the Downtown Transit Center (DTC), citing similar concerns discussed at CACOT's March meeting. He said Mr. Hamilton did not have any specific solutions but was interested in the proposed expansion of the no-smoking policy that would include the grounds of the DTC and within ten feet of any transit shelter. Councilor Sorte said his response to Mr. Hamilton was a concern about where these individuals may go after being displaced from the DTC.

VI. Information Sharing

Mr. Bates reviewed the written Information Sharing Report. Comments provided in addition to the report included:

CTS will take delivery of two new buses in February, 2014, as grant money has already been secured for the replacement of the two oldest buses in the fleet. The next bus purchase after that is scheduled for 2016 but funding has not yet been secured.

CTS will no longer fund the 99 Express Adair Village grant. Benton County has secured a grant for service in FY 13/14.

Mrs. Caffey reported that staff will be hosting a booth at the OSU Earth Fair on Tuesday, April 23rd, in the OSU quad. She said staff will be touting new, mobile-friendly route web pages that are currently being created.

VII. Commission Requests and Reports

None.

VIII. Pending Items

None.

IX. Adjournment

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

The meeting was adjourned at 9:03 am.

NEXT MEETING: May 8, 2013, 8:20 am, City Hall, Meeting Room D

CORVALLIS-BENTON COUNTY PUBLIC LIBRARY BOARD MINUTES
May 1, 2013

Board Present	Staff Present
Scott Elmshaeuser, Chair	Carolyn Rawles-Heiser, Library Director
Martha Fraundorf	Janelle Cook, Senior Administrative Specialist
Leanne Giordono	Andrew Cherbas, Extensions & Technology Manager
Isabela Mackey	Mary Finnegan, Adult Services Manager
Jacque Schreck	Lori Johnston, Circulation Supervisor
Jana Kay Slater	Curtis Kiefer, Youth Services Manager
Steve Stephenson	Carol Klamkin, Management Assistant
Sravya Tadepalli	Felicia Uhden, Access Services Manager
Penny York	
Excused:	**Visitors**:
Corrine Gobeli, David Low, and Linda Modrell	None

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Action
Call to Order	6:03 pm	
Visitors' Propositions		None
Minutes: April 3, 2013		Approved as submitted
Library Board Packet		None
Director's Report	x	
Division Manager Reports	x	
Sunset Review		Approved as revised
Board Goals Discussion		Partially approved as submitted
Information Sharing	x	
Adjournment	8:10 pm	

CONTENT OF DISCUSSION

I. CALL TO ORDER

Chair Scott Elmshaeuser called the meeting to order at 6:03 pm.

II. VISITORS' PROPOSITIONS

None.

III. APPROVAL OF MINUTES

Motion: Jacque Schreck moved approval of the April 3, 2013 minutes as submitted. The motion was seconded by Steve Stephenson and passed.

IV. LIBRARY BOARD PACKET QUESTIONS AND COMMENTS

None.

V. DIRECTOR'S REPORT

Carolyn Rawles-Heiser announced Mayor Manning is appointing Paula Krane to the Library Board. Paula is a previous Library Board member and is a long-time Library volunteer who is very familiar with the Library. Her first meeting will likely be in June. There will be another vacant position on the Board soon due to Leanne Giordono moving out of state with her family this summer.

The County Budget Commission meeting went really well. They had several pictures on display of the new Monroe Community Library.

Scott, Steve, and Jacque attended and addressed the Budget Commission at last night's public hearing on the City's proposed budget. Jacque personally thanked City Councilor Penny York for her eloquence in standing up for the Library at last night's meeting. Penny elaborated that she put forth a motion to reduce the Library's materials budget by $30,000 instead of the proposed $60,000 from next year's budget, and taking the difference from unallocated reserves. She felt the proposed cut was too severe since the materials budget has already suffered significant reductions over the last several years. The motion was seconded and after some discussion, there was a tie 8-8 vote. The Commission Chair was then forced to break the tie and he voted against the amendment. There will be another public hearing and an opportunity for City Council to vote on the final budget on Monday, June 3. Penny inquired how the Board felt about her reintroducing this amendment at the upcoming meeting, perhaps as a slightly different version so it is not exactly the same as what the Budget Commission voted down. Jacque commented that it is not unprecedented for the City Council to approve a different budget from what the Budget Commission recommends and she thinks this proposal more accurately reflects the desires of the community. Carolyn added that the materials budget has already been cut by $219,000 in the last three years and this has significantly eroded the quality and quantity of the Library collection. If the local option levy is not renewed, an additional $340,000 will be eliminated from the materials budget. Carolyn estimates that $30,000 would purchase about 1,200 books. Volunteers were solicited to attend the June 3 City Council meeting. Martha Fraundorf and Isabela Mackey agreed. There was much discussion surrounding the proposed safety tax levy and the renewal of the current operating levy and Penny noted there is a City Council work session scheduled for May 15. The public is welcome to observe the meeting, but will not be allowed to speak.

The City is taking steps to exercise the option on the Fenner property. Scott inquired if the City or the Library Foundation would actually make the property purchase. Carolyn replied there has been some debate surrounding this issue and it looks like the City will need to do it because the purchase could jeopardize the Foundation's 501(c)(3) status. It could cause the Foundation to be reclassified as a charitable organization instead of a public foundation. As it is now, the proportion of the Foundation's income from investments is less than the proportion of their income from donations. If the Foundation were to collect rent from the tenants of the Fenner property, this proportion could be reversed and they would be required to pay taxes on the income. This is not in the Foundation's best interest and thus, most likely the City will make the purchase with money gifted by the Foundation.

VI. DIVISION MANAGER REPORTS

Access Services: Felicia Uhden commented on the recent OLA/WLA Conference that was attended by several Access Services staff members, including herself. She expressed it was reassuring to meet with colleagues from other libraries at the conference and realize they are dealing with similar issues.

Administration: Carol Klamkin reported that the Administration office has been working on implementing the credit card payment functionality of the three new self-check machines in the lobby. Testing was completed last week and the feature went live today so patrons can now pay their fines with a credit or debit card at the self-checks.

Adult Services: Mary Finnegan also commented on the various local conferences that staff members have attended recently. Good ideas gleaned from the conferences create a balancing act within the constraints of shrinking budgets.

Circulation: Lori Johnston echoed Felicia's remarks on the OLA/WLA Conference about meeting colleagues from other libraries who face the same challenges as the Library. Five patrons have utilized the new payment feature on the self-check machines thus far. The goal for Food for Fines was exceeded this year with 2,130 pounds collected for Linn-Benton Food Share during National Library Week. This included donations received at the Corvallis Library as well as the branch libraries.

Extension Services: Andrew Cherbas said materials are scheduled to be moved next Tuesday to the new Monroe Library. Occupancy should be signed off on Friday and staff hopes the building will be open to the public on May 14. The painting and landscaping is almost completed. Philomath had 420 more visitors in April compared to last year for the same time period. They have also doubled their reference questions according to the monthly statistics report. The Board inquired what is prompting the positive change and Andrew pondered that the new staff has been more engaged with the community and they are utilizing the collection in different ways.

Youth Services: Curtis Kiefer noted Youth Services staff is very busy getting ready for Summer Reading. An application has been submitted to Benton County Foundation to apply for a grant to purchase a Maker Space station for the main Library as well as a portable version which can travel around to the community libraries. All computers in the Electric Kid area are now connected to the Internet.

VII. SUNSET REVIEW

Every City Board and Commission is required to periodically review their mission and decide whether or not it should remain in existence. In the past, activities and accomplishments of the Library have been included, but Carolyn tried to narrow it down to only the Library Board's activities and accomplishments. Carolyn reviewed what she and Jacque wordsmithed and then asked for feedback from the Board. In light of recent comments Jacque has heard, she thinks the fact that the public library is free needs to be emphasized. Carolyn suggested moving the fifth paragraph to the top of the document as more of a preamble. Jacque and the Board agreed that would be more appropriate. Steve suggested flipping "free American" to "American free" in this same paragraph because it emphasizes the point of "free." Martha recommended listing the specific policies the Board reviewed during the last three years and also suggested some rephrasing in the fourth paragraph under Accomplishments. Jacque felt the unity of the City and County partnership that exists within the Library Board should be emphasized even more. Martha noted this point was made in the introductory section, but perhaps it could also be listed as an Accomplishment. Jacque and Carolyn agreed. Jacque also brought up the fact that with the decline of school libraries, there has been more pressure on services for the public library. Leanne said this sounds more like an external pressure or challenge facing public libraries, but not necessarily specific to the Library Board itself. She suggested moving budget cuts from Accomplishments to the introductory section under the heading "Challenges" in order to provide context for the decisions made by the Library Board in the last three years. In addition, she added these challenges are expected to continue and therefore, a significant reason why the Board's input is not obsolete. Motion: Jacque moved the Corvallis-Benton County Library Board remain in existence to support the future role of the Library in the community. The motion was seconded by Martha and passed unanimously.

VIII. BOARD GOALS DISCUSSION

Four vision statements (Priority Areas) were developed in previous Board meetings: Vision/Planning, Financial, Advocacy/Communication, and Board Development and Role. These as well as related objectives were included in the document reviewed by the Board at this meeting. The purpose of the document according to Leanne is to enable the Board to articulate expectations and/or orient new Board members. Furthermore, she said the Board may want to focus on a specific Objective based on priorities, and may choose not to address all Objectives in a given year. Steve opined the Priority Areas cover the spectrum and nothing appears to be missing. He also thinks the order that the Priority Areas are listed in the document is appropriate in terms of precedence.

Planning

Scott pointed out the dates of the Objectives should be updated. Along these same lines, Leanne suggested the document should actually be revised to be consistent with the Library's fiscal year (July - June) rather than a calendar year. The Board agreed that the first Board meeting of the fiscal year should focus on the big picture

with a recap of the previous year's achievements and then look ahead to the coming year. Jana Kay Slater suggested striking "Vision" from the title of this section to make it parallel with other section titles. Leanne recalled that "Vision" was included originally because the Board wanted to go beyond just planning in order to think more long-term about the future of the Library. After further discussion, it was decided to delete "Vision." This segued into another discussion regarding the difference between the Objectives (bullet points) and the specific year Goals. Leanne stated a major difference between the two is that the Objectives are not necessarily actionable. Carolyn said she likes having the specific Goals because it creates a "to-do" list of sorts. Scott inquired if the Board would like to add any more goals to this section and Jacque advised against adding more since it could potentially set the Board up for failure.

Financial
Jacque thinks it would be too much to ask that someone attend every City Council and Budget Commission meeting and Martha responded it would only apply to the meetings with implications for Library services. Jacque concurred that is more reasonable. It was brought to the group's attention that there are legal ramifications if a Board member advocates for upcoming levies related to the Library. Only neutral information can be provided (after a ballot measure has been assigned), but Carolyn surmised it would be hard to believe the information being given is neutral when coming from a Library Board member. It was agreed to remove this Goal from the list. Martha inquired if it would be practical to require all Board members to financially support the Friends of the Library and the Library Foundation. Jacque opposed this idea since it may preclude people from serving on a Board or Commission. Steve agreed and Carolyn suggested adding something along the lines of Board members will participate in at least one budget-related meeting annually.

Advocacy/Communication
It was agreed to strike the verbiage regarding the Monroe Library opening under Goals since that is happening this fiscal year. Otherwise, no other changes or thoughts were expressed regarding this section.

Board Development and Role
Jacque recommended deleting the Objective regarding 75% attendance is required at all regularly scheduled Board meetings because this is an unwritten expectation by the City and County. On a side note, Jacque expressed her appreciation for receiving the ALA newsletter which Carolyn sends out regularly to the Board because it is chock full of good information about the library world. The conference attendance goal was brought up for discussion by Scott and Carolyn speculated that due to budget cuts, she did not know if it would be possible to attend the statewide conference, but she agreed to keep the Board apprised of other training opportunities that would be free of charge such as webinars. Carolyn asked how the results of the Library Board questionnaire that Martha developed would be compiled and organized. The purpose of the questionnaire is to discover skills and organizational connections of the various Board members that may be useful to the mission of the Board. Steve pondered if the specific examples listed on the questionnaire might be intimidating to someone who does not have the skills or organizational connections listed. Carolyn suggested open-ended questions would be more appropriate and Martha agreed but proposed a couple of examples for each question may be helpful. Jacque thought a more informal approach would work better in that if a need arises, the Board could talk amongst themselves to discover who has the skills and background needed for a specific task. Martha disagreed saying she thinks the information would be more useful to have up front in case it is needed prior to a Board meeting. Steve concurred with Martha as long as the questionnaire is revised to feel comfortable to the broadest range of people. Leanne believes it would be a good idea to aggregate the information on the questionnaire in order to make it quantifiable. Jana Kay offered to make an attempt to lighten up the document while maintaining the specificity and will utilize Survey Monkey as a tool. Isabela expressed her concern that Survey Monkey can be perceived as too rigid, but Jana Kay reassured her that she will do her best to soften it up.

Motion: Jana Kay moved to adopt the Priority Areas and Objectives in the document as submitted. The Goals under each section will be revised, reviewed, and adopted at a later date. Steve seconded the motion and it passed.

IX. INFORMATION SHARING

Leanne shared how thrilled her son is about the upcoming Kids Book Club selection, *Ellie's Log*, because he is very interested in nature. It inspired him to write a page about a tree frog for a school homework assignment that he normally would begrudge doing. It is really exciting for Leanne to see the connection between what the Library offers her son and what he is doing in school and how this strengthens his academic experience.

Scott reminded the Board about the Monroe Community Library Grand Opening on Saturday, June 8 and the City Council budget meeting on Monday, June 3.

Mary Finnegan reported the program with Kathleen Dean Moore currently happening in the Main Meeting Room this evening has about 150 people in attendance.

X. ADJOURNMENT

The meeting was adjourned at 8:10 pm.

NEXT MEETING: June 5, 2013 7:30 pm

Community Development
Planning Division
501 SW Madison Avenue
Corvallis, OR 97333

Approved as submitted, June 11, 2013

CITY OF CORVALLIS
HISTORIC RESOURCES COMMISSION MINUTES
May 14, 2013

Present
Deb Kadas, Chair
Robert "Jim" Morris
Roger Lizut
Lori Stephens, Vice Chair
Charles Robinson
Geoffrey Wathen
Tyler Jacobsen

Staff
David Coulombe, Deputy City Attorney
Sarah Johnson, Associate Planner
Claire Pate, Recorder

Absent/Excused
Jim Ridlington, Planning Comm. Liaison
Roen Hogg, Council Liaison
Kristin Bertilson
Richard Bryant

SUMMARY OF DISCUSSION

	Agenda Item	Held for Further Review	Recommendations
II.	Visitor Propositions		
III.	Public Hearings a) OSU Gilkey Hall (HPP13-00009)		Approved
IV.	Other Business/Info Sharing		
V.	Minutes Review a) April 9, 2013		Approved as submitted
VI.	Adjournment – 6:31pm		

Attachment to the May 14, 2013 minutes:

A. Gilkey Hall Fire Escape Removal visual presentation, submitted by OSU Campus Planner Sara Robertson.

CONTENT OF DISCUSSION

I. Opening:

Chair Deb Kadas called the Corvallis Historic Resources Commission to order at 6:00 p.m. in the Corvallis Downtown Fire Station Meeting Room, 400 NW Harrison Blvd.

II. VISITOR PROPOSITIONS: None

III. PUBLIC HEARINGS –A. OSU Gilkey Hall (HPP13-00009); Alteration or New Construction Application; 122 SW Waldo Place.

A. Opening and Procedures:

Chair Kadas 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.

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 – by Commissioners Morris and Lizut have visited it in the past; Commissioner Stephens has been by the site and did not notice anything other than what was in the application; Chair Kadas visited the site and noticed that most of the ladder attachments are in the mortar in the bricks; Commissioner Robinson visited the site and looked at the color of anchor bolts; Commissioner Jacobsen visited the site and viewed the fire escape; Commissioner Wathen made a brief site visit and noted nothing in particular beyond what has already been noted and what was already in the application.
4. Rebuttal of disclosures – none
5. Objections on Jurisdictional Grounds - none

C. Staff Overview:

Associate Planner Johnson said that the case before the Commission is for Historic Preservation Permit approval to remove a metal fire escape from the west elevation of Gilkey Hall, located at 122

SW Waldo Place. The building is within the OSU National Historic District and is listed as Historic Contributing.

D. Legal Declaration:

Deputy City 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:

Sarah Robertson, Associate Planner for OSU, presented on behalf of the applicant, and introduced Lori Fulton, Manager of the Design and Construction group. She showed visual depictions of the building during her presentation (**Attachment A**). OSU is requesting approval to remove an existing fire escape from the west elevation of Gilkey Hall. In 2009, OSU's Environmental Health and Safety group hired a consultant, the Claire Group, to review fire escape egress on 14 buildings on campus. One of the results of this study was to identify several fire escapes on existing University buildings that are no longer required to comply with fire code. The fire escape on Gilkey Hall is one of these fire escapes. It is no longer needed for fire egress; it no longer meets code; and it is in poor repair. For these reasons, OSU is requesting approval to remove the fire escape.

Gilkey Hall is located at 122 SW Waldo Place within the Historic District and in the core of campus. The building is adjacent to both Waldo Place to the east and Campus Way to the north. Kidder Hall is to the east, Bexell Hall is to the north, Milam Hall is to the west across Memorial Place, and Strand Ag Hall is to the south. All are Contributing Resources in the Historic District. Gilkey Hall also is proximate to several significant open space areas. The Memorial Union Quad is to the southwest; the library quad is to the southeast; and People's Park abuts Gilkey Hall to the west.

The Italian Renaissance style building was originally designed by John V. Bennes and was constructed in 1913 as the Dairy Building. In 1951 it was remodeled to house the College of Liberal Arts and became known as Social Science Hall. It was renamed Gilkey Hall in 2001 after the first Dean of the School of Humanities and Social Sciences. There is a front entrance of the building along Waldo Place, and entrance on the north side of the building along Campus Way. The north entrance was significantly remodeled during the 1951 renovation of the building. There is an additional entrance on the south side of the building facing Strand Agricultural Hall.

The fire escape that OSU is proposing to remove is on the West elevation of the building. She showed a visual of the original drawings of the building in which it could be seen that the fire escape was not an original feature of the building. Drawings from the 1951 renovation of the building note the installation of the fire escape. Most of the alterations to the exterior of the building occurred during this renovation. The north entrance was significantly remodeled; the porte cochere was removed; new windows were installed; a new entrance was installed on the west elevation of the building; and the fire escape was added to the west façade of the building. Since 1951 there have been few changes to the building, and overall, it remains as it was originally constructed.

The work they are proposing is removal of the metal fire escape on the west facade. It is bolted to the façade of the building. The bolts would be removed and the brickwork would be repaired with

materials to match the existing brick and mortar. Though the photos being viewed may not show it well enough to be seen, the attachment points do not impact any of the architectural details of the building, so removal of the fire escape will only impact the façade of the building.

Removal of the fire escape will improve the appearance of the west elevation and reveal some of the window details that are obscured by the fire escape. Although this side of Gilkey does not abut a street, it is quite visible from People's Park and Campus Way. OSU feels that the removal of the fire escape is an important alteration for the ongoing safety of the building's users, and hopes that the Commission will approve the permit application. She then asked if there were any questions.

Commissioner Jacobsen noted that there was a part of the ladder that goes up to the roof and asked if it was attached to the roof. Ms. Robertson said that she was not sure, but thought it likely that it was attached on the other side of the cornice.

F. Complete Staff Report:

Planner Johnson said she would keep her report brief and answer any questions. Staff's basic findings are that this is a non-original component of the building, added in 1951. The applicant proposes to infill the impacted brick and mortar with like materials. The concrete landing at the base will remain, and staff found no impact with this. In reviewing the basic general review criteria in Land Development Code section 2.9.100.04(b).1, staff find that it meets those criteria. Additionally, the application meets the requirement of section 2.9.100.04(b).2.a which states that the alteration should cause the designated historic structure to move more closely into conformance with its original design. Staff recommend approval of the change, noting one development-related concern which requires OSU to get the appropriate licensed inspections and site plans showing that the building is safe in terms of upper-story fire egress.

Chair Kadas noted that the fire escape was installed during the period of significance, but her understanding is that staff deferred to the fact that it was not original and used this as the main criterion for recommending approval. Ms. Johnson said that was accurate. The language in the criterion places a lot of importance on the structural details of the façade and the architectural design – those types of elements that are inherent to the actual physical structure as opposed to an accessory structure such as a fire escape.

G. Public Testimony in favor of the application: none

H. Public Testimony in opposition of the application: none

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 additional time to submit additional argument.

The Chair noted that there were no requests for a continuation or to hold the record open.

N. Close the public hearing:

MOTION: Commissioner Wathen moved to close the public hearing. Commissioner Morris seconded the motion and it passed unanimously.

O. Discussion and Action by the Commission:

Commissioner Stephens **moved** to approve the Historic Preservation Permit (HPP13-00009), as conditioned in the May 1, 2013, staff report to the Historic Resources Commission. This motion is based on findings in support of the application presented in the May 1, 2013, staff report to the Commission, and findings in support of the application made by the Commission during deliberations on the request. Commissioner Morris **seconded** the motion.

Commissioner Wathen made a comment relating to the issue of a change that was wrought after the building was built but still during the period of significance element. In his reading of the code - while it references better approximating historic design or style - the word "original" does pop up. It seems the bias is towards returning a structure to its original state even if a change was added during the period of significance. On this basis, it seems entirely appropriate to approve this application.

Deputy Attorney Coulombe explained a subtlety that occurred as Ms. Johnson presented the staff report on the application. She stopped at the review criterion in section 2.9.100.04(b)2.a, which was intentional. If one looks at the language in Land Development Code sections 2.9.100.04(b)2 between the two subsections a and b, there is the use of the disjunctive "or". This is one of those rare cases where the analysis can stop right there. There is no need to continue searching for additional findings of compatibility after finding that it caused "the Designated Historic Resource to more closely approximate the original historic design or style…". Where it might be an issue is if something is being removed from parts of a structure, for instance siding, but the rest of it is left on other parts of the structure which could then make it incompatible.

The motion **passed** unanimously.

P. Appeal Period:

Chair Kadas 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. OTHER BUSINESS/INFORMATION SHARING.

A. Recruitment/Reapplication for HRC openings:

Planner Johnson reminded Commissioners Morris, Kadas and Lizut that their terms were up and they would need to submit an application if they wished to reapply for another term. Since Commissioner Bryant had submitted his resignation, there would be four positions open. Interviews will be scheduled for mid-June.

B. Historic Preservation Month/Historic Preservation Awards:

Planner Johnson reminded the commissioners about the Historic Preservation award ceremony on May 30, at the Children's Farm Home. All are encouraged to attend and show their support.

C. Volunteer Appreciation

Planner Johnson said that May was Volunteer Appreciation Month, and Mayor Manning expressed her thanks to the commissioners for their work, and had given out cards and a token of the City's appreciation.

D. Information Sharing

Chair Kadas thanked Commissioners Stephens and Robinson for attending the City council meeting. Additionally, she related that a new disclosure requirement had been added in 2013 to real estate transactions where the property being sold is a historic resource. The requirement is that the sale agreement now include the disclosure in an addendum. The downside is that the addendum mostly addresses the fact that the buyer can apply for an Oregon Special Assessment as a tax freeze, etc. Her experience has shown that since Measure 5 came along, less people are incentivized to do this. However, this might be a good springboard for a second piece of paper referring to Corvallis Land Development Code Chapter 2.9.

V. MINUTES REVIEW.

A. April 9, 2013:

Commissioner Morris **moved** and Commissioner Stephens **seconded** to accept the minutes as drafted; the motion **passed** unanimously, with Commissioners Wathen and Jacobsen abstaining.

VI. ADJOURNMENT: The meeting was adjourned at 6:31p.m. The next meeting will be on Tuesday, June 11, 2013; at 6pm.

Oregon State University OSU

Open minds. Open doors.™

Gilkey Hall Fire Escape Removal

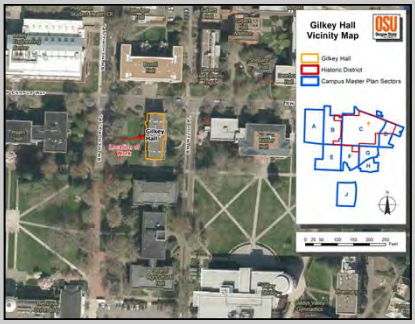
May 14, 2013

Sara Robertson, Associate Campus Planner
Rosemarie De Bono, Small Project Manager
Lori Fulton, Design & Construction Manager
Dan Kermoyan, Assistant Director EH&S

Proposed Project: Fire Escape Removal

Oregon State OSU

Project Location



Oregon State OSU

Gilkey Hall East Elevation

Oregon State OSU

Gilkey Hall North Elevation

Oregon State OSU

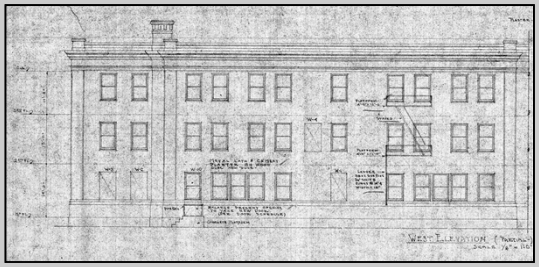
Gilkey Hall South Elevation

Oregon State OSU

Gilkey Hall West Elevation

Gilkey Hall Original West Elevation

West Elevation 1951 Remodel



Fire Escape to be Removed

Thank You

Questions?

Gilkey Hall Original East Elevation

Original North & South Elevations

Oregon State University OSU

Draft
Subject to review & HCDC approval

HOUSING AND COMMUNITY DEVELOPMENT COMMISSION
MINUTES
May 22, 2013

Present
Judy Gibson, Chair
David McCarthy, Vice Chair
Ed Fortmiller
Gary Hamilton
Dave Henderer
Roger Lizut, Planning Commission Liaison
Biff Traber, City Council Liaison

Absent
Kara Brausen
Kenny Lowe

Staff
Kent Weiss
Bob Loewen
Terri Heine

SUMMARY OF DISCUSSION

Agenda Item	Action/Recommendation
I. Consideration & Approval: HCDC Draft Minutes of March 13, 2013	Approval
II. Status: Loan Funds & Recent Rehab Loans	Information Only
III. Loan Policy Exception Consideration: City Loan Subordination Request	Recommendation
IV. FY 13-14 through FY 17-18 CDBG/HOME Consolidated Plan and FY 13-14 Action Plan	Recommendations
V. Other Business: National Volunteer Week/Thank You from Mayor	Information Only

CONTENT OF DISCUSSION

I. Consideration & Approval: HCDC Draft Minutes of March 13, 2013

Chair Gibson opened the meeting, asking for consideration of the HCDC draft minutes of March 13, 2013. The minutes were approved unanimously.

II. Status: Loan Funds and Recent Rehab Loans

Housing Program Specialist Loewen reported that one new First Time Home Buyer (FTB) loan has closed since the last meeting, adding that one more is in progress. Regarding rehabilitation loans, Loewen reported that one has closed since the last meeting, adding that several are in the application/review process.

III. Loan Policy Exception Consideration: City Loan Subordination Request

Loewen directed Commissioners to a memo included in their packet detailing a City loan subordination request. He noted that the applicant, who is a City Neighborhood Improvement Program (NIP) loan recipient, is in the process of refinancing their home at 2410 NW Dixon Street and has requested that the City subordinate their NIP loan to a new first mortgage in order to complete their refinance process. The applicant currently has an adjustable-rate first mortgage set at 2.25%. The new first mortgage from OSU Federal Credit Union would be for a thirty year fixed-rate mortgage at 3.25%.

Continuing, Loewen noted that City loan policy states that the interest rate of a mortgage being refinanced must be reduced in order for a subordination request to be approved. In order for the subordination request to proceed, a recommendation for a loan policy exception from the HCDC is needed in order to forward this request for City Manager approval.

Following a brief discussion during which Commissioner Fortmiller voiced support for the idea of replacing an adjustable rate loan with a fixed rate loan, he moved, with Commissioner McCarthy's second, that the HCDC recommend City Manager approval of the request for a loan policy exception for a subordination request from the applicant whose home is located at 2410 NW Dixon Street. The motion passed unanimously.

IV. Draft FY 13-14 through FY 17-18 CDBG/HOME Consolidated Plan and FY 13-14 Action Plan

Weiss directed Commissioners to copies of the draft FY 13-14 through FY 17-18 CDBG/HOME Consolidated Plan and FY 13-14 Action Plan and related staff memo included in their packet. He noted that this Consolidated Plan, once implemented, will be the City's fourth since becoming an entitlement community for the Community Development Block Grant (CDBG) program in 2000. The intent of the Plan is to 1) identifiy priority community needs (that can be met with CDBG or HOME Investment Partnerships (HOME) program funding); 2) establish goals and strategies to address these needs; and 3) identify actions that

will be carried out under those strategies in the coming year. Weiss noted that the City is still waiting to hear from HUD what the amounts of the CDBG and HOME awards will be for FY 13-14, but that the Plan will be updated to reflect those amounts once they are known.

Beginning an overview of the Plan, Weiss noted that in regard to the local needs assessment, there is not much of a departure from previous Plans as the needs in the community continue to be for affordable housing opportunities, maintaining the quality of affordable housing, addressing homelessness, and helping people with low incomes and/or special needs. In regard to addressing homelessness, Weiss noted that this Consolidated Plan explicitly identifies this as a high priority need and includes two goals regarding this need: to support the achievement of the *Benton County Ten Year Plan to Address Homelessness* and to support agencies that provide direct services to low income and special needs populations, including those who are homeless. The remaining two goals identified in the Plan are to create or retain affordable housing opportunities, and to maintain the quality of affordable housing in the City.

Continuing, Weiss noted that this Plan includes a five year strategy for how the City will address the goals and meet the priority needs that are identified in the Plan. He directed Commissioners to a Goals Summary table in the Plan that summarizes the strategies through which each will be addressed during the next five years. In terms of the goal of creating and retaining affordable housing opportunities, the Plan anticipates seeing the creation of 25 new rental units, 10 new homeowner housing units, and assisting 40 households with down payment assistance loans. Regarding the goal of maintaining the quality of affordable housing, staff anticipates providing funding assistance for the rehabilitation of 85 rental units and 50 homeowner units. In terms of the goal to support the goals of the Ten Year Homelessness Plan, the Plan anticipates the continuation of capital and Human Services Fund (HSF) funding support to several agencies in the City, with the goal of serving 2,900 people over the five year period, as well as supporting the creation of a five housing units. The final goal of supporting agencies that provide direct services to other target populations will be carried out through HSF funding with the anticipation that 12,000 persons will be assisted over the five years, as well as an additional 25 people through the City's support of Linn-Benton Community College's (LBCC) microbusiness program.

Regarding the budget for next fiscal year, Weiss directed Commissioners to a page in the Plan that included a FY13-14 Detailed CDBG and HOME Sources and Uses table. He noted that this is a reflection of the allocation work completed by HCDC in February, and includes the reduced amounts of Human Services funding recommendations as discussed during the March meeting due to a possible 5% reduction in the City's CDBG award next fiscal year. Weiss noted again that once the final award amounts are known, the precise funding amounts will be updated in the Plan.

Weiss directed Commissioners to a final content piece in the Plan regarding HOME program resale/recapture guidelines. He noted that in past Plans, there had been a very brief description of this topic. The information has been expanded in this Plan for two reasons: 1) HOME regulations now require more detail in this area; and 2) with a Community Land Trust (CLT) project underway and potentially more developer-created home ownership projects coming in future years, staff wanted to be sure that there was a well thought out plan in place to deal with the issue of investing HOME funds into homeowner projects. As per HOME regulations, there is an established period of affordability attached to each funded unit:

Under $15,000	5 years
$15,000 to $40,000	10 years
Over $40,000	15 years

Weiss noted that the recapture of HOME funds is enforced in cases where the funds are provided as a direct subsidy to a qualified homebuyer as down payment and/or purchase price assistance. This means if the homeowner later decides to sell their home, they pay the remaining balance of their HOME loan back to the City. The resale option works well with homeowners who have purchased a CLT home as it ensures that the HOME-assisted unit remains affordable over the entire period of affordability. In the CLT model, the land is owned in trust by someone other than the homebuyer and the homebuyer owns the improvements that sit on that land. There are two reasons the land and improvements are separated: 1) the cost to purchase the improvements alone is significantly less than the cost of the land and improvements together; and 2) there are provisions attached to the land lease that require the homebuyer to sell the home to another low income buyer if they decide to move. A formula will be used to ensure that the original homebuyer is provided a "fair return" on their investment when selling the home while also keeping the sale price of the home affordable to the next homebuyer.

Following the overview, Weiss noted that staff is asking for actions today by the HCDC to approve the Consolidated Plan/Action Plan document as submitted or with any changes the Commission would like to see, and to recommend City Council approval of the document as approved by the HCDC. If these actions are taken today, Weiss noted that in anticipation of a public hearing at the July 1st City Council meeting, a notice will soon be placed in the Gazette-Times to start a 30-day comment period. The document will also be made available on the City's Web site. Following the public hearing, staff hopes to submit the final document to HUD during the first week of July.

Following a brief discussion, Commissioner Henderer moved, with Commissioner McCarthy's second, to approve the Consolidated Plan/Action Plan document as submitted, and to recommend City Council approval of the document. The motion passed unanimously.

V. Other Business: National Volunteer Week/Thank You from Mayor

Weiss noted that it was recently National Volunteer Week and in recognition of the HCDC's good work for the community, Mayor Julie Manning wanted to thank each of the Commissioners on behalf of the City. He then handed out small appreciation gifts with individual cards signed by the Mayor.

There being no further business, the meeting was adjourned at 12:55 p.m.

DRAFT

CITY OF CORVALLIS
MINUTES OF THE PARKS, NATURAL AREAS AND RECREATION BOARD
MAY 16, 2013

Attendance
Betty Griffiths, Chair
Lynda Wolfenbarger, Vice Chair
Joshua Baur
Tatiana Dierwechter
Phillip Hays
Deb Rose
Joel Hirsch, Council Liaison

Staff
Karen Emery, Director
Jackie Rochefort, Park Planner
Terry Nix, Recorder

Absent/Excused
Carolyn Ashton
Kevin Bogatin
Nick Castellano
Ed MacMullan
Jon Soule
Mark Vomocil

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
Introductions	X		
Approval of Minutes	X		
Visitors' Propositions	X		
FY 13-14 Budget & Levy Update	X		
Parks and Recreation Master Plan Update – Trails Section	X		
Review of Goals and Board Member Assignments	X		
Board/Liaison Reports	X		
Staff Reports	X		
Adjournment			The next Parks, Natural Areas and Recreation Board meeting is scheduled for June 20, 2013, 6:30 p.m., at the Downtown Fire Station, 400 NW Harrison Boulevard.

CONTENT OF DISCUSSION

I. CALL TO ORDER: Chair Betty Griffiths called the meeting to order at 6:30 p.m.

II. INTRODUCTIONS

III. APPROVAL OF MINUTES – April 18, 2013

MOTION: Phillip Hays moved to approve the April 18 minutes as presented. Lynda Wolfenbarger seconded the motion and it passed.

IV. VISITORS' PROPOSITIONS: None.

V. FY 13-14 BUDGET & LEVY UPDATE

Director Karen Emery said that the FY 13-14 proposed budget has been recommended by the Budget Commission and will be reviewed by the City Council in June. She said that reductions taken by the Parks & Recreation Department since FY 09-10 include a 15% reduction in staff including two supervisors, deferred park maintenance and facility maintenance, one year of staff furloughs, no cost of living increases, vacancies held open, elimination of all staff training that was not mandated, no contributions to vehicle reserves for two years, and reduced hours at the aquatic center.

Emery said that staff used the 2012 Parks and Recreation public opinion survey to help guide where the department should focus resources for the coming year. The survey results rated as very important parks, natural areas, trails, the aquatic center, athletic fields, and park shelters. The community wanted implementation of the planned park and trails projects, more positive activities for youth, and land acquisition. This year, given the survey results and available resources, the department proposed to eliminate a management assistant position that had been vacant for one year with duties already distributed to other staff. Aquatic Center Manager James Mellein picked up duties related to the budget which amounted to about 180 to 200 hours of extra work; he was willing to do so because of growth opportunities. Assistant Director Steve DeGhetto picked up supervision of administrative staff management of administrative operations. The department did increase the Park Planner position from .5 FTE to .75 FTE due to the community wanting staff to complete projects outlined in our plans; that position was reduced from full time two years ago. The department will also reduce seasonal staffing and delay bringing parks up to summer conditions by two weeks (weatherization, mowing, cleaning, opening restrooms, etc.). The department made a commitment to increase revenue at the aquatic center to avoid additional cuts.

Griffiths said that letters from this Board regarding the local option levy and cost savings directives were included in the agenda packet for the May 22 Council work session on the budget and levy. She appreciates everybody's work on those letters. She noted that

the bulk of cuts in the recommended budget were from the Library and Parks & Recreation departments. The other departments took what she would consider minor cuts in travel and training.

Joshua Baur asked if the Parks and Recreation survey asked questions that would indicate the public perception of where cuts would be warranted. Emery said the survey was asking about priorities for the master plan and only included a couple of budget related questions. A majority of those responding said they would support a continuance of the property tax levy to support the aquatic center and senior center and would accept a small increase to support the two facilities.

In response to an inquiry from the Chair, Councilor Hirsch said it is his recollection that the Budget Commission appointed members were invited to participate in the Council work session. He said that he will argue for three levies – a renewal of the levy for parks and the library, a levy for public safety, and a third "Cadillac" plan that would give citizens the opportunity to restore services that have been cut.

VI. PARKS AND RECREATION MASTER PLAN UPDATE – TRAILS SECTION

Planner Jackie Rochefort said staff has been working with a stakeholders committee on a draft trails plan and an open house was held last week. She distributed information presented at the open house, a map of the Existing Trails Network, a map of the Proposed Trails System with Natural Features, and follow-up emails from Tony Howell and Patricia Benner. She said that we are very fortunate to have an exceptional stakeholder committee and the open house included good conversations by community members, staff from different City departments, OSU, and Greenbelt Land Trust. The trails plan will become a chapter in the Parks & Recreation master plan. The Board will hear a presentation of the entire master plan from the consultants in July.

Rochefort said that discussions with the stakeholder group and community included constraints associated with the existing trails plan, including that it was adopted prior to the Natural Features Inventory. They also discussed the desire to have an interconnected system and it was felt that the proposed plan should focus on large parcels where there were real opportunities to work with property owners and make the plan a reality. Consideration was given to the need for trail connections from the community to OSU which would require crossing some OSU land. Key points included the desire to distinguish this trails plan from the transportation trails plan because they serve very different purposes; the Parks & Recreation plan looks at not just destination but also experience. It was also desired to have classification and design standards to help guide trails that are built with development. The information packet includes some of the ideas regarding the classifications of regional trails, connector trails, and local trails.

Rochefort highlighted some of the proposed trail routes. With development of student housing in the Witham Hill area and north of Harrison, it will be necessary to be able to get across OSU and connect to Campus Way. OSU Senior Planner David Dodson was at the open house and sent a follow-up email that he would need to talk with OSU

Agriculture about the possibility of crossing OSU agricultural fields. The stakeholder group looked at utility easements as a great opportunity for sharing and the Powerline trail as a good way to get to Chip Ross Park. Staff met with the Timberhill property owners who were open to the idea which they acknowledged would be an amenity to their future plans, but felt the route may need to be moved based on their plan. Another conversation was around the need to look at narrower trails and controlled access in natural resource areas. In summary, Rochefort said the stakeholders group developed a system that is achievable, including a hierarchy of trail types, construction specifications, and sensitivity to natural resources.

Hays noted that there were four trail types discussed, the fourth of which was the park trail. He suggested that the McDonald Forest standards for park trails be adopted; that is a several year effort that we can draw on.

Hays reviewed past discussions with OSU in which they seemed amenable to a trail from MLK Park to the sheep farm. He does not think that OSU would support a connector from the extension of Circle Boulevard to Campus Way as shown on the proposed plan because it would go right by their barn; they preferred to go off the Circle Boulevard extension through Arnold Park and then straight down the east side of their field.

Griffiths said she met with the Campus Crest developers and they are desirous of getting a trail connection that would take people from their development all the way to campus. They said they have met with OSU and felt positive about the ability to do that.

Griffiths agreed with a comment from Patricia Benner that there should be a clearer way to distinguish the different kinds of trails.

Griffiths referred to comments from Tony Howell that a boardwalk is not an appropriate material for regional and connector trails because it is not suitable for all users. Rochefort said that boardwalks would be limited to natural resource areas or other areas where they are really necessary. Griffiths asked if Sunset boardwalk is pedestrian-only. Emery said that has not yet been clarified.

Griffiths referred to testimony from Benner that onsite analysis for specific trail opportunities and issues need to be incorporated into the process when determining the location of a trail, and that this should be a policy in the master plan. Rochefort said that a lot of the trail system gets built with development. The current trails plan had some controversy because it included so many parcels and the City Council made clear in adopting it that the alignments were conceptual. This leads to confusion for the Planning Commission when conditioning projects. It is important to come up with just the right language to provide clarity for the decision makers while understanding that we cannot come up with the exact alignment for every section of trail. Hays said that when one development puts in a trail segment, it commits the next development. One option would be to anchor the ends and then designate an area in which the connections will lie.

Griffiths asked if it would be beneficial to mention Safe Routes to School in the plan. Rochefort said that is a good point; the plan will include information about our partners. Rochefort asked that Board members contact her with additional questions or suggestions.

Rochefort asked for volunteers for the Capital Improvement Program (CIP) subcommittee. The subcommittee will meet the first week of June to consider CIP projects and then make a recommendation to the full Board. Dierwechter, Hays, and Wolfenbarger volunteered.

VII. REVIEW OF GOALS AND BOARD MEMBER ASSIGNMENTS

Griffiths led a review of the updated Board Goals, Objectives and Action Items. She suggested that the Annual Board Activity listed on last year's matrix be included in the update. There was general agreement.

The Board reviewed each of the goals as follows:

Goal 1: Advocate to prioritize improvements to existing neighborhood parks, trails and natural areas. Griffiths recalled discussion behind this item which included both the need to prioritize improvements and the need to advocate for those improvements. Emery said would be helpful to have the Board prioritize which trails should be improved first. Griffiths said the neighborhood parks playgrounds should also be prioritized. It was agreed that it would be ideal for a subcommittee to review and prioritize the entire system.

Goal 2: Implement efficiencies between city, county and school district by 2014. Dierwechter noted that she and Kevin Bogatin had suggested getting together with staff and some invited guests from the county and school district to make sure we are not missing potential opportunities. She suggested the goal be reworded to say "Identify and implement efficiencies…" She thinks we could get a lot of traction toward identifying potential efficiencies this year. It was agreed to add OSU and LBCC to the goal.

Goal 3: Develop a plan to increase funding for Parks and Recreation. Griffiths said the Friends of Corvallis Parks and Recreation is awaiting an IRS Letter of Determination. She invited other ideas. Dierwechter said some of this goal ties back to Goal 2 and potential in-kind sharing of resources, shared use agreements, partnering on grants, etc. Rochefort said it helps if people know they can support specific programs or projects. Hays agreed that people will give money for projects they care about; part of this goal may be to prepare and publicize a wish list. Emery summarized that this goal may have many subtexts, including elements of the cost recovery plan, the Friends group, the advocacy piece, and ways to develop and communicate a wish list for services and programs.

Goal 4: Expand public awareness, communication and advocacy for all Parks and Recreation facilities, land and services. The Board agreed to change *services* to *programs*. Griffiths said this is a marketing piece that will require subcommittee work;

the message should include information about the value of parks for livability, safety, and attracting businesses.

Goal 5 - Develop or expand community relationships and partnerships to pursue joint goals. Dierwechter said this is similar to Goal 2. It should be clarified that this goal focuses on nongovernmental relationships.

Goal 6 - Develop and expand access and recreational opportunities such as outdoor education for underserved youth and families. Griffiths said that part of this goal is to create awareness that there are opportunities available. Baur said that this might be a good student project. Dierwechter said this is also about building on the success we have seen with the cost recovery financial assistance program and the partnerships around outreach to underserved children and families. Griffiths suggested that we start work on this goal with a staff overview of what is happening with those types of activities.

Baur said there is a fair amount of research about the benefits of spending time outdoors and some doctors are prescribing that for a variety of ailments; he asked if there is interaction between Parks & Recreation and local healthcare providers. Emery said the department has a relationship with specific doctors and pediatricians who are prescribing parks and recreation services including aquatic center classes. Employees of Good Samaritan Health Services receive money to be used for wellness programs and the department benefits from that program. Dierwechter said that all Medicaid funding is now coming through the coordinated care organization; there is an opportunity to work with decision-makers to fund prevention measures like Parks & Recreation services.

Goal 7 – Develop a Parks and Recreation District by 2015. Griffiths noted that this report has been on hold pending the levy discussion. Rose asked if passage of the levy would remove the desire for a district. Griffiths said she doesn't think it would; the levy would restore a small amount of what has been cut from Parks & Recreation over the years. Emery noted that the Board previously decided to keep this as a goal to communicate that it was important. It was agreed to designate a timeframe of 2014.

Board members present volunteered to work on the goals as follows:
Goal 1: Hays
Goal 2: Dierwechter, Bogatin, Baur
Goal 3: Griffiths, Rose
Goal 4: Wolfenbarger, Baur
Goal 5: Rose
Goal 6: Dierwechter

Emery will make the revisions, add appropriate staff to the interested people column, and send the document to all Board members for further discussion at the next meeting.

VIII. BOARD/COUNCIL REPORTS: There were no further reports.

IX. STAFF REPORTS

Emery distributed a gift from the Mayor as a thank you for serving on this Board. Griffiths said to thank the Mayor on behalf of the Board.

Emery advised that staff will be doing a full assessment tomorrow on the Franklin Park play structure. If it has failed and cannot be corrected, it will be removed quickly and staff will work with the neighborhood on replacement.

Rochefort reported that someone has been hired to fix the dinosaur bones. Staff is moving quickly on the Rotary Shelter at Willamette Park. There will be a volunteer opportunity to stain timber this Saturday from 9 a.m. to 12 noon. On Monday and Tuesday, the columns will be built using a new technique and unique materials.

X. ADJOURNMENT

The meeting was adjourned at 8:32 p.m.

MEMORANDUM

To: City Council Members

From: Julie Jones Manning, Mayor

Date: June 13, 2013

Subject: Appointment to Downtown Commission Parking Committee

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I am appointing the following person to the Downtown Commission Parking Committee for the term of office stated:

Steve Uerlings
Term expires June 30, 2016

Steve is a Downtown business owner who previously served as the Downtown Commission's representative to the Committee.

I will ask for confirmation of this appointment at our next Council meeting, July 1, 2013.

1039

MEMORANDUM

To: City Council Members

From: Julie Jones Manning, Mayor

Date: June 13, 2013

Subject: Reappointments to Advisory Boards, Commissions, and Committees

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I am reappointing the following persons to the indicated advisory boards and commissions for terms of office expiring June 30, 2016:

Airport Commission
- Todd Brown
- Bill Gleaves

Arts and Culture Commission
- Rebecca Badger
- Karyle Butcher
- Shelley Moon

Bicycle and Pedestrian Advisory Commission
- Thomas Bahde
- Meghan Karas

Board of Appeals
- John Evans

Budget Commission
- Karyle Butcher
- Curtis Wright

Capital Improvement Program Commission
- Barbara Bull
- Betty Griffiths
- Ben Herman

Citizens Advisory Commission on Civic Beautification and Urban Forestry
- Tim Brewer
- Norm Brown

Citizens Advisory Commission on Transit
- Stephan A. Friedt

Commission for Martin Luther King, Jr.
- Chareane Wimbley-Gouveia
- Jasper Smith

Community Police Review Board
- Richard Hein
- Stewart Wershow

Downtown Commission
- Heidi Henry
- Mike Wiener

Economic Development Commission
- Jay Dixon
- Pat Lampton

Housing and Community Development Commission
- Edward Fortmiller
- Dave Henderer

Parks, Natural Areas, and Recreation Board
- Kevin Bogatin
- Tatiana Dierwechter
- Marc Vomocil

Public Art Selection Commission
- Josh Hackenbruck
- Chi Meredith
- Shelley Moon

Watershed Management Advisory Commission

Creed Eckert
Jessica McDonald

I will ask for confirmation of these reappointments at our next Council meeting, July 1, 2013.

1040

MEMORANDUM

To: City Council Members

From: Julie Jones Manning, Mayor

Date: June 13, 2013

Subject: Vacancies on Advisory Boards, Commissions, and Committees

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The following people have either submitted their resignations recently or have chosen not to be reappointed to their respective advisory boards, commissions, or committees when their terms of office expire on June 30, 2013, or they have served the maximum three terms and are not eligible for reappointment:

Board of Appeals
Phil Ermer – June 30, 2013

Budget Commission
Laurie Mason – June 30, 2013

Citizens Advisory Commission on Civic Beautification and Urban Forestry
Kent Daniels – June 30, 2013
Tony Livermore – June 30, 2013

Citizens Advisory Commission on Transit
Jacob Kollen (ASOSU) – June 30, 2013
Brandon Trelstad – June 30, 2013
Robert E. Wilson – June 30, 2013

Corvallis-Benton County Public Library Board
Leanne Giordano – June 30, 2013

Downtown Commission
Steve Uerlings – June 30, 2013

Economic Development Commission
Larry Mullins – June 30, 2013

Parks, Natural Areas, and Recreation Board
Carolyn Ashton – June 30, 2013

I would appreciate your nominations of citizens to fill these vacancies.

1041

MEMORANDUM

May 29, 2013

TO: Mayor and City Council

FROM: Ken Gibb, Community Development Director

RE: Scheduling a public hearing to receive input related to draft FY 13-14 through FY 17-18 Corvallis CDBG/HOME Program Consolidated Plan and draft FY 13-14 Action Plan

In order to meet public participation requirements and complete planning activities related to the development of an FY 13-14 through FY 17-18 Consolidated Plan and FY 13-14 Action Plan for the City's Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Programs, the City Council must conduct two public hearings prior to staff submitting the final Plans for HUD consideration and approval.

The first City Council hearing, to receive input prior to drafting the Plans, was held on January 22, 2013. This memo requests scheduling of the second CDBG/HOME public hearing for the City Council meeting of July 1, 2013, in order to receive citizen comments related to the draft Consolidated Plan and Action Plan. The draft Plans were approved by the City's Housing and Community Development Commission on May 22, 2013, and will be made available for public review beginning May 31.

MEMORANDUM

TO: Mayor and City Council

DATE: June 5, 2013

FROM: Mary Steckel, Public Works Director

SUBJECT: Lancaster Bridge Development, Licenses to Occupy Public Right-of-Way (ROW)

I. ISSUE/PURPOSE

Owners of the Lancaster Bridge housing development have requested that licenses be established for several encroachments of privately owned and maintained facilities into public ROW.

II. BACKGROUND

The Lancaster Bridge development was constructed in the early 1990's. A survey of this property is provided in Attachment A showing its location and current improvements. The following encroachments were allowed at that time through the building permit process, but were not formalized through a separate document such as a license or easement:

- A private footbridge, sign, and sidewalk within the publicly owned Village Green Creek drainageway (Attachments B, C, D);
- Private parking spaces which extend into NE Oxford Circle ROW (Attachment E).

Recently, a redevelopment project has been undertaken by Willamette Neighborhood Housing Services (WNHS) to renovate existing structures in the development. The financial entity for this work has required confirmation that WNHS has permission for the encroachments and requested that they be appropriately documented.

It should be noted that because these are not building encroachments, the provisions of the recently adopted Council Policy 9.08, Building Encroachments in the Public Right-of-Way do not apply.

III. DISCUSSION

These encroachments currently do not interfere with the function of the drainageway or street ROW. Staff proposes to establish four license agreements. One for each of the four encroachments (Attachment F) and to have them be recorded with the property. Because these encroachments were previously approved and we are simply documenting them according to current practices, staff is not proposing any staff review fees for the licenses. The licensee will be required to bear the cost of developing the graphics supporting the license agreement, as well as the County recording fees.

Unless otherwise directed by the City Council, staff will proceed to establish licenses to occupy public ROW for the private facilities discussed herein.

A.L.T.A. SURVEY
for
WILLAMETTE NEIGHBORHOOD HOUSING SERVICES
on
PARCEL 2, PARTITION PLAT 1994-051
TAX LOTS 8900 & 9000, MAP 11-5-24AC
in
NORTH HALF of SECTION 24
T 11 S, R 5 W, W.M.
CITY of CORVALLIS
BENTON COUNTY, OREGON

DATES of SURVEY:
NOV. 30, DEC. 5, 6, 10 & 21, 2012
& JAN. 15, 2013

MAP DATE: JANUARY 16, 2013

LEGEND

- ●.....Found survey monument: 5/8" iron rod with yellow plastic cap set per Partition Plat 1994-051.
- ( ).....Record data from Partition Plat 1994-051
- A/C...Asphaltic Concrete (pavement)
- CB.....Catch Basin
- CI.....Curb Inlet
- FH.....Fire Hydrant
- PUE...Public Utilities Easement
- SD.....Storm Drain
- SDMH..Storm Drain Manhole
- SS.....Sanitary Sewer
- SSMH..Sanitary Sewer Manhole
- WM.....Water Meter
- WV.....Water Valve

0 30 60
GRAPHIC SCALE – feet

NOTES

The property, Parcel 2, Partition Plat No. 1994-51, lies within the City of Corvallis' Development Zone "RS-12" (Residential, Medium-High Density), according to the City's official web site. The City approved development of the site (Planning Commission Case S-94-2, PD-94-2) with the following building setback restrictions:
Front Yard: 7 ft minimum
Side Yard: 10 ft minimum
Rear Yard: Zero ft minimum for units on west side of NE Oxford Circle
10 ft minimum for units on east side of NE Oxford Circle

The maximum structure height in the RS-12 zone is 35 feet.

According to FEMA's Flood Insurance Rate Map 41003C0201F (Effective Date June 2, 2011) buildings "3310," "3323," "3335," "3340," "3354," "3357," "3365," "3371," "3372," "3378," "3384" and "3390" are in Special Flood Hazard Zone "X." Buildings "3395," "3408," "3420," "3434" and "3448" lie in "Zone AE" (the "100-year" floodplane zone).

The City of Corvallis' map reflects FEMA's Flood Insurance Rate Map's Special Flood Hazard Zone delineations.

The City of Corvallis' "Zoning Ordinance Maps" do not identify any wetlands or "Significant Vegetation" on the property.

There are no cemeteries within 100 feet of the property.

The gross area of Parcel 2, Partition Plat 1994-51 is 2.808 acres.

Building dimensions, areas (and graphical footprints) were measured to exterior siding. The average distance from siding to foundation = 0.15 ft.

PROPERTY DESCRIPTION

Parcel 2, according to Partition Plat No. 1994-51, in the City of Corvallis, filed October 21, 1994, Records of the County of Benton, State of Oregon.

TOGETHER WITH ACCESS OVER A PARCEL 60 FEET IN WIDTH, the Northerly boundary of which is described as beginning at a point which is South 38 degrees 59'05" West, 317.28 feet from the most Northerly Northwest corner of Parcel 3, according to Partition Plat No. 1994-51, and running thence North 51 degrees West in a straight line to a point on the easterly boundary of N.E. Lancaster Street (a 60 foot wide right-of-way).

ALSO TOGETHER WITH ACCESS OVER A PARCEL 60 FEET IN WIDTH, the Northerly boundary of which is described as beginning at a point which is the most Westerly Southwest corner of Parcel 2, according to Partition Plat No. 1994-51, and running thence North 80 degrees 36'04" West in a straight line to a point on the easterly boundary of N.E. Lancaster Street (a 60 foot wide right-of-way).

SURVEYOR'S CERTIFICATE

To Lancaster Bridge Community LLC, Enterprise Housing Partners Pacific Northwest Fund, L.P., Wincopin Circle LLLP, its successors and assigns, Wells Fargo Bank, N.A., its successors and assigns, Network for Oregon Affordable Housing, and Fidelity National Title Company of Oregon:

This is to certify that this map and the survey on which it is based were made in accordance with the "2011 Minimum Standard Detail Requirements for ALTA/ASCM Land Title Surveys," jointing established and adopted by the American Land Title Association and American Congress on Surveying and Mapping, and includes items 2, 3, 4, 6a, 6b, 7a, 7b, 7c, 8, 9, 10a, 10b, 11a, 13, 16, 17, 18, 19, 20a and 21 of Table A thereof. The field survey was made on November 30, December 5, 6, 10 and 21, 2012.

Notes regarding Table A items:

Item 10: There are no division or party walls with adjoining properties.
Item 16: There was no evidence of current earth-moving work, building construction or building additions.
Item 17: There are no proposed changes in street right-of-way line that would affect the site. Street and sidewalk construction has been completed.
Item 18: This site does not have a a solid waste dump, sump or landfill.
Item 19: This site does not have a wetland.

NOTES REGARDING TITLE REPORT EXCEPTIONS

Fidelity National Title Company of Oregon
Preliminary Report Supplemental 2 – Update dated November 9, 2012

1. Not a survey issue.
2. None presented.
3. No easements listed in Title Report for power and communication facilities on the property. No easement listed for the sanitary sewer pipeline crossing the property southwest of building "3310."
4. See ENCROACHMENTS list hereon.
5-7. Not survey issues.
8. Easement plotted hereon.
9. Not a survey issue.
10. Not a survey issue.
11. Easements plotted hereon.
12-19. Not survey issues.
20. Access Easements from NE Oxford Circle to NE Lancaster Street plotted hereon.

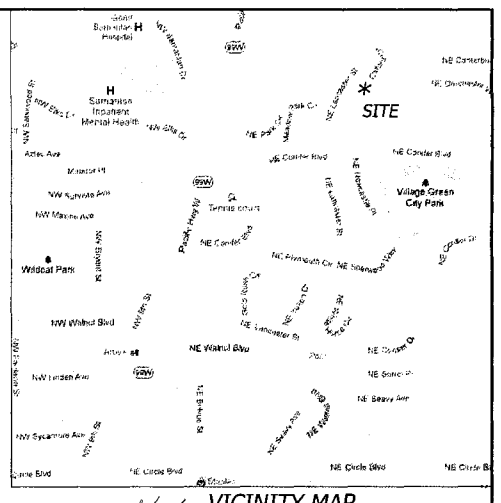
REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 21, 1992
W. L. LAUER
2558
RENEWS 12/31/2014

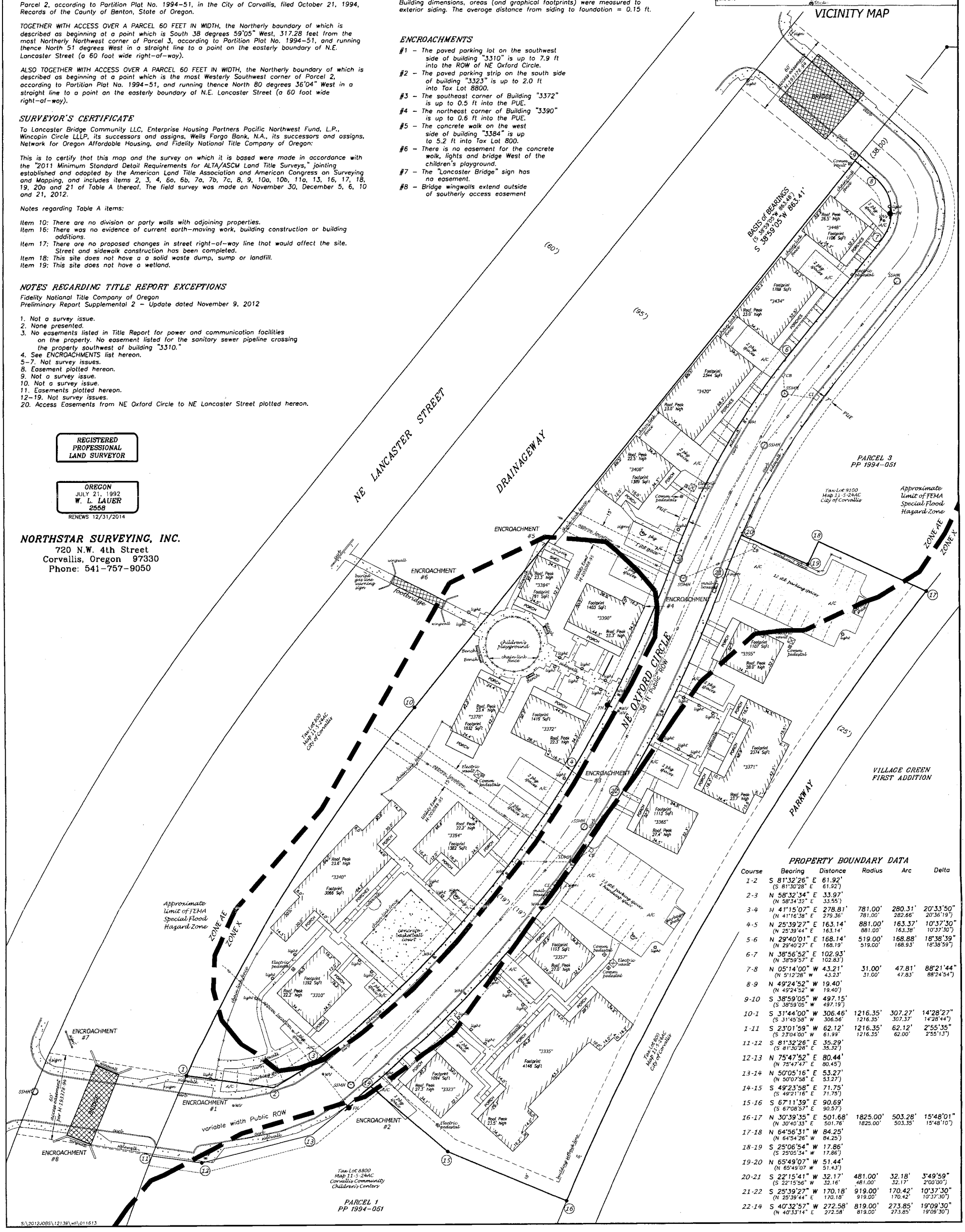
NORTHSTAR SURVEYING, INC.
720 N.W. 4th Street
Corvallis, Oregon 97330
Phone: 541-757-9050

ENCROACHMENTS

#1 – The paved parking lot on the southwest side of building "3310" is up to 7.9 ft into the ROW of NE Oxford Circle.
#2 – The paved parking strip on the south side of building "3323" is up to 2.0 ft into Tax Lot 8800.
#3 – The southeast corner of Building "3372" is up to 0.5 ft into the PUE.
#4 – The northeast corner of Building "3390" is up to 0.6 ft into the PUE.
#5 – The concrete walk on the west side of building "3384" is up to 5.2 ft into Tax Lot 800.
#6 – There is no easement for the concrete walk, lights and bridge West of the children's playground.
#7 – The "Lancaster Bridge" sign has no easement.
#8 – Bridge wingwalls extend outside of southerly access easement



VICINITY MAP



PROPERTY BOUNDARY DATA

Course	Bearing	Distance	Radius	Arc	Delta
1-2	S 81°32'26" E (S 81°30'28" E)	61.92' (61.92')			
2-3	N 58°32'34" E (N 58°34'32" E)	33.97' (33.55')			
3-4	N 41°15'07" E (N 41°16'38" E)	278.81' 279.36'	781.00' 781.00'	280.31' 282.66'	20°33'50" 20°36'19")
4-5	N 25°39'27" E (N 25°39'44" E)	163.14' 163.14'	881.00' 881.00'	163.37' 163.38'	10°37'30" 10°37'30")
5-6	N 29°40'01" E (N 29°40'27" E)	168.14' 168.19'	519.00' 519.00'	168.88' 168.93'	18°38'39" 18°38'59")
6-7	N 38°56'52" E (N 38°59'57" E)	102.93' 102.83')			
7-8	N 05°14'00" W (N 5°12'28" W)	43.21' 43.23'	31.00' 31.00'	47.81' 47.83'	88°21'44" 88°24'54")
8-9	N 49°24'52" W (N 49°24'52" W)	19.40' 19.40')			
9-10	S 38°59'05" W (S 38°59'05" W)	497.15' 497.19')			
10-1	S 31°44'00" W (S 31°45'58" W)	306.46' 306.56'	1216.35' 1216.35'	307.27' 307.37'	14°28'27" 14°28'44")
1-11	S 23°01'59" W (S 23°04'00" W)	62.12' 61.99'	1216.35' 1216.35'	62.12' 62.00'	2°55'35" 2°55'13")
11-12	S 81°32'26" E (S 81°30'28" E)	35.29' 35.32')			
12-13	N 75°47'52" E (N 75°47'47" E)	80.44' 80.45')			
13-14	N 50°05'16" E (N 50°07'58" E)	53.27' 53.27')			
14-15	S 49°23'58" E (S 49°21'16" E)	71.75' 71.75')			
15-16	S 67°11'39" E (S 67°08'57" E)	90.69' 90.57')			
16-17	N 30°39'35" E (N 30°40'33" E)	501.68' 501.76'	1825.00' 1825.00'	503.28' 503.35'	15°48'01" 15°48'10")
17-18	N 64°56'31" W (N 64°54'26" W)	84.25' 84.25')			
18-19	S 25°06'54" W (S 25°05'34" W)	17.86' 17.86')			
19-20	N 65°49'07" W (N 65°49'07" W)	51.44' 51.43')			
20-21	S 22°15'41" W (S 22°15'56" W)	32.17' 32.16'	481.00' 481.00'	32.18' 32.17'	3°49'59" 2°00'00")
21-22	S 25°39'27" W (N 25°39'44" E)	170.18' 170.18'	919.00' 919.00'	170.42' 170.42'	10°37'30" 10°37'30")
22-14	S 40°32'57" W (N 40°33'14" E)	272.58' 272.58'	819.00' 819.00'	273.85' 273.85'	19°09'30" 19°09'30")

Attachment A

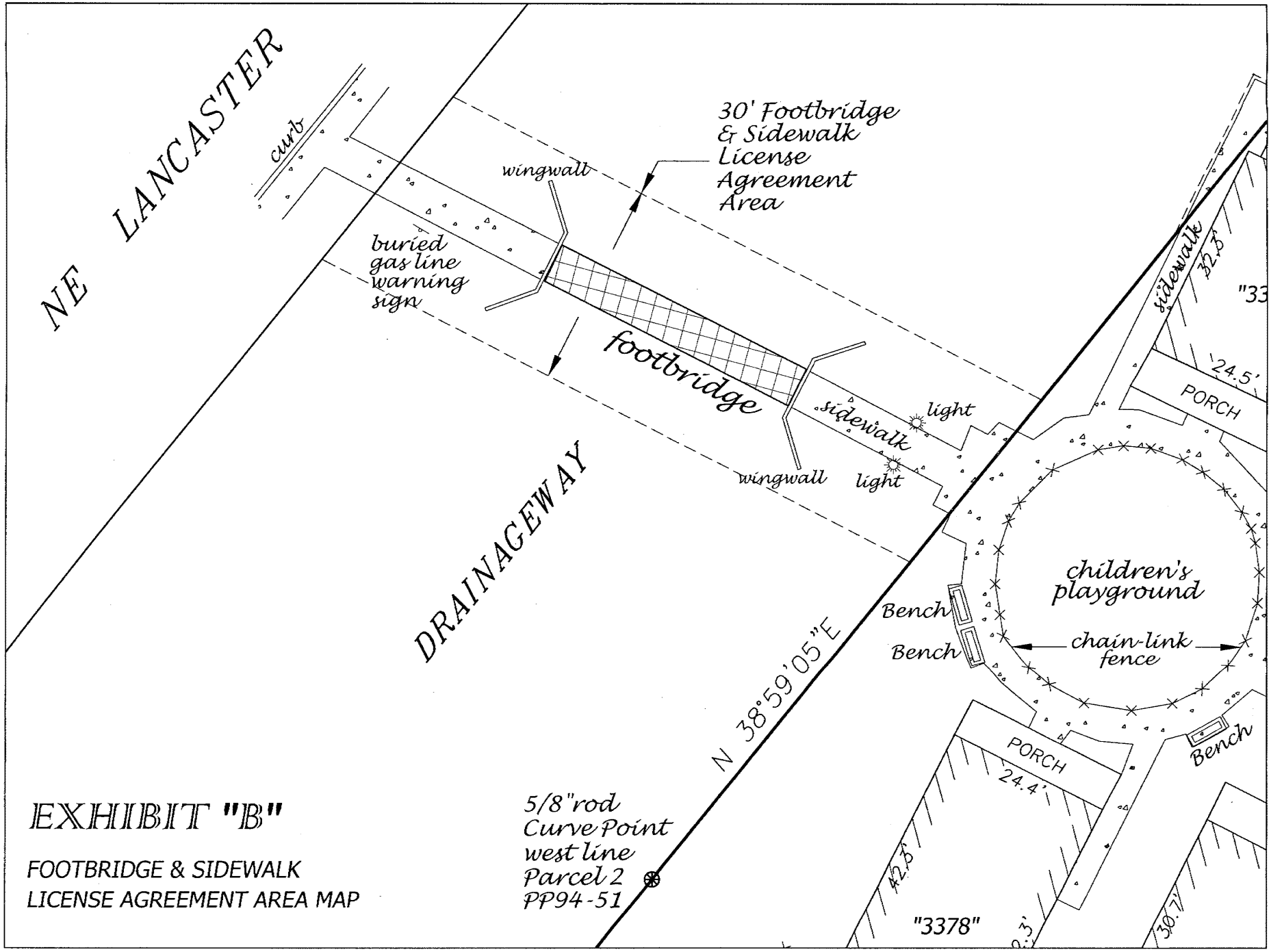
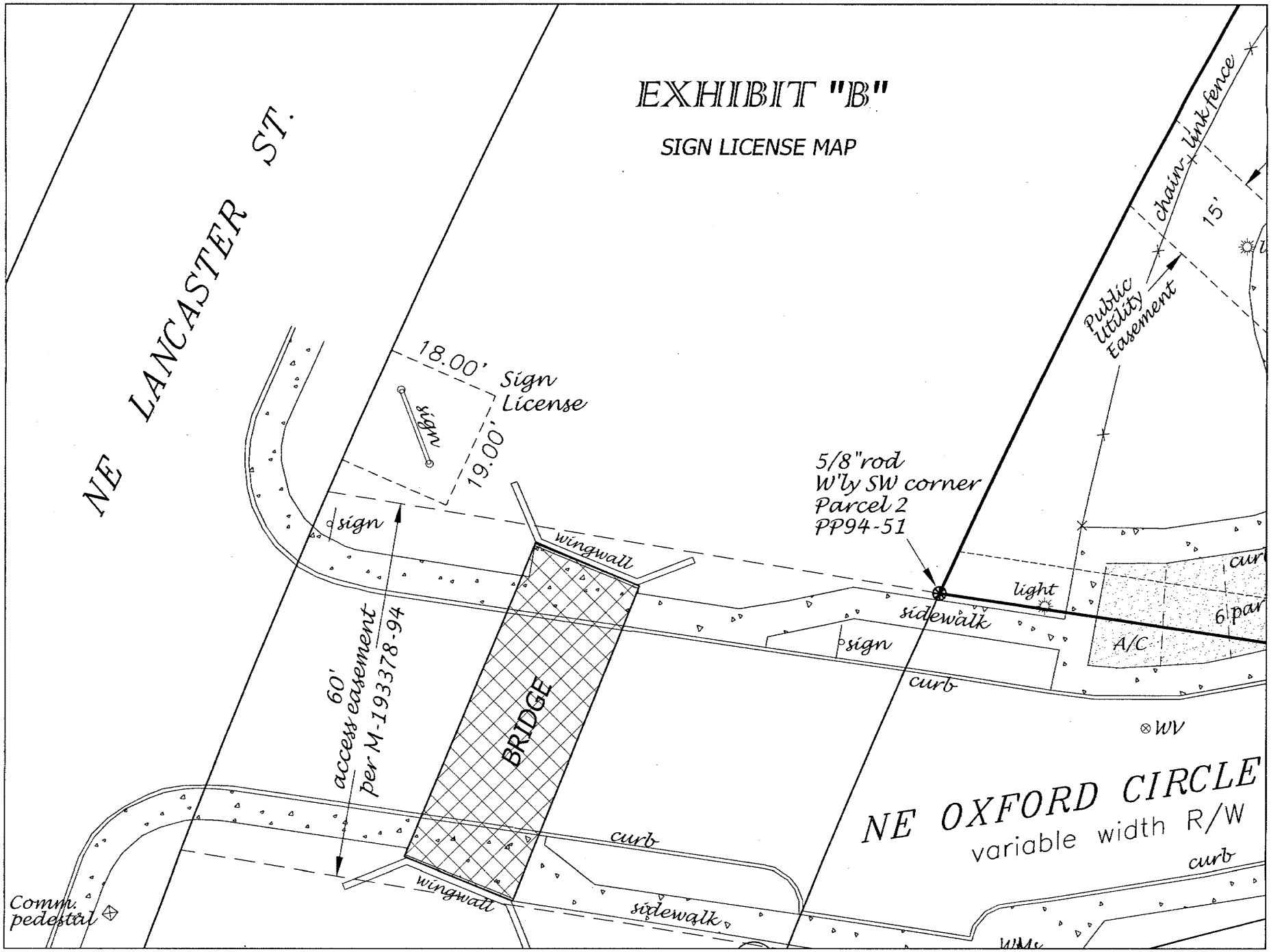


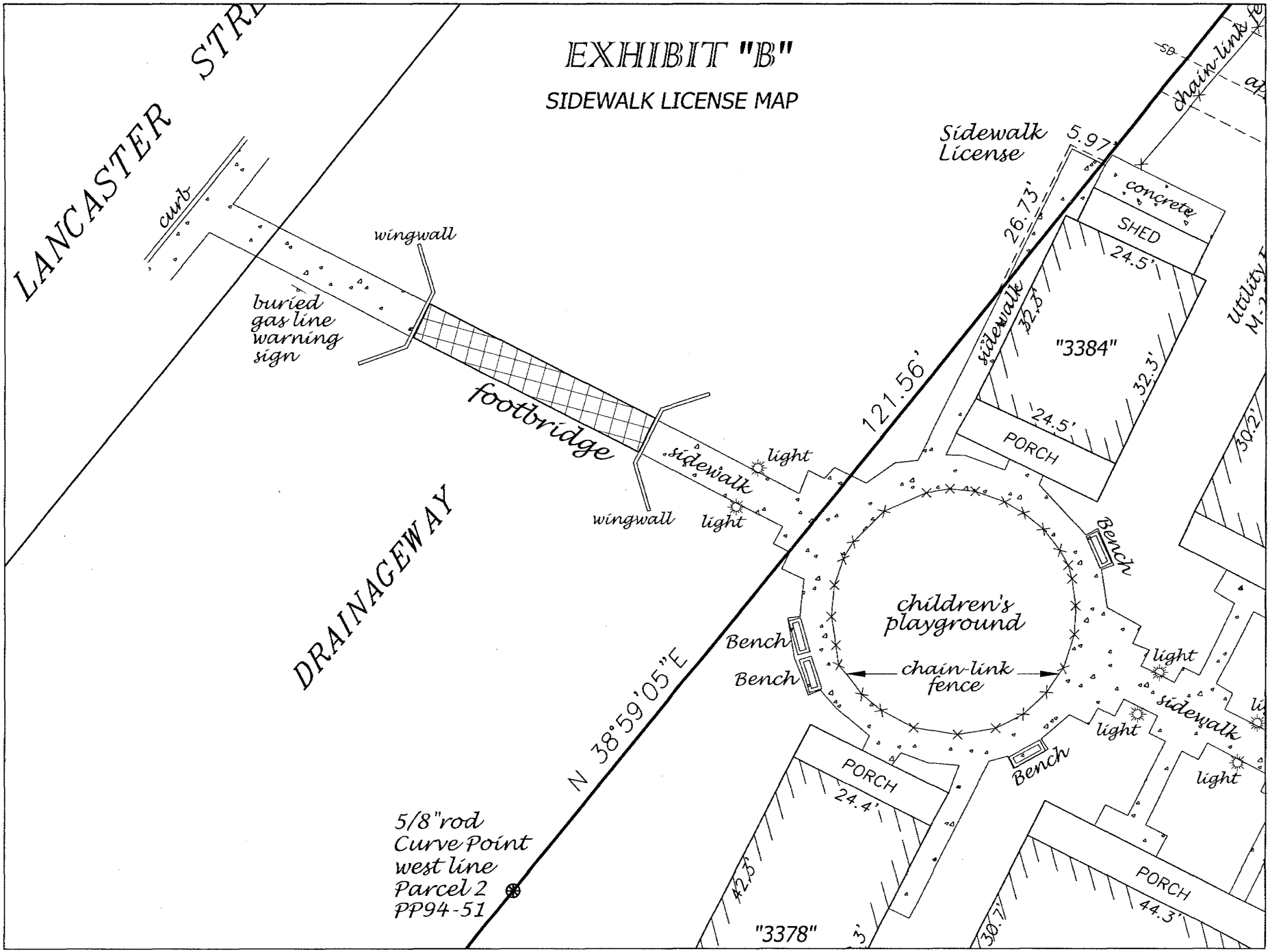
EXHIBIT "B"

FOOTBRIDGE & SIDEWALK
LICENSE AGREEMENT AREA MAP

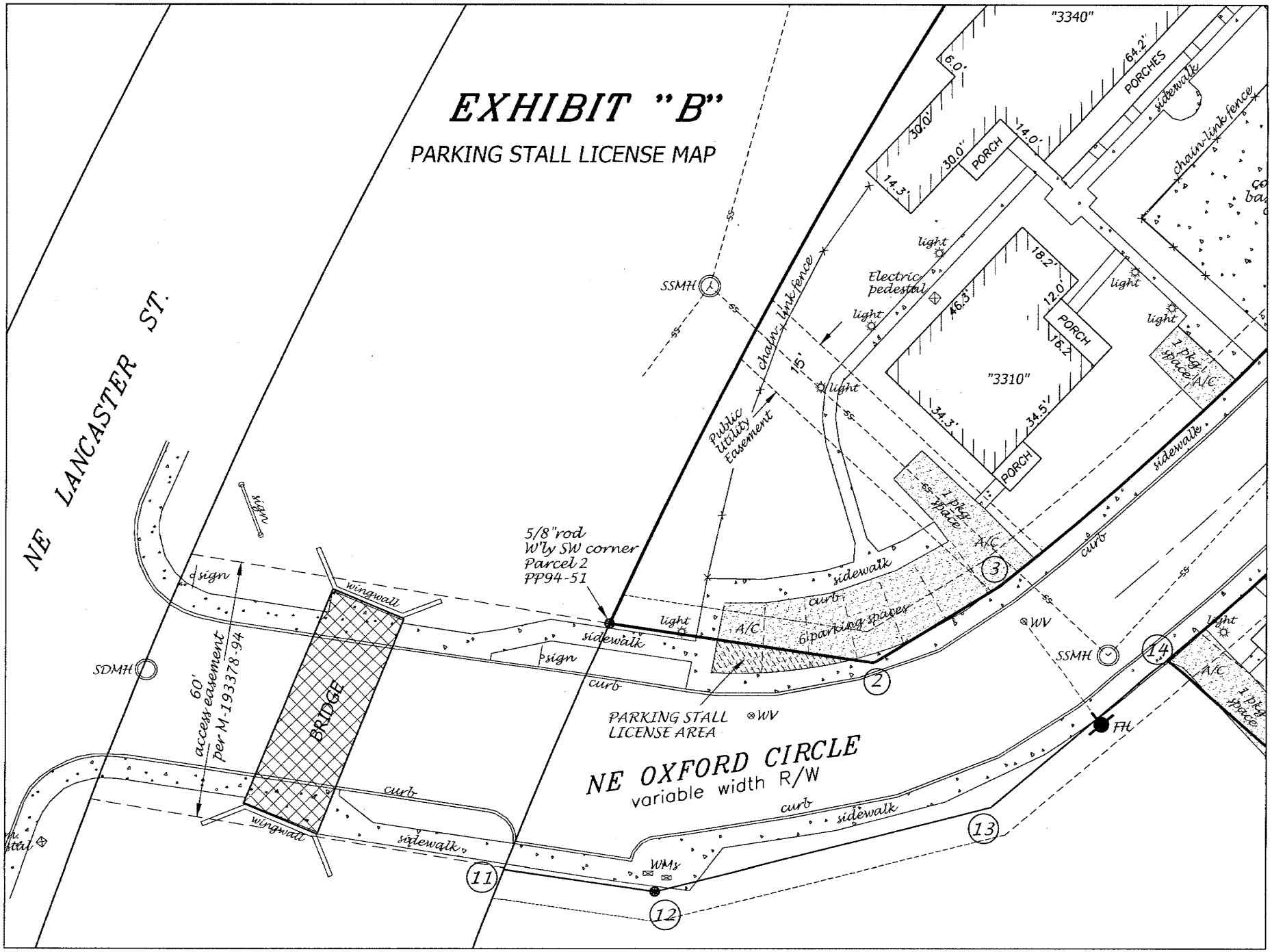
Attachment B



Attachment C



Attachment D



Attachment E

REVOCABLE LICENSE AND RIGHT TO USE
PUBLIC RIGHT-OF-WAY

KNOW ALL MEN BY THESE PRESENTS, that the City of Corvallis, an Oregon Municipal Corporation, hereinafter called grantor, for the consideration hereinafter stated, does hereby grant and unto Lancaster Bridge Community LLC, an Oregon limited liability company, hereinafter called grantee, and unto grantee's heirs, successors and assigns, a revocable license and right to use that portion of the public right of way, situated in the City of Corvallis, County of Benton, State of Oregon, described as follows, to-wit:

Described on Exhibit A and shown on Exhibit B, attached and made a part hereof.

This license is revocable, and the right to use the described real property is limited to, conditioned upon and subject to the terms and conditions set out in a memorandum and use agreement dated the day of , 2013 and executed by the parties. True and actual consideration paid for this license and right to use, stated in terms of dollars, is $10.00. However, the actual consideration includes grantee and grantee's heirs, successors and assigns continuing compliance with the terms and conditions set out in the above referenced memorandum and use agreement.

In addition to the terms and conditions of the above referenced memorandum and use agreement, grantee and grantee's heirs, successors and assigns shall indemnify, protect, defend, and hold City, its officers, agents, volunteers, and employees harmless against any actions, claim for injury or damage and all loss, liability, cost or expense, including court costs and attorney's fees, arising out of or resulting directly or indirectly from the license and related use of the public right of way. In order to ensure that grantee is adequately indemnified and held harmless, grantee and grantee's heirs, successors and assigns shall maintain liability insurance of the type and in the amount sufficient to meet the requirements of the Oregon Tort Claims act provisions as they apply to the potential liability of the City of Corvallis for any use of the described public right of way by grantee.

In construing this document and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals. In construing this license and right to use, any irregularity, informality, ambiguity or dispute should be resolved in favor of the license and right being revocable, should, in the sole judgment of the City of Corvallis, it be in the best interest of grantor and/or the public to revoke. Any irregularity, informality, ambiguity or dispute should be resolved in a manner that leaves payment of any damages, costs or charges associated with the revocation of the license and right to use the sole responsibility of grantee, grantee's heirs, successors and assigns. In construing this license, the delay or failure of the City of Corvallis to exercise its right to revoke the license due to grantee, or grantee's heirs, successors and assigns failure to comply with any term or condition set out in the memorandum and use agreement shall not constitute a waiver of the right to revoke. In construing this license and right to use, no building permit, land use approval or other action by the City of Corvallis may be relied upon by grantee, grantee's heirs, successors and assigns or any Court or finder of fact construing this license and right to use to amend, abate or deny the City of Corvallis its right to revoke the license at any time for any reason.

IN WITNESS WHEREOF, the grantor has executed this instrument this day of , 2013;
If a Corporate grantor, it has caused its name to be signed and its seal affixed by the City Manager or other person duly authorized to do so by City Charter or order of the City Council

_____ _____
* *

_____ _____
* *

STATE OF OREGON,
ss.
County of _____/

This instrument was acknowledged before me on _____, 20_____, by * as * of*.

_____
Notary Public for Oregon

CITY OF CORVALLIS
MEMORANDUM OF LICENSE AND USE OF RIGHT OF WAY

Section 1. Permission is given to Lancaster Bridge Community LLC, an Oregon limited liability company, grantee, its heirs, successors and assigns, upon the terms and subject to the conditions of this memorandum to use the described portion of the public right of way for the described purposes.

Section 2. This license and use permission is understood to be revocable by the City of Corvallis, if at any time, for any reason, the City of Corvallis, in its sole discretion, determines that revoking the license and use is in the best interest of the City of Corvallis.

Section 3. This license and use permission is subject to grantee recording at grantee's own expense, a Revocable License and Right to Use form, as provided by the City of Corvallis, in the property records of Benton County.

Section 4. This license and use permission applies only to the portion of the right of way specifically described in this memorandum and the Revocable License and Right to Use. It does not permit any other intrusion or use of the public right of way.

Section 5. This license and use permission applies only to the specific use set out in this memorandum. No other uses are authorized or implied by this license and use permission. Uses may not expand beyond those specifically authorized.

Section 5a. This memorandum authorized the following uses of the public right of way within the described portion of the public right of way:

Facility Description

Section 6. The location of structures, architectural features, furnishings, footings and any other thing constructed, assembled or placed in the portion of the public right of way described in this memorandum shall be as shown on sketches attached to this memorandum and incorporated by this reference as part of this license and use permission. The structures, architectural features, furnishings, footings and any other thing constructed, assembled or placed in the public right of way shall be constructed, assembled, maintained and used only in accordance with the ordinances of the City of Corvallis.

Section 7. If land use permission, building permits, business permits, parking permits, or other licenses, permits or authority from any governmental body, including the City of Corvallis, is required for the construction, assembly, placement, use or maintenance of anything by grantee, grantee is must attain that permission, permit, license or authority through whatever process is required and nothing in this memorandum shall be relied upon for anything other than authority to apply for that permission, permit, license or authority.

Section 8. All uses of the public right of way by grantee shall comply with all local, state and federal laws of any type whatsoever.

Section 9. Grantee shall indemnify, protect, defend, and hold City, its officers, agents, volunteers, and employees harmless against any actions, claim for injury or damage and all loss, liability, cost or expense, including court costs and attorney's fees, arising out of or resulting directly or indirectly from the license and related use of the public right of way.

Section 10. In order to ensure that City is adequately indemnified and held harmless, grantee shall maintain liability insurance of the type and in the amount determined by the City as being sufficient to meet the requirements of the Oregon Tort Claims act provisions as they apply to the potential liability of the City of Corvallis for any use of the described public right of way by grantee. Certificates of insurance, naming the City as an additional insured may be required by the City, and Grantee shall provide these certificates within 30 days of a request by the City. **The amount of commercial general liability insurance shall be in the amount of $1,000,000 per occurrence with a $2,000,000 general aggregate and the City named as additional insured with a 30-day policy cancelation notice.**

Section 11. Upon revocation of this license and use permission, grantee shall remove, at grantee's sole expense any structures, architectural features, furnishings, footings or any other thing constructed, assembled or placed in the described portion of the public right of way by grantee. Grantee shall, at grantee's expense, return the portion of the public right of way used by grantee to a condition that the City Engineer deems to meet the requirements of the City.

Section 12. Grantee acknowledges responsibility for all maintenance and upkeep of the facility licensed under this agreement.

Section 13. This license expires upon removal (temporary or otherwise) of the facility licensed under this agreement.

Grantee:
Lancaster Bridge Community LLC, an Oregon limited liability company
By: Lancaster Bridge Development LLC, an Oregon limited liability company, its managing member

By: Corvallis Neighborhood Housing Services, Inc., doing business as Willamette Neighborhood Housing Services, an Oregon nonprofit corporation, its sole member

By: _____
Jim Moorefield, Executive Director

Grantor:
City of Corvallis

By: _____

MEMORANDUM

TO: Mayor and City Council

FROM: Mary Steckel, Public Works Director

DATE: May 21, 2013

SUBJECT: Comcast Rate Filings, Federal Forms 1240 and 1205

ISSUE

The local cable provider is required to file federal forms 1240 and 1205 with the Federal Communications Commission (FCC) and the local franchising authority a minimum of 90 days prior to the effective date of a proposed annual rate increase of a regulated basic tier programming service, equipment charge and/or installation fee.

DISCUSSION

Federal forms 1240 and 1205 represent Comcast's annual federal filing for potential adjustments to basic tier programming service, equipment charges and installation fees for its cable services offered within the city. Comcast has chosen April 1, 2013 as its filing date which permits the company to seek a rate increase within the franchise area any time after July 1, 2013.

The FCC regulations are a benchmark system whereby a cable operator's rates are compared to a set of charges that approximate the rates that a cable operator facing competition would charge. The maximum permitted rate, once approved, becomes the benchmark rate from which future adjustments can be made. The cable company is allowed to 'true-up' costs for current and projected periods taking into account inflation, programming and copyright fees, and other franchise-related costs. Based on this revised cost, the company can then set rates up to the maximum permitted rate. If the cable company believes it has incurred higher costs and requires higher rates, its rates are allowed to exceed the benchmark or maximum permitted rate provided that is has appropriate documentation.

The FCC maximum permitted rate changes from year to year, and the cable company's current rate could be higher than this year's maximum rate. In these cases, the operator must select a new rate lower or equal to the maximum rate.

Federal Form 1240 - Basic Tier Programming Service

Federal Form 1240 is an annual filing used for reporting cable operator costs associated with the offering of basic tier programming services. As the local franchising authority, the City is certified with the FCC to regulate the rates for basic tier programming services. The rate regulations the City enforces are regulations the FCC has adopted.

This year the maximum rate for basic tier programming has been increased to $27.09, thus Comcast may increase the current rate for basic tier programming from the current rate of $13.81 to $27.09. Comcast relayed to the City that it plans to raise the basic tier rate from $13.81 to $15.12 in July.

Service	Maximum Permitted Rate	Previous Maximum Permitted Rate	Current Operator Selected Rate (July 2013)
Basic Tier Programming Service	$27.09	$23.93	$15.12

Federal Form 1205 - Equipment, Maintenance and Installation Costs

Federal Form 1205 is an annual filing used to determine company-wide averages for customer equipment, maintenance and installation costs, including labor hours associated with the offering of these services. A sampling of cable systems nationwide is conducted to determine maximum permitted charges. The table below provides a breakdown of the maximum permitted rate for each service, the current rate, and the operator-selected rate.

Service	New Maximum Permitted Rate	Current Rate	New Comcast-Selected Rate
Hourly Charge	$33.23	$33.50	$32.50
Install-Unwired Home	$43.17	$43.00	$42.50
Install-Prewired Home	$32.33	$33.00	$32.00
Install Additional Outlet (with initial connect)	$13.35	$13.50	$13.00
Install Additional Outlet (separate connect)	$32.18	$32.50	$31.50
Relocate Outlet	$28.59	$30.50	$28.00
Install Upgrade (non-addressable)	$26.32	$25.00	$25.50
Install Downgrade (non-addressable)	$12.09	$12.50	$11.70
Install Upgrade/Downgrade (addressable)	$1.99	$1.99	$1.99
Connect VCR - Initial	$7.94	$10.50	$7.70
Connect VCR - Separate	$16.39	$20.50	$16.00
Remote Control	$0.18	$0.20	$0..15
Converter Box - Basic Service	$2.21	$2.50	$2.20
Converter Box - All Others Excluding HD	$2.21	$2.50	$2.21
Converter Box (HD & HDDVR)	$3.50	$2.50	$3.50
CableCARD	$1.15	$1.10	$1.00
Customer Trouble Call	$32.12	$30.50	$32.12

Service	New Maximum Permitted Rate	Current Rate	New Comcast-Selected Rate
Activate Pre-existing Outlet-Initial	$5.64	$6.25	$5.64
Activate Pre-existing Outlet-Separate	$22.06	$20.00	$22.06

The City has no authority to prevent the cable operator from increasing rates for basic tier programming services, equipment charges or installation fees up to the maximum permitted rate.

RECOMMENDATION

No City Council action is necessary; this report is for information only.

Review and Concur:

James A. Patterson, City Manager

HUMAN SERVICES COMMITTEE
MINUTES
June 4, 2013

Present	Staff
Councilor Penny York, Chair	Jim Patterson, City Manager
Councilor Mike Beilstein	Carolyn Rawles-Heiser, Library Director
Councilor Bruce Sorte	Mary Beth Altmann Hughes, Human Resources Manager
	Carrie Mullens, City Manager's Office

Visitors
Jacque Schreck, Corvallis-Benton County Public Library Board Vice Chair
Jasper Smith, Commission for Martin Luther King, Jr. (MLK) Chair
Barry Jerkins, National Association for the Advancement of Colored People (NAACP), Corvallis Chapter President
Frederick J. Edwards, Corvallis business owner
Joe Raia, *Corvallis TidBits* editor

SUMMARY OF DISCUSSION

	Agenda Item	Information Only	Held for Further Review	Recommendations
I.	Boards and Commissions Sunset Review: Corvallis-Benton County Public Library Board			Amend Municipal Code Chapter 1.16, "Boards and Commissions," continuing the Corvallis-Benton County Public Library Board **by means of an ordinance read by the City Attorney**
II.	Boards and Commissions Sunset Review: Commission for Martin Luther King, Jr.			• Amend Municipal Code Chapter 1.16, "Boards and Commissions," continuing the Commission for Martin Luther King, Jr. **by means of an ordinance read by the City Attorney**; • Suggest staff review options to reduce support costs, including reducing the number of meetings; and • Direct the Commission to review its charge and forward recommendations to the Human Services Committee on ways the mission can be better met.
III.	Other Business	***		

Chair York called the meeting to order at 2:00 pm.

CONTENT OF DISCUSSION

Chair York said the agenda items are related to the public process and participation Council goal to ensure that input and advice is received from citizens and viable opportunities are available for citizens to be involved in city government.

I. Boards and Commissions Sunset Review: Corvallis-Benton County Public Library Board

Ms. Rawles-Heiser said the Library Board is comprised of ten members; five appointed by the Mayor and five appointed by the Benton County Commissioners. Liaisons from the City Council and County Commissioners serve on the Board along with a student representative appointed by the County Commissioners. The Board advises Library staff and Council about Library issues related to budget, operations, and the future public library system. The Board reviews Library policies and fees and makes recommendations for amendments. They advocate for the library and communicate with the public, informing citizens of the value of the library system.

Ms. Schreck said the Board is a diverse tight-knit group of ten who function as one for the City and throughout the County. Libraries are not static and must be dynamic to be successful. The Board supports the changes the Library must make to be successful and Board members are willing to suggest alternatives. The wisdom of the Board has been very valuable to the Library and City management during recent financial challenges. The Board successfully advises without overstepping boundaries.

Ms. Rawles-Heiser said the Board also appoints liaisons to the Friends of the Library and Library Foundation to ensure a cohesive and collaborative role. The staff report includes a review of the Board's accomplishments. Staff recommends continuing the Library Board for another four years.

Ms. Rawles-Heiser invited everyone to attend the Monroe Library grand opening on Saturday, June 8.

Councilor Sorte stated support for continuing the Library Board. He noted that Ms. Altmann Hughes set a new standard for sunset reviews in her staff report for the second agenda item. He agreed that it is important during discussions of budget reductions that Council recognize the investment of staff to support advisory boards. He requested that sunset reviews include a calculation of staff support (number of meetings, average amount of extra time, etc.). He recognized that some boards require more staff support than others.

Ms. Rawles-Heiser said the advantage of providing a minimal investment of staff support for the Library Board is having a historical record. For example, when Tom McClintock was researching information for his book about the history of the Library, he referred to the Board minutes.

Councilor Beilstein noted that the Library Board meeting also includes reports from the various Library Divisions. Those reports would most likely not be completed if the Division was not reporting to the Board.

Ms. Rawles-Heiser said the Library Divisions would still need to keep those kinds of records, although it could be with an alternative mechanism. A summary of the reports are included in the monthly City Manager's Report.

Chair York reported that she attended some of Council's advisory board meetings when she was running for Council election. She researched the sunset process and was concerned that Council reviews each board separately. She noted that it is difficult to address time, scope, and consolidation when only one board is being reviewed. She said she looks forward to Council identifying a process for comprehensive reviews of advisory boards to ensure the City's resources are utilized effectively.

Chair York stated support for continuing the Library Board and said the Board brings many volunteers into the City to provide services the City cannot afford. Without the volunteers many Library services would not be available to patrons.

The Committee unanimously recommends Council amend Municipal Code Chapter 1.16, "Boards and Commissions," continuing the Corvallis-Benton County Public Library Board, **by means of an ordinance read by the City Attorney**

II. Boards and Commissions Sunset Review: Commission for Martin Luther King, Jr. (MLK)

Ms. Altmann Hughes announced that staff recommends sunsetting the Commission for MLK, but offers three options for consideration:

1. Retain the Commission,
2. Sunset the Commission, or
3. Sunset the Commission and contribute approximately 50 percent ($5,000) of the allocated budget to the OSU Office of Equity and Inclusion toward sponsorship of the OSU MLK Celebration.

Ms. Altmann Hughes said it was a difficult process and review that lead to a sunset recommendation. She reviewed historical activities, staff resources, MLK charge, and considered the best way to move forward. She also reviewed Human Resources (HR) staff support and overall HR budget. HR has experienced a number of staffing reductions in the last few years while continuing to provide work to support City Departments on a daily basis. The HR staff member who supports the Commission does so outside of normal part-time work hours.

Ms. Altmann Hughes said the Commission receives $10,000 annually from the City for the annual Dr. King memorial celebration. In light of City budget constraints, staff considered whether this expenditure is appropriate. She noted that the $10,000 allocation is one of the largest line-item expenditures in the HR budget outside of staff costs.

During the May Commission meeting, Ms. Altmann Hughes announced her intention to recommend sunsetting. Since only three commissioners were present, she sent a follow-up email the next day to all of the Commissioners. During the discussion, it was evident that the Commissioners had been discussing the possibility of losing the $10,000 allocation due to the City's budget issues.

Mr. Smith added that the Commissioners did not agree sunsetting was appropriate since they have not achieved the mission and charge of the Commission. The community is not a fully inclusive, diverse community honoring the legacy of Dr. King. There continues to be work for the Commission to conduct. The Commissioners understand the budget issues and the City can decide what they want to do about staff resources and funding, but they feel the Commission should be able to continue their work. Most likely, there are opportunities for efficiency related to the annual celebration. The investment the City is making toward a diverse, inclusive, welcoming community is not a huge investment and is most likely inadequate. During the last few months, the Commission has gone through some changes and is now a more empowered group to pursue these goals.

Councilor Beilstein said he is not surprised that occasionally a commission has less than a quorum at a meeting. He inquired whether this is a trend for MLK and whether some commissioners are not participating. Mr. Smith responded that May was the first meeting in the last six months that there was no quorum. Many OSU people are on MLK and there is active participation by all commissioners.

Councilor Beilstein noted that MLK is essentially seasonal since their main activity is preparing for the annual event in January. Mr. Smith said it is possible that the annual celebration can be done more efficiently by partnering with OSU; however, it is important to have a community event. The Commission is also the Affirmative Action Advisory Committee. This role has been under-utilized by the Commission and the City.

Councilor Sorte inquired whether the Commission could meet on a quarterly basis, which would dramatically decrease staff resources. He confirmed that attendance has been good since he was appointed as Council Liaison in January.

In response to Chair York's inquiries, Ms. Altmann Hughes said she is not sure when the staff support for the Commission transferred to HR from the Police Department. In her HR experience, she has not heard of an advisory board having affirmative action oversight and could not find any information in historical materials identifying what may have been reported.

Councilor Beilstein said during Fiscal Year 1999-2000, he was the Council Liaison to the Commission. HR brought the affirmative action policies to the Commission for review. He noted that this is unusual and maybe not necessary. He does not view this as an essential function of the Commission and thought it had been eliminated from the ordinance.

Mr. Smith added that the make-up of City employment is not fully reflective of the community that the City is serving. There is room to have an advisory committee consider how to make the City more inclusive and identify impacts policy decisions have on groups that may not be represented within City government.

Councilor Sorte agreed and said OSU has an entire department, not related to HR, that deals with these types of issues. He opined that the annual celebration needs to be clearly identified in the City's calendar, there needs to be common understanding between the Commission and Community Alliance for Diversity (CAD), and the Commission should begin reporting on affirmative action to initiate oversight to make more progress.

Barry Jerkins spoke in favor of continuing the Commission for MLK. He attended the MLK celebration last year and was impressed by the organization of the event. He noted that it was well attended by students and community members and the keynote speaker was excellent. He posted pictures from the event on the Corvallis NAACP Web page. He said American history continues to be shaped by the legacy of Dr. King. He fought and died for diversity and inclusion, which is an important standard in American society. Citizens must never forget Dr. King's work. It is important to keep his dream alive for the future of Corvallis, youth of the Country, and students at OSU.

Mr. Jerkins read from testimony submitted by Keisha Merchant (Attachment 1).

Frederick Edwards requested the Committee reconsider sunsetting the MLK Commission. Sunsetting will only take the energy away from the activities the Commission is trying to accomplish. Sunsetting this Commission is appalling to talk about and it deducts from Dr. King's dream. As an African-American, he would not have been allowed to attend this meeting or marry his Finnish wife if it were not for Dr. King. He acknowledged the City's has financial issues. Mr. Edwards asked what was not good about the Commission, other than attendance.

Mr. Patterson stated one of his favorite Dr. King quotes: "We may have all come on different ships, but we're in the same boat now." As part of an internal process of the sunset policy, Ms. Altmann Hughes did her job and is now representing a recommendation to this Committee, which is a subcommittee of Council. It has nothing to do with Dr. King's legacy. City staff recognize the importance of and how passionate people feel about Dr. King. Ms. Altmann Hughes agonized about this recommendation. The staff report includes alternative options for Council consideration. The spirit of the recommendation is not about a lack of respect of Dr. King's legacy and great work. Ms. Altmann Hughes went to great effort as she worked her way through this process. She considered many alternatives, including the option to partner with OSU's MLK celebration. Recommending sunsetting is not an attack on the Commission or Dr. King in any way. Mr. Patterson said he sees an opportunity for the community to learn from the youngest citizens who have the most diverse population in the community. Partnering with OSU could be a positive solution and it is up to Council to determine if and how that partnership might develop. Mr. Patterson thanked Mr. Jerkins and Mr. Edwards for attending the meeting on short notice and for speaking from their hearts.

Chair York clarified that staff makes recommendations to this Committee in a routine way for every board, committee, and commission (BCC) on a pre-set schedule. There are three Council standing committees and nine Councilors. Three Councilors serve on each standing committee. Each committee reviews sunsetting for the BCCs related to that specific committee. During the review, staff makes recommendations to continue, sunset, combine with other BCCs, etc. In this case, staff offered three options. This Committee can recommend any of the options or draft a different option for full Council approval. This Committee does not make the decision, it only forwards a recommendation.

Mr. Jerkins noted that he received an e-mail from Councilor Beilstein stating that this meeting was about sunsetting the Commission and that he would be voting against it. Mr. Jerkins said he was not aware of the process or background prior to Chair York's explanation.

In response to Mr. Jerkins' comment that the Commission is not seasonal, Councilor Beilstein said the main work of the Commission is to organize an event in January. The activity level of the Commission is higher prior to the event, but he also understands that they engage in year-round activities.

Councilor Sorte said Committee members have not discussed any of the options presented by staff. He spoke with Ms. Altmann Hughes and Mr. Smith prior to the meeting about the process and Commission goals. He believes there will be a different review process in the future. This may include looking at the goals for each BCC and deciding whether they are appropriate and what amount of staff resources are needed for each. There are opportunities for collaboration with OSU in regards to the MLK celebration and this could be something the Commission can work toward. Another consideration might be to meet quarterly or once every two months which would dramatically reduce staff support. He suggested the Commission consider whether they can function without staff support. Councilor Sorte said he is opposed to sunsetting the Commission and would consider other options.

Councilor Beilstein said he is convinced the Commission is on a good path. When he served as Council Liaison to the Commission, regular support staff was not available. He noted that the OSU MLK Celebration calendar includes the City-sponsored celebration. He stated disappointment that elected officials and staff do not attend the City's celebration. He would prefer more City involvement. He agrees that the Commission can get by with less staff support. Quarterly meetings would be appropriate except for the months just prior to the January celebration. An alternative could be that the Commission continues to meet monthly with staff support scheduled quarterly. He would oppose reducing the $10,000 allocation, and expressed interest in an increased commitment from the City. He would support continuing the Commission as currently outlined in the Municipal Code with no amendments. He would consider a reduction in staff support which can occur without any changes to the ordinance.

Chair York said City stationery refers to the City as a community that honors diversity. She opined that it is not visible. She expressed interest in how BCCs work, how they provide an opportunity for Council to receive advice on important issues and for members of the community to express their point of view. She is interested in BCCs working efficiently, having something to say, and worth the time given by staff and volunteers. The Commission for MLK does not appear to be effective at the current time. Organizing one event is not a big enough charge for the investment of time the City and residents offer. There are other ways to organize an event, honor a legacy, and follow-through on commitment. The Commission is not living up to the charge. Councilor York said she is willing to sunset the Commission, but there would not be three votes to do so. If she voted to sunset the Commission, it would be to raise an issue about honoring diversity and how it should be integrated in our lives. She accepts keeping the Commission for now as a placeholder to ensure the diversity issue remains and Council addresses it during a comprehensive BCC review. She suggested Council give the Commission something worthwhile to do. The Commission could advise Council on how to address diversity and how to support a functioning commission. The Commission should provide structure that is worthy of the volunteer and staff time.

Councilors Beilstein and Sorte, respectively, moved and seconded to continue the Commission for Martin Luther King, Jr. for another four years, recommend staff review options to reduce the staff commitment, and continue the $10,000 annual allocation.

Chair York said she cannot support the motion since it does not ask the Commission to do anything different until the next sunset.

Councilor Sorte the Commission has already started conversations with CAD and they recently installed a kiosk in Dr. Martin Luther King, Jr. Park that will require maintenance. Earlier this year, Dr. Teryl Ross spoke to the Commission about diversity next steps in Corvallis. Councilor Sorte opined that affirmative action in Corvallis needs some type of oversight.

Chair York clarified that the Commission's charge already includes affirmative action oversight.

Councilor Sorte said he would be receptive to expanding the Commission's charge; however, he believes the charge is adequate.

Chair York said she is not suggesting HSC revise the charge. She would prefer the Commission review their purpose and charge and made a recommendation to HSC for change.

Chair York and Councilor Sorte, respectively, moved and seconded to amend the motion to direct the Commission for Martin Luther King, Jr. to review its charge and forward recommendations to HSC on ways the mission can be better met.

The amended motion passed unanimously.

Chair York made a friendly amendment to the main motion to "suggest" staff review options to reduce support staff costs, possibly reducing the number of meetings. Councilors Beilstein and Sorte accepted the friendly amendment.

Mr. Patterson added that this discussion is exactly how a sunset review should occur. This vigorous, comprehensive, robust debate has resulted in new and positive relationships. It is important that the Commission and staff discuss Council's desire for the Commission to be more successful and achieve its goals.

Councilor Beilstein said most people believe the purpose of affirmative action is to create a diverse work force. The purpose is to prevent organizations from being sued for discrimination. It is not a matter of having a diverse workforce, it is demonstrating that the City is not biased in hiring and firing processes. Sometimes affirmative action misses the goal of creating a diverse workforce because they are more concerned with ensuring the organization is not in danger of being sued. Creating a goal to increase the City's diverse workforce to match the population it is serving is a good goal, but is not accomplished through affirmative action.

Chair York noted that in her experience, affirmative action was viewed with the goal of a diverse work force, not avoiding lawsuits.

The main motion passed unanimously.

III. Other Business

The meeting adjourned at 3:18 pm.

The next Human Services Committee meeting is scheduled for 2:00 pm on Tuesday, June 18 in the Madison Avenue Meeting Room.

Respectfully submitted,

Penny York, Chair

Dear City of Corvallis

In regarding to the Martin Luther King Jr. Commission having a place in Corvallis.
I have been a resident of Corvallis or the Linn-Benton area for the past 1995 to present.
I have noticed that Dr. Martin Luther King Jr. "I have a Dream" goals and initiatives are kept alive by the Commission. As you know, Corvallis struggles with the spirit of inclusivity.
People in the community do not feel as a general population welcomed or embraced, and celebrated for their unique qualities of race, sex or class.

Dr. Martin Luther King Jr. may be seen as a black man being celebrated, but he is more. He is a morale spirit that runs deep in every city that protects his vision for people to be judged by their motives, intent and not the construction of others. It is to my disappointed that I have seen Corvallis not value the efforts of this commission to assist the City to keep peaceful ties to the ever growing multiculturalism that is happening on campus and sprinkle down in the community.

Yes, I am aware that many organizations have their celebrations of the vision of Dr. Martin Luther King Jr., but it is not the morale of the city. It is in my encouragement and recommendation this Dr. Martin Luther King Jr.'s Commission appointed by the City continue to be protected as a historical monument of the pursuit of the American Dream to have a dream to be protected by the city, under the law, and within reason for character, morale and trust; and not discriminated by a construction by men and women who fail to identify the truth that freedom reigns in unity and not division.

It is to my statement that I have taken the time to continue to ask everyone to protect this "I Have A Dream" morale by keeping programs alive and commissions that have initiatives that best exemplify unity bonding and inclusive for multiculturalism. We are an interdependent community that count on the city to be a leader in their initiatives to remind people it is not by a construction of blinded men and women that keep us unified, prospered and sustained, but through the morale of character and responsibility to be a Samaritan citizen of the community and at large of the city.

The Dr. Martin Luther King Jr.'s park was in question years ago, and I am proud to see our city continue to keep the park. All of the country, cities are embracing Dr. Martin Luther King Jr. in their city's initiatives as a symbolic descriptor of their own mission, vision and values: objectives and goals to remind cities that they are leaders of change management systems to increase unity and decrease division which ultimately becomes a stronger system against crime and conflict. It is before us today, to reflect as decision makers, ethical actors, what would it take to keep initiatives alive that best represent and remind others of the race at hand, "I have a Dream" will always be one of the strongest morale spirits in this city keeping people in remembrance that we did not come this far in the race to quit. Keep the dream alive, and keep the commission in business for our generations of tomorrow. The rainbow reminds us that we have a covenant with God that the earth will not be destroyed but protected as a citizen of the universe, therefore, we need a reminder that we have a covenant with each other, government, community members, students and overall each other, that unity is more profitable than division.

Much Love,

Your Long standing Resident, Ms. K
Keisha L. Merchant
06/04/2013

MEMORANDUM

TO: Human Services Committee
FROM: Carolyn Rawles-Heiser, Library Director on behalf of the Library Board
DATE: 5/21/2013

Issue:

Sunset Review of the Library Board.

Background:

It is time for the periodic Sunset Review of the Library Board.

Discussion:

The Library Board discussed whether or not they believe they should be sunseted at their April and May 2013 meetings. They reviewed their purpose, activities, and goals. They believe they serve a valuable role in bringing City and County together to provide better library service, and in providing an avenue for public input on the library.

Recommended Action:

At their May 1, 2013 meeting, they voted to recommend to City Council that the Library Board continue to exist.

Review and Concur:

5/21/13

James A. Patterson, City Manager Date

CORVALLIS-BENTON COUNTY PUBLIC LIBRARY BOARD SUNSET REVIEW, 2010-2013

Corvallis-Benton County Public Library Board, 2013

Introduction

The Library Board is strongly committed to the tradition of the American free public library which serves all and provides free access to information, books and other materials, and computer resources. The primary goal of the Library Board is to ensure that the Library provides a wide range of excellent services and materials City and County-wide. Services are provided by the libraries in Corvallis, Philomath, Monroe, and Alsea; through the Bookmobile which serves City and County, and by outreach to those unable to come to a library building. In general, the Library Board has shown great concern and dedication for effective stewardship of the resources entrusted to the Library by the residents of Corvallis and Benton County.

The Corvallis-Benton County Public Library Board has been in existence in various forms since 1920. It presently consists of ten members, five appointed by the Mayor and five by the County Commissioners. Members are appointed for three-year terms. In addition, liaisons from the City Council and County Commissioners also serve on the Board, and a student representative is appointed by the County Commissioners. It is an excellent example of intergovernmental cooperation to better serve the needs of residents.

The purpose of the Board, according to the Corvallis Municipal Code, is to "advise Council on all matters pertaining to the operation, expansion, and level of service provided by the Library. In addition, the Board shall have all of the powers and duties authorized by State and City laws."

The Library Board's mission statement states:

> *The Library Board, representing the people of Corvallis and Benton County, and working in partnership with the library staff, evaluates library services and community needs, advises on library policies, and studies and recommends to the staff future services. Board members inform others about library services, needs, and accomplishments to foster a positive public image and build community support.*

The Library is unique in City government in that it serves not only the City of Corvallis but nearly all of the remainder of Benton County (with the exception of that portion of North Albany within the Albany city limits). The City operates the library system under an intergovernmental agreement with Benton County. Funding for the library system comes from the City of Corvallis General Fund, the Benton County Library Service District, the City of Corvallis 2011 Operating Levy (due to expire 6/30/2014 unless renewed by the voters), and a small amount from fines, fees, and donations.

The Library Board provides a valuable avenue for public input into library services. As residents and library users, the Board provides library staff and the City Council with advice on the funding, operation and future of the public library system. The Library Board also provides input to the Budget Commission on City funding priorities and the impact on library services. In addition, Library Board meetings provide the public with the opportunity to comment on library services and policies. The Library Board takes this responsibility seriously and welcomes and respects visitors.

Our Libraries

Corvallis Public Library

Philomath Community Library

Alsea Community Library

NEW Monroe Community Library

Bookmobile serving City and County

Significant Library Board Accomplishments and Challenges, 2010-2013

The Library Board updated the Board Mission Statement and created new goals and objectives.

The Library Board reviewed and updated library policies including the Code of Conduct; Meeting Rooms; Displays, Exhibits and Bulletin Boards; Internet Access; Gifts and Donations; Circulation; and Confidentiality of Library Records.

The Library Board (to the extent allowed by law) participated in development and passage of the 2011 Local Operating Levy which covers about $1,000,000 in library services, including Monday hours, several staff positions, and a significant portion of the materials budget.

During this period, the City experienced significant funding challenges due to flat or declining revenues and increasing expenditures. As a result, City departments were forced to reduce budgets. This came at a time when demand for library services was higher than ever because of the economic downturn, and when schools continued to reduce their libraries because of their own funding challenges. The Library Board provided advice to staff on service prioritization necessary so library staff could submit a sustainable budget, while working to ensure that the library met the highest priority needs. Significant cuts to library hours, staffing, and materials occurred during this period, even with the Operating Levy funds.

The Library Board recommended changes in fines and fees in order to help the library meet budget targets, always keeping in mind the importance of the library providing free access to all.

The Library Board contributed suggestions to City Council regarding Council Goals.

Library Board members provided testimony to City Council and Budget Commission regarding the importance of library services and the need for adequate funding.

The Library Board monitored implementation of the 2010-2014 Council-adopted Library Strategic Plan, particularly sections relating to board development.

The Library Board supported the successful fundraising to Complete the Block spearheaded by the Library Foundation, and Friends of the Library fundraising which supported most library programming and many important purchases for the library. Liaisons from the Library Board to both organizations resulted in effective communication among the three groups.

The Library Board supported fundraising for and construction of the new Monroe Community Library which will celebrate its Grand Opening on June 8, 2013.

Library Board Goals and Objectives

VISION/PLANNING

The Library Board is dedicated to anticipating and meeting community needs to ensure an outstanding public library system now and in the future. Related objectives include:

- Board members shall participate in planning and policy review efforts.
- Board members shall bring concerns or observations regarding community needs that may be addressed by the Library to the Board and management staff.
- The Library Board shall assist staff in communicating how the Library reflects city government values such as citizen engagement, sustainability, diversity, and cost effectiveness.
- The Library Board shall suggest, as appropriate, potential City Council goals that would help the Library better serve the community.
- The Library Board shall work to ensure the Library continues to serve the whole community regardless of barriers, and to ensure that essential library services remain free to all district residents.
- The Library Board shall review the Library's vision statements annually and update them as necessary.
- Board members shall assist efforts to identify unserved or underserved members of the community.

FINANCIAL

The Library Board is committed to being actively involved in efforts to ensure the long-term financial stability of the Corvallis-Benton County Public Library system. Related objectives include:

- Board members will advise the staff in identifying general expenditure priorities for the library system in the budget process.
- Board members will help identify and advise the staff in Library revenue reviews and opportunities.

- Board members will support city efforts to raise revenue through levies or districts, if those efforts directly or indirectly benefit the Library, to the extent permitted by City and State rules and regulations.
- Board members shall support community investment in the Library building.
- Board members shall advocate on behalf of the Library's funding needs to the Budget Commission, City Council, and other groups as appropriate.
- Board members shall, to the best of their ability, support fundraising and other activities for the Library through the Friends and Foundation.

ADVOCACY/COMMUNICATION

The Library Board is committed to communicating to decision makers, groups, and individuals the key role the public library plays in community well-being. The Library Board is also dedicated to ensuring that the Board understands, serves and communicates the needs of the larger community. Related objectives include:

- Board members shall support Library staff in identifying and taking advantage of opportunities to communicate on behalf of the Library to City Council, the Chamber, other cities, the State of Oregon, and to other groups.
- Board members shall remain apprised of and contribute to coverage of library events and issues via public media outlets, including newspaper, radio, magazines and/or internet, as appropriate.
- Board members shall publicly identify themselves as Library Board members at relevant events and forums.
- Board members shall make a reasonable effort to understand and represent the priorities, needs and concerns of library patrons, the general public and special population groups.

BOARD DEVELOPMENT AND ROLE

The Library Board is dedicated to being actively involved in the workings of the Board itself; keeping abreast of trends and issues affecting libraries; and sharing talents, contacts and skills for the Library's benefit. Related objectives include:

- Board members shall participate actively in the workings of the board itself via regular meeting preparation and attendance; participation in Board orientation, retreats and other special events; and participation/contributions to active subcommittees.
- Board members shall serve in a leadership capacity on the Board, as necessary.
- Board members shall contribute to annual review of Board vision and objectives, as well as development of related annual goals.
- Board members shall maintain an understanding of Board's portfolio of professional skills and personal interests; strategically identify opportunities to fill gaps in representation and talents via recruitment efforts; and/or identify opportunities to support Library efforts by capitalizing on available skills, knowledge and/or networks.
- Board members shall support and/or contribute to recruitment of new Board members.
- Board members shall be informed about current trends and issues in public library services.
- Board members shall be informed about library administration and management.

Conclusion and Recommendation

The Library Board reviewed this document at their May 1, 2013 meeting. They voted to recommend that the Library Board continue to exist as a valuable forum for community input into library services, and as a way of bringing City and County governments closer together.

MEMORANDUM
May 30, 2013

TO: Human Services Committee

FROM: Mary Beth Altmann Hughes, Human Resources

SUBJECT: Martin Luther King, Jr. Commission Sunset Review

Issue:

The Martin Luther King, Jr. Commission is scheduled to sunset June 2013.

Background:

The Commission for Martin Luther King, Jr. was established in 1986 by Corvallis Municipal Ordinance 86-27 and was implemented through Corvallis Municipal Code 1.16.260 to bring together residents of the community to recognize Dr. King and his achievements.

The Commission consists of eight members, seven of whom are appointed by the Mayor. One member is appointed by the Benton County Commissioners. Chair responsibilities rotate annually among members of the Commission. The current chairperson is Jasper Smith, and Esmeralda Reyes serves as the Vice Chairperson.

The charge of the Commission as outlined in Corvallis Municipal Code 1.16.260 is to:

- Plan a memorial celebration with special events and activities, to be held in January.
- Advise the Council on any and all matters relating to this holiday.
- Serve as the Affirmative Action Advisory Committee. Review, comment, and submit recommendations for action on achieving affirmative action goals and objectives as requested by the City's Human Resources Department.
- Coordinate with other organizations, for planning additional special celebration events and activities to support and honor Dr. King's legacy, throughout the year.

Discussion:

Annual MLK Memorial Celebration
The Commission meets monthly, with additional meetings to support the annual MLK Celebration event in January. The January event includes an evening event with a keynote speaker, entertainment, a student essay contest winner award, and local agency award. In recent years the celebration event has been held at the Majestic Theatre with attendance ranging from 50 to 100 members of the community.

The Commission continues to sponsor an annual essay contest, open to local high school students and in 2011 began an annual art poster contest for local middle school students.

Additional Activities
The primary focus of the Commission since early 2010 has been to construct a kiosk at MLK Park. In 2012, the Commission accomplished this goal, and the informational kiosk was built at MLK Park.

Currently the kiosk contains display cases along with a mural painted by a local artist in collaboration with youth from the Boys and Girls Club.

In 2010 and 2011, the Commission sponsored the Artist in Residence program at local middle schools. In previous years, the Commission has sponsored the Race Unity Picnic, MLK Day of Service, Mandela Children's Project, and the Divin9ine Step Show.

The Commission has not sponsored local activities since the summer of 2011.

Commission Meeting Attendance
In an attempt to accommodate the Commissioners' schedules and improve attendance, meetings times were moved from mid-day to the evening hours. However, since the last sunset review in 2009, only three meetings have had all Commissioners in attendance with an average of two to three Commissioners absent from each monthly meeting. Over the past four years, ten meetings did not have a quorum, approximately twenty percent, which hinders the Commission's ability to conduct business in a timely fashion.

Oregon State University – Martin Luther King, Jr. Celebration
Oregon State University coordinates a robust annual celebration event honoring Dr. King and his legacy. The celebration spans over a twelve-day period with topical films, discussions, readings, music, Day of Service, and is highlighted with the Annual Peace Breakfast, which draws in hundreds of attendees each year. The event is coordinated by the Office of Equity and Inclusion and the Office of the President. The planning process for the celebration is open to anyone to participate.

Staff has reached out to the MLK Program Director at Oregon State University and will discuss the possibility of bringing together the City and University events under one umbrella. The planning process for the Oregon State University event is open to anyone who would like to lend their voice and energy to make the celebration meaningful and impactful. Collaboration with Oregon State University would allow the opportunity for current members of the City MLK commission to continue to actively participate in community events and educational efforts that celebrate the life and work of Martin Luther King Jr.

Recommendation:
With the meager budget outlook for fiscal year 2013-2014 and to continue collaboration efforts with Oregon State University, staff recommends the sunset of the Commission for Martin Luther King, Jr.

The following options are available for consideration:

1. To retain the Commission for Martin Luther King, Jr.
2. To sunset the Commission for Martin Luther King, Jr.
3. To sunset the Commission for Martin Luther King, Jr. and contribute approximately fifty percent or $5,000 of the allocated budget to the Office of Equity and Inclusion to sponsor the OSU MLK Celebration.

If option two or three is recommended, Municipal Code Section 1.16.260 will need to be amended.

Review and Concur:

James A. Patterson, City Manager

CITY OF CORVALLIS

ADMINISTRATIVE POLICY MANUAL

POLICY AREA 2 - MAYOR AND CITY COUNCIL

AP 96- 2.02 **Sunset Review of Boards and Commissions**

Adopted	**August 1996**
Revised	September 1997
Revised	February 2001
Revised	October 2003
Revised	October 2006
Revised	September 2009
Revised	September 2012

2.02.010 Purpose

To establish a formal and consistent procedure and a structured format for the annual review of the City's advisory boards and commissions to ensure that sunset reviews include complete information.

2.02.020 Background

2.02.021 The City's advisory boards and commissions are established by Municipal Code Chapter 1.16 to advise Council on their respective areas of municipal policy. A four-year sunset review period is stipulated for all of them except the Budget Commission, Planning Commission, Historic Resources Commission, and Board of Appeals, which are State-mandated bodies.

2.02.022 Departments are responsible for providing various boards' and commissions' sunset reviews.

2.02.023 During past review processes, standing committees noted that, while past and current practices are usually well-covered, policy documentation is important. To assist Council in its review of the board or commission, members recommended that projections of goals for the re-authorization period be included, as well as discussions of shared responsibilities, additional responsibilities, or responsibilities which might be assigned to a different group.

2.02.030 Definitions

Sunset review – Council's discussion and evaluation of the board or commission and its purpose, usefulness, and viability in order to either discontinue the advisory body or authorize its continuance for an additional four-year period.

2.02.040 Procedures

The following shall be the procedure and format for all advisory board and commission sunset reviews:

a. Issue [The board or commission is scheduled to sunset at the end of the fiscal year; review by a standing committee and Council is needed for re-authorization.]

b. Discussion [Cite the Municipal Code sections regarding membership, term, and specific charge to the board or commission or issues to consider; also cite the date the board or commission was established.]

   1. *Accomplishments and activities since last review*

   2. *Future activities/action plan to next sunset review*

   3. *Analysis of shared responsibilities, or an overlap or a void, with other boards or commissions; recognizing that, although there may be an overlap or a void, the specific charges will differ*

   4. *Analysis of responsibilities that may be added to the "charge" to the board or commission*

   5. *Synopsis of board or commission discussion regarding sunset review*

c. Recommendation [Board or commission and staff recommendation and reasons.]

d. Action Requested [Amend Municipal Code Chapter 1.16 to continue/modify/delete.]

2.02.050 Review and Update

This Administrative Policy shall be reviewed every three years in September by the Assistant to City Manager/City Recorder and updated as appropriate.

Reviewed and concur:

_____ _____

James A. Patterson, City Manger Date

Segui, Suzanne

From: Segui, Suzanne
Sent: Wednesday, May 29, 2013 4:05 PM
To: 'Chareane Wimbley-Gouveia'; 'Esmeralda Reyes'; 'Joseph Orosco'; 'Kim Nguyen'; 'Luis Rosa'; 'Marna Claywoman'; 'Megha Shyam'; SMITH Jasper
Cc: Altmann Hughes, Mary Beth
Subject: MLK Commission

Commissioners, Mary Beth Altmann Hughes is out of the office today, however she wanted me to forward this email to the MLK Commission Members in her absence.

Good Afternoon MLK Commission Members,

I wanted to follow up with an email to the members that were unable to attend the MLK meeting last evening.

At the meeting last night I met with your fellow Commission members to discuss my recommendation that the Martin Luther King Commission, which is up for review at the end of June, be sunset. My rationale for the proposal is based on the decrease in HR staff over the past two years and our ability to support the Commission, that the City could still support MLK education and an event by collaborating with OSU and reducing our outgoing expenditure by some or all of the 10k allocation, resulting in a cost savings to the City at a time when we are having severe financial issues and that the Commissioners could work with the OSU event should they desire to do so (I have spoken to the head of the MLK program at OSU and she welcomed participation from the City's MLK Commission members). I know the time and effort of all those on the Commission is greatly appreciated and my recommendation is not meant in any way to suggest the contrary. It is truly a recommendation based on resource constraints and the ultimate decision on whether or not to sunset or to collaborate with OSU will be made by the City Council.

I apologize I was not able to meet all of you in person. Please feel free to reach out to me at anytime.

Regards,

Mary Beth Altmann Hughes, SPHR
Human Resources Manager
City of Corvallis
541-766-6902
MaryBeth.AltmannHughes@corvallisoregon.gov

Suzanne Segui
Human Resources Specialist
City of Corvallis | Human Resources

501 SW Madison Avenue, Corvallis, OR 97333
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THE COMMISSION FOR MARTIN LUTHER KING, JR
MINUTES
May 28, 2013

Present
Commissioner Smith – Chair
Commissioner Wimbley-Gouveia
Commissioner Shyam

Absent
Commissioner Reyes – Vice Chair
Commissioner Rosa
Commissioner Nguyen
Commissioner Claywoman
Commissioner Orosco
Bruce Sorte - Council Liaison

Staff
Suzanne Segui, HR Specialist
Mary Beth Altmann Hughes, HR Manager

SUMMARY OF DISCUSSION

Agenda Item	Action Recommendation
I. Minutes for April 23, 2013	Continued
II. Remainder of 2012/2013	Discussed and Continued
III. Other	Discussed
IV. Adjourned to June 25, 2013	Adjourned at 5:50pm

CONTENT OF DISCUSSION

I. Minutes from April 23, 2013 – Not reviewed or discussed; no quorum.

II. Remainder of 2012/2013 budget – The Commissioners discussed gathering information to put into the Kiosk display cases at MLK Park.

III. Other –

a. Staff Member Altmann Hughes informed the Commissioners in attendance that City Staff is recommending the Commission for Martin Luther King, Jr. to sunset at the end of the fiscal year, June 30, 2013. Staff Member Altmann Hughes noted the decision was difficult and appreciates the Commissioners passion and dedication to Dr. King's vision as it relates to the City of Corvallis. She cited staff time and reduced resources as the reasons for the recommendation. The City Manager's Office Human Resources Division has reduced staff by two positions over the past couple years, and with reductions in the 2013/2014 budget, the department continues to look for ways to reduce costs.

b. The Commissioners supported the partnership with Oregon State University for the annual celebration, however had concerns regarding OSU's lack of involvement with the 509J School District and local youth organizations. Commissioner Shyam noted the success of the annual essay contest, and hoped that could continue. Commissioner Smith noted the City needs to show commitment to diversity and inclusion within the community. Commissioner

Smith stated the Commission hasn't served the role of the Affirmation Action Advisory Committee in several years. In lieu of sunset, the Commissioners questioned whether the MLK Commission could continue with a reduced annual budget.

IV. Meeting adjourned at 5:50pm to June 25, 2013.

ORDINANCE 2013 - _____

AN ORDINANCE RELATING TO BOARDS AND COMMISSIONS AND SUNSET REVIEW, AMENDING MUNICIPAL CODE CHAPTER, "BOARDS AND COMMISSIONS," AS AMENDED

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. Municipal Code Section 1.16.260 is hereby repealed:

~~**Section 1.16.260 – Commission for Martin Luther King, Jr.**~~

~~1) A Commission for Martin Luther King, Jr., is hereby created.~~

~~2) The Commission shall be composed of eight members, with one member nominated by the Benton County Commissioners. All other members shall be appointed by the Mayor in accordance with Section 1.16.030 herein.~~

~~3) The Commission shall be responsible for planning the memorial celebration with special events and activities to be held in January.~~

~~4) The Commission shall advise Council on any and all matters relating to this holiday.~~

~~5) The Commission shall also serve as the Affirmative Action Advisory Committee. In this capacity, the Commission shall review, comment, and submit recommendations for action on achieving affirmative action goals and objectives as requested by the City's Human Resources Administrator.~~

~~6) The Commission may also be responsible, in coordination with other organizations, for planning additional special celebration events and activities to support and honor Dr. King's legacy, to be held throughout the year.~~

~~(Ord. 2008-08 §1, 04/21/2008; Ord. 2001-07 §1, 6/18/2001; Ord. 90-50, 1990; Ord. 90-48, 1990; Ord. 86-27 §2, 1986)~~

PASSED by the City Council this _____ day of _____, 2013.

APPROVED by the Mayor this _____ day of _____, 2013.

EFFECTIVE this _____ day of _____, 2013.

_____
Mayor

ATTEST:

_____
City Recorder

URBAN SERVICES COMMITTEE
MINUTES
June 4, 2013

Present
Richard Hervey, Chair
Dan Brown
Roen Hogg

Staff
Jim Patterson, City Manager
Greg Gescher, City Engineer
Emely Day, City Manager's Office

Visitors
Tom Jensen

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Board and Commission Sunset Review: Capital Improvement Program Commission			Amend Corvallis Municipal Code Section 1.16.285, Capital Improvement Program (CIP) Commission, and continue the Commission for four more years, **by means of an ordinance to be read by the City Attorney**
II. Other Business A. Parking Districts	Yes		

CONTENT OF DISCUSSION

Councilor Hervey called the meeting to order at 5:00 pm.

I. Board and Commission Sunset Review: Capital Improvement Program Commission

Councilor Hervey commented that he reviewed the City's Administrative Policy regarding the Capital Improvement Program (CIP), and he commended staff for its efforts to handle the extensive responsibilities of administering the Program

City Engineer Gescher reported that the Commission was scheduled for its periodic sunset review. Staff asked Commission members if they felt their time on the Commission was well spent and added value to the capital budget process; the responses were positive. Staff recommended that the Commission be extended another four years.

Mr. Gescher said staff and the Commission reviewed and discussed the Municipal Code provisions outlining the Commission's roles and responsibilities. Commissioners believed their primary role was to serve as a means for soliciting public participation and testimony regarding the capital budget and provide another review of the CIP documents to ensure

clarity for the public. Based upon these discussions, staff and Commissioners recommended Municipal Code amendments to clarify the Commission's charge.

Councilor Hervey inquired about methods of outreach for citizen input to the CIP Commission.

Mr. Gescher explained that, at the beginning of each annual CIP review, staff sent letters from the Commission, inviting citizens to submit project suggestions. The letter was published in *"the City"* newsletter; when the newsletter became an electronic communication, the letter was published in the *Corvallis Gazette-Times.* The annual letter typically elicited 100 to 150 responses. People submitting suggestions could include their names and addresses for notification of CIP-related meetings. As suggestions tended to focus on projects affecting bicyclists, pedestrians, and the Parks and Recreation Department, staff notified these citizens of relevant advisory body meetings when CIP projects would be prioritized.

Based upon a motion moved and seconded by Councilors Hogg and Brown, respectively, the Committee unanimously recommends that Council amend Municipal Code Section 1.16.285, Capital Improvement Program (CIP) Commission, and continue the Commission for four more years, **by means of an ordinance to be read by the City Attorney.**

II. Other Business

A. Tom Jensen said he would like to be a member of a housing work group.

Mr. Jensen acknowledged that processes were good, but outcomes were based upon input. He opined that much of the input to the Oregon State University (OSU)/City Collaboration Project Steering Committee originated with OSU, and much of the outcomes rested on the City. He noted that the Steering Committee recommended additional residential parking districts for neighborhoods surrounding the OSU campus; and the last five OSU construction projects occurred on former OSU parking lots, compounding the parking situations in nearby neighborhoods.

Mr. Jensen proposed that the City establish one parking district, noting that multiple districts would leave small parking districts competing against each other. Under the current timed-parking format, he would not be able to park in an adjacent parking district if his district was full.

Mr. Jensen opined that a no-net-revenue parking district format would make the goal of resolving the parking situation bureaucratic. He further proposed that parking district residents receive free permits. People not residing in the district could purchase a district parking permit at the same cost charged by OSU. This would remove any economic benefit of parking in neighborhoods. Parking enforcement officers would merely need to check vehicles for permits and not worry about license plates or parking durations. OSU could be asked to provide the City

with a roll of permits, which could be cut in half to differentiate them from OSU campus parking permits; half-sized permits would indicate that they were valid only in the parking district and were not valid for parking on OSU's campus.

Under his proposal, Mr. Jensen suggested that parking permits for multi-unit residential developments could be calculated at .8 permit per bedroom for the development (not all residents would have vehicles), less the number of on-site parking spaces for the development; the result of the calculation would be the number of permits available to residents of the development. He further suggested that his proposal could be applied to all development standards.

Mr. Jensen said his residential development was approved with curbside parking but no on-site parking; curbside parking in his neighborhood became a "lottery."

Councilor Brown said he was familiar with Mr. Jensen's plan and that the Committee would address the parking district issue. He would consider Mr. Jensen's proposal along with the Collaboration Project Steering Committee's recommendation. He urged Mr. Jensen to attend the Committee's meeting regarding the parking district. He observed that many political nuances were involved in the parking district issue, including each neighborhood wanting something special in the residential parking district program provisions.

Mr. Jensen commented that all parking districts should have the same rules.

B. The next regular Urban Services Committee meeting is scheduled for June 18, 2013, at 5:00 pm, in the Madison Avenue Meeting Room.

Councilor Hervey adjourned the meeting at 5:15 pm.

Respectfully submitted,

Richard Hervey, Chair

MEMORANDUM

TO: Urban Services Committee

FROM: Mary Steckel, Public Works Director

DATE: May 10, 2013

SUBJECT: Sunset Review of the Capital Improvements Program (CIP) Commission

I. ISSUE

The CIP Commission is scheduled to sunset the end of fiscal year 2012-13. This report is forwarded for review regarding a four-year reauthorization.

II. DISCUSSION

The CIP Commission was first established in September of 1994 to support the Budget Commission and City Council in developing, maintaining and revising a continuing CIP. Municipal Code Section 1.16.285 details the Commission's membership and identifies its responsibilities.

Each year for the past three years, the CIP Commission has conducted a review of the proposed CIP document update including:

- Meetings with Department Directors to review project recommendations for clarity, completeness, and responsiveness to community needs.
- A public hearing on the draft updates for community input.
- Recommendations to the Planning and Budget Commissions.

The Commission will continue this same approach if it is reauthorized for another term.

The Municipal Code identifies the responsibilities of the CIP Commission as follows:

- In cooperation with other City boards and commissions, formulate and recommend a CIP to the Planning Commission, Budget Commission and City Council. The CIP shall identify needed infrastructure projects required to implement the vision of the Comprehensive Plan and shall include other projects that enhance the community's quality of life and protect its investment in municipal facilities.
- Develop and recommend financing strategies to fund these improvements.
- Solicit and encourage citizen participation in development and implementation of capital improvements and financing strategies.
- Monitor implementation and prepare annual updates to the CIP.

At a CIP Commission meeting in April 2013, members discussed these responsibilities and recommended modifications to better fit their role in recent years. The Commission felt that they have not been called upon to formulate a CIP nor develop financing strategies as outlined above. For the most part, a draft CIP document is provided for their review, including proposed financing strategies. The Commission did not feel they had the tools to develop financing strategies, and in any case, such strategies should not be developed independent from strategies to fund the City's operating budget.

The Commission felt that their primary responsibilities are two-fold. The first is to afford citizens an additional opportunity to provide public input into the CIP process. It was their opinion that the CIP Commission was a more informal venue for citizens than is the Budget Commission, and as such, citizens may feel more comfortable testifying there. The second is to provide "another set of eyes" on the document. This helps to insure that project descriptions and funding strategies are clearly and concisely represented in the final document.

It was recognized that there is some overlap with the Budget and Planning Commissions in the annual review of the CIP. However, the CIP Commission felt that their comprehensive review does result in a document that supports a more efficient review of the program by the other two commissions.

Based on these discussions, the CIP Commission recommended modifying Municipal Code Section 1.16.285 as outlined in the attached ordinance, to better reflect their charge.

III. RECOMMENDATION

The CIP Commission and staff recommend continuation of the CIP Commission as a means of promoting efficient public participation in, and review of, the CIP.

IV. ACTION REQUESTED

Staff requests that the Urban Services Committee recommend City Council approval of the attached ordinance amending Municipal Code Chapter 1.16.420, extending the date of service for the CIP Commission to June 30, 2017, and amending Chapter 1.16.285, clarifying the role of the CIP Commission.

Review and Concur,

James A. Patterson, City Manager

5/14/2013
Date

ORDINANCE 2013-____

AN ORDINANCE RELATING TO BOARDS AND COMMISSIONS AND SUNSET REVIEWS, AMENDING MUNICIPAL CODE CHAPTER 1.16, "BOARDS AND COMMISSIONS," AS AMENDED

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. Municipal Code Section 1.16.285 is hereby amended as follows:

Capital Improvements Program (CIP) Commission.

1) There is hereby created a Capital Improvements Program Commission for the City.

2) The Commission shall consist of nine (9) voting members. Three members shall be appointed from the general public; one member shall be appointed who possesses knowledge, qualifications, and experience in financial institutions; one member shall be appointed who possesses knowledge, qualifications, and experience in economic development; one member shall be appointed who possesses knowledge, qualifications, and experience in environmental protection, one member shall be appointed from the Planning Commission, one citizen member shall be appointed from the Budget Commission and one member shall be appointed from the City Council. In addition, the City Manager shall serve as an ex officio member of the Commission with all rights and privileges attendant thereto except the right to vote.

3) The Capital Improvements Program Commission shall:

a) In cooperation with other City boards and commissions, ~~formulate~~ **review** and recommend a Capital Improvements Program to the Planning Commission, Budget Commission, and City Council. The CIP shall identify needed infrastructure projects required to implement the vision of the Comprehensive Plan and shall include other projects that enhance the community's quality of life and protect its investment in municipal facilities.

b) ~~Develop and recommend~~ **Review** financing strategies to fund these improvements.

c) Solicit and encourage citizen participation in development and implementation of capital improvements and financing strategies.

d) Monitor implementation ~~and prepare annual updates to~~ **of** the CIP.

4) Initial Appointment. The initial terms of Commission shall be one year for three members, one of whom shall be from the general public, two years for three members, one of whom shall be from the general public, and three years for three members, one of which shall be from the general public.

(Ord. 94-16 § 1, 06/06/94)

Section 2. Municipal Code Section 1.16.420 is hereby amended as follows:

1.16.420 ~~June 30, 2012~~ **June 30, 2017.**

Capital Improvements Program Commission.

(Ord. 2009-10 §2, 06/15/2009; Ord. 2007-21 §3, 08/06/07; Ord. 2005-09 §3, 06/20/2005; Ord. 2001-08, 6/18/2001; Ord. 97-21, 11/03/1997)

PASSED by the City Council this _____ day of _____, 2013.

APPROVED by the Mayor this _____ day of _____, 2013.

EFFECTIVE this _____ day of _____, 2013.

_____
Mayor

ATTEST:

_____
City Recorder

ORDINANCE 2013-____

AN ORDINANCE RELATING TO BOARDS AND COMMISSIONS AND SUNSET REVIEWS, AMENDING MUNICIPAL CODE CHAPTER 1.16, "BOARDS AND COMMISSIONS," AS AMENDED

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. Municipal Code Section 1.16.285 is hereby amended as follows:

Capital Improvements Program (CIP) Commission.

1) There is hereby created a Capital Improvements Program Commission for the City.

2) The Commission shall consist of nine (9) voting members. Three members shall be appointed from the general public; one member shall be appointed who possesses knowledge, qualifications, and experience in financial institutions; one member shall be appointed who possesses knowledge, qualifications, and experience in economic development; one member shall be appointed who possesses knowledge, qualifications, and experience in environmental protection, one member shall be appointed from the Planning Commission, one citizen member shall be appointed from the Budget Commission and one member shall be appointed from the City Council. In addition, the City Manager shall serve as an ex officio member of the Commission with all rights and privileges attendant thereto except the right to vote.

3) The Capital Improvements Program Commission shall:

a) In cooperation with other City boards and commissions, ~~formulate~~ **review** and recommend a Capital Improvements Program to the Planning Commission, Budget Commission, and City Council. The CIP shall identify needed infrastructure projects required to implement the vision of the Comprehensive Plan and shall include other projects that enhance the community's quality of life and protect its investment in municipal facilities.

b) ~~Develop and recommend~~ **Review** financing strategies to fund these improvements.

c) Solicit and encourage citizen participation in development and implementation of capital improvements and financing strategies.

d) Monitor implementation ~~and prepare annual updates to~~ **of** the CIP.

4) Initial Appointment. The initial terms of Commission shall be one year for three members, one of whom shall be from the general public, two years for three members, one of whom shall be from the general public, and three years for three members, one of which shall be from the general public.

(Ord. 2013-** §1, 06/17/2013; Ord. 94-16 §1, 06/06/94)

Section 2. Municipal Code Section 1.16.410 is hereby amended as follows:

1.16.420 ~~June 30, 2013~~ **June 30, 2017.**

Library Board, Commission for Martin Luther King, Jr., and Capital Improvements Program Commission.

(Ord. 2013-** §1, 06/17/2013; Ord. 2009-12 §3, 10/29/2009; Ord. 2009-10 §2, 06/15/2009; Ord. 2007-21 §3, 08/06/07; Ord. 2005-09 §3, 06/20/2005; Ord. 2001-08, 6/18/2001; Ord. 97-21, 11/03/1997)

PASSED by the City Council this _____ day of _____, 2013.

APPROVED by the Mayor this _____ day of _____, 2013.

EFFECTIVE this _____ day of _____, 2013.

_____
Mayor

ATTEST:

_____
City Recorder

ADMINISTRATIVE SERVICES COMMITTEE
MINUTES
June 5, 2013

Present
Councilor Joel Hirsch, Chair
Councilor Hal Brauner
Councilor Biff Traber

Staff
Jim Patterson, City Manager
Nancy Brewer, Finance Director
Mary Steckel, Public Works Director
Carla Holzworth, City Manager's Office

Visitors
Richard Mehlhaf, Mehlhaf's, Inc.
Joe Raia, Corvallis Tidbits

Agenda Item	Information Only	Held for Further Review	Recommendations
I. Single-Use Plastic Carryout Bags Ordinance Exemption Requests			Exempt Mehlhaf's, Inc. from the Single-Use Plastic Carryout Bags Ordinance until the business' existing supply is exhausted, but no longer than the end of calendar year 2018.
II. Third Quarter Operating Report			Ask the Mayor to submit a letter to Hewlett-Packard requesting a charitable contribution back for the difference between the 12% statutory interest rate and what the normal rate would have been. Accept the Third Quarter Operating Report for FY 2012-13.
III. Other Business			

Chair Hirsch called the meeting to order at 3:36 pm.

CONTENT OF DISCUSSION

I. Single-Use Plastic Carryout Bags Ordinance Exemption Requests

Mr. Mehlhaf read from a prepared statement (Attachment 1). In response to Mr. Mehlhaf's inquiry, Councilor Brauner directed him to provide a copy of the invoice showing his plastic bag purchase to Ms. Holzworth for inclusion with the minutes (Attachment 2). Mr. Mehlhaf estimated his current inventory would last another five years.

The Committee unanimously recommends Council exempt Mehlhaf's, Inc. from the Single-Use Plastic Carryout Bags Ordinance until the business' existing supply is exhausted, but no longer than the end of calendar year 2018.

Ms. Steckel noted the Chamber of Commerce will host a meeting for businesses on Friday, June 14 to discuss the bag ban. This may lead to additional businesses requesting exemptions.

II. Third Quarter Operating Report

Ms. Brewer said Benton County and the Oregon Department of Revenue (DOR) hosted a meeting with taxing districts earlier in the day to discuss the Hewlett-Packard (HP) refund. Ms. Brewer said the DOR declined a request to contribute funding to help offset the cost. Ms. Brewer reviewed the Quarterly Operating Report staff report.

In response to Councilor Traber's inquiry, Ms. Brewer said personnel costs being higher than expected is due to health insurance expenses for American Federation of State, County and Municipal Employees (AFSCME) and the Corvallis Regional Communications Center Association (CRCCA) members. Ms. Brewer noted that AFSCME made modifications to their insurance plans that increased costs by 6% instead of the expected 12%. Departments absorbed the additional expense through reduced spending in other areas. Health insurance costs went down for exempt employees, as well as those in the Corvallis Police Officers Association (CPOA) and International Association of Firefighters (IAFF).

In response to Councilor Traber's inquiry, Ms. Brewer said the County does not write off unpaid taxes. Rather, a lien is placed on the property and the County is in the first position to receive payment of back taxes when the property is sold. Ms. Brewer said Benton County has a relatively low proportion of uncollected taxes compared to other Oregon counties.

In response to Councilor Brauner's inquiry, Ms. Brewer said as a result of the HP appeal, the City estimates cash flow from tax payments next November will reduced by about $2 million. In FY 2014-15, tax receipts should be about what would have been expected in FY 2013-14. Ms. Brewer noted there has not yet been a final decision from a judge, so the amount is not final.

Ms. Brewer said in the meeting with taxing jurisdictions, attendees asked the County to consider alternative ways to calculate shares of the refund. One suggestion was to determine shares according to losses by year. Each year's loss would be allocated by the proportion of levies within that year. In response to Councilor Traber's inquiry about the impact to the Alsea Health District, Ms. Brewer said each taxing jurisdiction's share

of the expense to HP is proportionate to the tax revenue they received in FY 12-13 unless the County uses a different method as suggested.

In response to Councilor Brauner's inquiry, Ms. Brewer said she has not been asked to draft a letter for the Mayor's signature requesting HP to contribute funds to cover some of the interest expense. In response to Councilor Traber's inquiry, Ms. Brewer estimated the interest at $1.7 million.

The Committee unanimously recommends Council ask the Mayor to submit a letter to Hewlett-Packard requesting a charitable contribution back for the difference between the 12% statutory interest rate and what the normal rate would have been.

The Committee unanimously recommends Council accept the Third Quarter Operating Report for FY 2012-13.

III. Other Business

The next Administrative Services Committee meeting is scheduled for 3:30 pm, Wednesday, June 19, 2013 in the Madison Avenue Meeting Room.

The meeting adjourned at 4:08 pm.

Respectfully submitted,

Joel Hirsch, Chair

MEMORANDUM

May 22, 2013

TO: Administrative Services Committee

FROM: Nancy Brewer, Finance Director NB

SUBJECT **Third Quarterly Operating Report**

I. Issue

To review and accept the Third Quarterly Operating Report for FY 12-13.

II. Discussion

The Third Quarterly Operating Report (QOR) has been published on the City's web site and is available for review. Revenues at the end of the third quarter of the fiscal year are about 61% of budgeted total revenues. Operating revenue of $54 million received year-to-date is almost exactly the same total dollars as in prior years, but higher transient room tax receipts and charges for service revenues served to offset lower property tax and grant revenues.

Operating expenditures across departments were roughly as expected and comparable to the prior year at about 67% of the amended budget. While every department except the Library and the City Manager's Office was carrying at least one vacancy at quarter end (for a 6% vacancy rate Citywide), personnel service savings are not as significant as they have been in prior years due primarily to increases in healthcare costs over budgeted levels as well as higher casual and overtime costs associated with backfilling for vacant positions. Many regular staff recruitments are still on hold since each position must be justified in this fiscally constrained time, and some hiring has been delayed deliberately in order to achieve offsetting savings for the known higher health costs being incurred this fiscal year.

In summary, while financial performance in all funds is generally at expected levels, the following situations are noteworthy:

- Property tax revenue is not performing as expected:
  - The news about the Hewlett-Packard valuation appeal received by the City on May 20, 2013 is not reflected in this QOR which runs through March 31, 2013. The City's share of the appeal is around $2.4 million, expected to be deducted from FY 13-14 property tax turnovers. More information will be forthcoming to City Council as part of the FY 13-14 budget adoption process.
  - Permanent rate property tax collections are currently lagging last year's revenues by about $12,000 as of the end of the third quarter. Assessed value growth would have suggested revenues should be around 0.5% higher year-to-date, but thus far collections are at only 92% of budget, versus last fiscal year's level of 95%. The City is also seeing nearly $100,000 less in prior year delinquency collections than last year at this time. It is possible that both lower current year and lower prior year delinquent payments are the result of financial hardship.
  - Benton County informed City staff in the third quarter of FY 12-13 that an approximately $95,000 refund related to a successful valuation appeal on properties in the Timberhill development area, will be deducted from the City's May turnover.

  The impacts from these three property tax related actions will be addressed in staff's report on the FY 13-14 budget.
- 9-1-1 Emergency Communications Fund – Personnel Services spending is running higher than expected due to contractual COLA's and 2012 healthcare premium increases exceeding budget, as well as State excise taxes for 9-1-1 coming in lower than forecast. An authorized position has been held vacant throughout the year in order to ensure appropriations are not exceeded, but these savings have also been partly offset by commensurate overtime to cover the vacancy as well as the cashout of a substantial accrual bank for an unexpected dispatcher retirement. The Fund Balance is likely adequate to absorb the above situations in FY 12-13 but may lead to increased charges to users in the short term to cover costs in future years. Increased charges to users will primarily be borne by the City of Corvallis as the largest user of 9-1-1 services.

- The Community Development Revolving Fund has continued its negative cash and fund balance position in the third quarter, due to the HOME grant reimbursement lag, inadequate grant coverage of project-related overhead, and requirements to first spend program income before grant proceeds. It appears that the Fund is likely to require an interfund loan in FY 12-13 to ensure a positive year-end balance. The Fund Manager is also in the process of implementing other service and program changes to attain long-term fiscal sustainability. More information will come to the City Council prior to fiscal year end for input and approval on a proposed approach.

Attached to this memo is the executive summary for the Third QOR (Attachment A) and the Property Tax Funds Combined income statement (Attachment B). The executive summary includes some basic economic information, an analysis of any significant variances from expected financial performance, an income statement for all funds combined, and a summary of operating expenditures by fund and by department. The summary also includes a table showing all the budget amendments approved so far this fiscal year by the City Council. These amendments all have the effect of increasing total appropriations for the City above what was in the adopted budget.

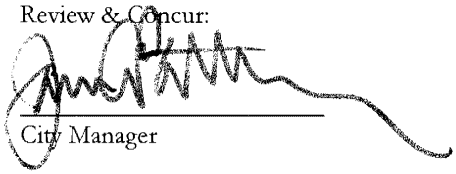
The Capital Project budget is nearly 27% expended at the end of the third quarter. Capital project work and the related spending tend to fluctuate each year, with delays causing carry-overs to future years or savings from conservative budgeting typically resulting in less than 100% of budget being accomplished. The following projects were completed by the end of the third quarter: decommissioning (with no detection of contaminated soil or leaks found) of the underground storage tank, which is a precursor to the City Hall Parking Lot reconstruction project which will proceed in June 2013; construction of a traffic signal at 26th Street and Western Boulevard intersection; design for replacement of an existing undersized 8-inch pipe running east to west on Greeley Avenue; and improvements to Shooting Star trail in the Timberhill area.

The Quarterly Operating Report also includes an update on the status of City Council Goals as of March 31, 2013.

III. Requested Action

Review the Third Quarterly Operating Report, and recommend the City Council accept the report.

Review & Concur:



City Manager

THIRD QUARTERLY OPERATING REPORT
FISCAL YEAR 2012-2013

EXECUTIVE SUMMARY

May 20, 2013

The Quarterly Operating Report is produced and published on the City's web site within 45 days of the close of each fiscal quarter based on Financial Policy 10.04.050, then shared with the City Council's Administrative Services Committee to provide citizens, the Budget Commission, and City Council with information about the City's financial performance for the quarter.

This Executive Summary provides highlights of the City's financials. The remainder of the report covers:

- The revenue and expenditure performance for each of the operating funds in an income statement format that includes operating and non-operating revenues, expenditures and total fund activities. The first income statement presented in that section shows results year-to-date for all property tax funds combined.
- Departmental information including updated performance measures for the quarter as well as accomplishments and pending work plan items. This section also includes a report on vacancies;
- Capital Improvement Program (CIP) status report on the various projects underway year-to-date; and
- An update on City Council Values and Goals.

The FY 12-13 budget was prepared and adopted during challenging economic times and in a highly fiscally constrained environment for the City. A recessionary economy including high unemployment and stagnant property values, plus slowed development, as well as lower than historical revenues in both FY 10-11 and FY 11-12, were all taken into account when developing the budget. Despite these factors, demand for many City services continues to be strong, which in the face of the relatively flat or declining revenue stream continues to have a negative impact on fund balances across the organization.

The Federal Open Market Committee (FOMC) statement released in March suggests that the economy is experiencing moderate growth following a pause late last year. Although the unemployment rate is still elevated, labor market conditions are showing some improvement. At 6.1% unemployment in March, on a seasonally adjusted basis, (a 0.1% decrease from the previous month), Corvallis continues to fare better than the State and the Nation. Household spending and the housing sector have strengthened, but fiscal policy continues to be restrictive. Inflation has been running slightly below the Committee's long-term objective of 2%, apart from temporary variations that create energy price fluctuations, but longer-term inflation expectations have remained stable. The FOMC expects that, with appropriate policy accommodation, economic growth will proceed at a moderate pace and the unemployment rate will gradually decline toward levels the Committee deems consistent with its statutory mandate to foster maximum employment and price stability. The Committee will continue to monitor incoming information on economic and financial developments and has decided to keep the target range for the federal funds rate exceptionally low (i.e., in the 0 to quarter percent range) as long as the national unemployment rate remains above 6.5%, and inflation projections deviate from the Committee's longer-run goal.

Overall, the City's financial performance through the third quarter of the fiscal year generally has been as expected. Revenue and expenditure timing is similar to historical patterns (i.e., Parks & Recreation usually spends more than 25% of its budget in the busy summer months; the majority of Property Tax revenue is received in the second quarter). There has been an increase in Charges for Service revenues, which was largely driven by development project application fees, but is higher in nearly all funds contributing to a nearly $781,790 increase over last year and a slightly greater percentage of budget overall than forecast. Miscellaneous revenue received is significantly greater when compared to last year, primarily attributed to Business Energy Tax Credits received this fiscal year but pertaining to prior year Transit operations. Another difference related to budgeted expectations relates to three utility-backed loans in the Water and Wastewater Funds that were refunded in November. The approximate $12.3 million in proceeds from the 2012 Full Faith & Credit Refunding Obligations are reflected in other financing sources and produced a net present value savings to the City of roughly $1,579,690.

As of the end of the third quarter for the fiscal year, total operating expenditures are 67% of budgeted expenditures, and are approximately $849,270 lower than last year's spending levels, driven primarily by less capital outlay, special project expenditures and savings due to personnel vacancies, as well as other department budget reductions achieved as part of the FY 12-13 adopted sustainable budget. The Fire Department spent much less on capital outlay and special projects (i.e., fewer vehicle replacements were made) than in FY 11-12. Community Development housing grant-related expenditures were less than 40% of budgeted levels in both fiscal years. Grant funding was provided for nine non-profit agency activities through the CDBG Human Services Fund, CDBG Microbusiness program funding for Linn-Benton Community College, Community Housing Development Organization (CHDO) operating funding for Willamette Neighborhood Housing Services (WNHS), and CDBG and HOME funding for WNHS's Lancaster Bridge (capital) project. Six loans and thirteen grants have closed through the third quarter, so related payouts are expected to pick up

in the latter part of the year. Nevertheless, it remains unlikely that the full appropriations established for Housing loan allocations through the Adopted Budget will be used.

The following table compares year-to-date actuals with budget for all funds in both FY 12-13 and FY 11-12:

REVENUE	AMENDED BUDGET	3rd Quarter FY 12-13	UNAUDITED FY 12-13	FY 12-13 % REC/EXPEND	Y-T-D FY 11-12	FY 11-12 % REC/EXPEND
Budgeted Fund Balance	$28,532,414					
Property Taxes	$23,904,680	$1,240,673	$21,859,581	91.44%	$22,858,741	94.48%
Other Tax	1,270,650	249,283	872,134	68.64%	805,558	69.98%
Licenses/Permits	8,740,150	2,227,484	5,970,936	68.32%	5,815,594	72.46%
System Development Charges	1,989,780	296,645	1,380,531	69.38%	2,261,358	166.89%
Charges for Service	37,738,370	8,621,716	28,655,457	75.93%	27,873,673	75.32%
Intergovernmental	17,333,633	2,442,818	8,164,927	47.10%	8,196,066	45.76%
Fines/Forfeitures	1,283,410	307,372	847,039	66.00%	931,548	67.22%
Miscellaneous	2,767,850	381,491	2,395,544	86.55%	2,352,156	73.37%
Other Financing Sources/Transfers in	24,023,308	459,801	19,043,632	79.27%	8,897,064	63.33%
TOTAL CURRENT REVENUE	$119,051,831	$16,227,283	$89,189,782	74.92%	$79,991,758	73.87%
EXPENDITURE BY DEPARTMENT						
City Manager's Office	$3,302,670	$577,311	$2,247,242	68.04%	$2,171,013	70.94%
Community Development	7,626,640	1,612,235	4,223,334	55.38%	4,345,938	49.89%
Finance	4,790,210	1,135,437	3,427,587	71.55%	3,565,110	71.06%
Fire	10,455,220	2,480,615	7,514,812	71.88%	8,379,326	73.60%
Library	6,054,010	1,375,693	4,232,018	69.90%	4,257,713	64.89%
Park & Recreation	6,078,310	1,242,647	4,102,451	67.49%	4,229,835	69.38%
Police	13,031,970	2,990,757	9,433,918	72.39%	9,352,783	71.23%
Public Works	29,744,922	5,709,792	19,052,078	64.05%	19,014,885	62.59%
Non-Departmental	1,512,927	329,226	1,155,370	76.37%	921,472	67.39%
TOTAL OPERATING EXPENDITURES	$82,596,879	$17,453,713	$55,388,810	67.06%	$56,238,075	65.62%
Debt Service	$4,734,140	$25,530	$2,586,781	54.64%	$4,402,308	53.80%
Capital Projects	9,687,779	576,687	2,598,536	26.82%	4,956,086	40.48%
Transfers Out / Other Financing Uses	26,228,831	475,408	21,214,731	80.88%	8,889,039	63.27%
Contingencies/Reserves	1,611,260	0	0	0.00%	0	0.00%
TOTAL ALL EXPENDITURES	$124,858,889	$18,531,338	$81,788,858	65.51%	$74,485,508	61.28%
CURRENT REVENUES LESS TOTAL EXPENDITURES	($5,807,058)	($2,304,055)	$7,400,924		$5,506,250	

In general, the status of the City's finances was in line with expectations at the end of the third quarter. Year-to-date revenues of $89,189,782, are at 74.92% of the Amended Total Revenue Budget of $119,051,831. The Amended Budget reflects the adopted budget, plus any amendments approved by the City Council via resolution during the course of the fiscal year. In the first nine months of FY 12-13, the following amendments to the budget were approved:

Date	Amendment Type	Resource	Fund	Department	Net Expenditure Impact
7/2/2012	Res - Grant	EPA Grant	Storm Water	Public Works	$ 45,620
7/16/2012	Res - Grant	ODOT Grant	Transit	Public Works	$ 8,964
8/6/2012	Res - Grant	State of Oregon EUDL Grant	General	Police	$ 4,760
9/4/2012	Res - Grant	FEMA Homeland Security	Fire & Rescue	Fire	$ 4,504
11/4/2012	Res - Grant	FEMA Office of Emerg Mgmnt	CIP	Parks & Rec	$ 193,911
11/19/2012	Res - 2012 Refunding Obligations	Proceeds of Debt Issuance	Water & Wastewater	Public Works	$ 12,289,035
11/19/2012	Res - Donation	Anonymous Donor	Parks & Recreation	Parks & Rec	$ 9,000
12/3/2012	Res - Grant	Oregon Water Resources	Wastewater	Public Works	$ 38,632
2/4/2013	Res - Payment	NW Natural Gas	Parks & Recreation	Parks & Rec	$ 141,180
3/18/2013	Res - Grant	ODOT Grant	General	Police	$ 142,210
				Total Increase	$ 12,877,816

Significant revenue highlights include:

- **Property taxes** totaled $21,859,581 through the third quarter, which equals 91.44% of the budgeted property tax revenue. The majority of property taxes for the fiscal year are typically collected in the first half of the fiscal year. Year-to-date property tax revenues are about $1 million less than last fiscal year's results for the same time period, due primarily to a lower debt levy

amount based on the front-loaded structure of debt service payments for the 2009 General Obligation refunding bonds, and the planned decline in the amortization commencing in FY 12-13. It should be noted that prior year delinquent account collections are lagging last fiscal year by about $100,000 year-to-date, but the decrease is partly offset by the 0.5% increase in current year permanent rate levy revenues based on assessed value growth.

- **Other Taxes** are collected from hotels in the form of room taxes and totaled $872,134 or 68.64% of budget and are comparable to last fiscal year-to-date as of third quarter-end. When summer seasonality and year-end accruals are taken into account, as well as good attendance at fall sporting events, and some signs of mild economic recovery, it is staff's expectation that this revenue source is on track to exceed budget by fiscal year end.

- **Licenses, Fees and Permits** totaled $5,970,936 which represents 68.32% of the amended budget and is below budget as a percentage received when compared with the same time last year. The largest portion of this category is franchise fees, which are under-performing year-to-date primarily due to utility conservation efforts and decreasing land line use, and are thus currently expected to end up lower than budget on a revised basis. The transportation maintenance and sustainability initiative fees are on target, and Development Service permit fees are expected to begin trending higher due to an increase in projects received during the third quarter.

- **System Development Charges** were $1,380,531 which represents 69.38% of the amended budget and is slightly below projections. In FY 11-12, the higher percentage of actuals YTD compared to budget was due to un-forecasted increased development for off-campus student housing. SDC income, being of restricted use, has been isolated here and in the income statements from "other charges for service" so as to ensure the understanding that this significant incremental dedicated funding source is not available for operational spending.

- **Charges for Services** (not including SDC's) were $28,655,457, which represents 75.93% of the amended budget. These revenues are on target as a percentage of budget and include: receipt of the full amount of the Benton County Record Services payments for various police services; an increase over anticipated revenue due to higher benefit payment reimbursement stemming from post-'92 hire retirements and Parks Seasonal eligibility for COBRA; a payment received from Benton County for its share of support for the Economic Development program; and higher than anticipated Fleet charge collections.

- **Intergovernmental** revenues are below target at $8,164,927. At 47.10% of budget however, receipts are very comparable to the same time last year. The receipt of grant monies tends to be volatile and highly dependent on timing of related expenditures. For example, a State of Oregon grant related to Wastewater management and an Environmental Protection Agency's Green Streets Initiative grant are expected to be received later in the fiscal year.

- **Fines & Forfeiture** receipts related to Municipal Court remain under budget and lower than last year due primarily to fewer traffic and parking fines issued, partly as a result of patrol staffing vacancies. However, now with fully staffed parking enforcement, as well as a significant fine increase for violations in residential parking districts that went into effect September 24th, and additional home football games, revenues are expected to rebound slightly. While some improvement continues to be noted from concentrated efforts related to collections in the past several years, after turning over about $2 million in traffic and $500 thousand in parking delinquencies, these accounts have 89% and 63% of their respective balances still outstanding.

- **Interest earnings** totaled $224,419 at the end of the third quarter, which represents 98.95% of budgeted interest and is about 146% of last year's earnings at this same point in time. The City's investment advisory firm has helped bolster what earnings there are in this category; however, the market continues to hover at historic lows, and this situation is expected to prevail through at least mid-2015 according to the Federal Open Market Committee.

Operating expenditures for all funds totaled $55,388,809 or 67.06% of the Amended Operating Expenditure Budget which is lower than last year in total dollars expended but slightly above as a percentage of budget. These results are primarily due to less spending this fiscal year early in the year on special projects and capital outlay. Also, while Community Development typically under-expends its grant appropriations due to the length of time to fruition of housing loan projects, the department is also experiencing lower grant allocation availability in recent years, particularly for administrative cost coverage, so is being even more cost-conscious than usual at this point in the year. Non-operating expenditures, which include capital projects, transfers, debt service, and contingency, totaled $26,400,048 or 62.47% of the $42,262,010 Amended Non-Operating Budget. In total, expenditures through the third quarter were $81,788,856 or 65.51% of the $124,858,889 budgeted, compared to 61.28% for the third quarter of last fiscal year. A breakdown of departmental expenditures by category is provided below:

OPERATING EXPENDITURES BY DEPARTMENT

DEPARTMENT	AMENDED BUDGET	PERSONNEL SERVICES	SUPPLIES & SERVICES	CAPITAL OUTLAY	TOTAL EXPENDITURES	% OF AMENDED BUDGET
Total Budget by Category		$46,203,880	$33,732,829	$2,660,170	$82,596,879	
City Manager's Office	$3,302,670	$919,866	$1,327,377	$0	$2,247,242	68.04%
Community Development	7,626,640	2,642,368	1,532,923	48,043	4,223,334	55.38%
Finance	4,790,210	2,364,118	1,063,469	0	3,427,587	71.55%
Fire	10,455,220	6,274,882	1,239,929	0	7,514,812	71.88%
Library	6,054,010	2,916,475	1,315,543	0	4,232,018	69.90%
Parks & Recreation	6,078,310	2,683,565	1,418,886	0	4,102,451	67.49%
Police	13,031,970	7,207,503	2,039,044	187,370	9,433,918	72.39%
Public Works	29,744,922	8,449,620	9,651,808	950,650	19,052,078	64.05%
Non Department	1,512,927	0	1,155,370	0	1,155,370	76.37%
TOTAL	$82,596,879	$33,458,398	$20,744,348	$1,186,064	$55,388,809	67.06%
Percent of Budget		72.41%	61.50%	44.59%	67.06%	

Significant expenditure highlights include:

- **Personnel Services** totaled $33,458,398 or 72.41% of the amended budget of $46,203,880 and though lower in total dollars spent was slightly higher as a percent of budget than in FY 11-12. Spending decreased $128,770 primarily due to vacancies throughout the City serving to offset higher healthcare costs. Payroll expenditures are expected to stay relatively close to the FY 11-12 actuals through FY 12-13 based on Exempt, AFSMCE, IAFF, and CPOA agreeing to no COLA increases and flat to declining health benefit premiums in calendar 2013. The CRCCA agreement for FY 12-13 was still pending at the end of the quarter.
- **Supplies and Services** totaled $20,744,348 or 61.50% of the amended budget of $33,732,829 The dollars spent in FY 12-13 are approximately 2.3% lower than the amount spent in FY 11-12 due to fewer special projects and an eye toward attaining a sustainable budget.
- **Capital Outlay** totaled $1,186,064 or 44.59% of the amended budget of $2,660,170. The dollars spent in FY 12-13 are approximately $233,217 less than in FY 11-12 due in part to the timing of planned purchases for additional vehicles for the Police and Public Works departments. Capital purchases do not tend to follow a regular pattern other than to sometimes weight toward the end of the fiscal year if practical, to ensure that sufficient budget remains for the acquisition.

NON OPERATING EXPENDITURES

- **Capital projects** totaled $2,598,536 or 26.82% of the amended budget of $9,687,779. Capital project expenditures tend to fluctuate year-over-year, and there are always projects that are either carried forward into following years or simply do not come to fruition. For FY 12-13, several projects have been carried forward to FY 13-14 or will be initiated in the last quarter.
- **Debt service** payments totaled $2,586,781 or 54.64% of the total budget of $4,734,140, which, though a lower dollar amount in total due to less debt outstanding, is aligned with the percentage of budget spent at the same time last fiscal year.
- **Transfers and Other Financial Uses** totaled $21,214,731 or 80.88% of the amended budget of $26,228,831. The majority of the transfers are related to capital projects. Other Financial Uses are related to the bond refunding identified previously. See the Capital Improvement Program section for information on the status of capital projects.

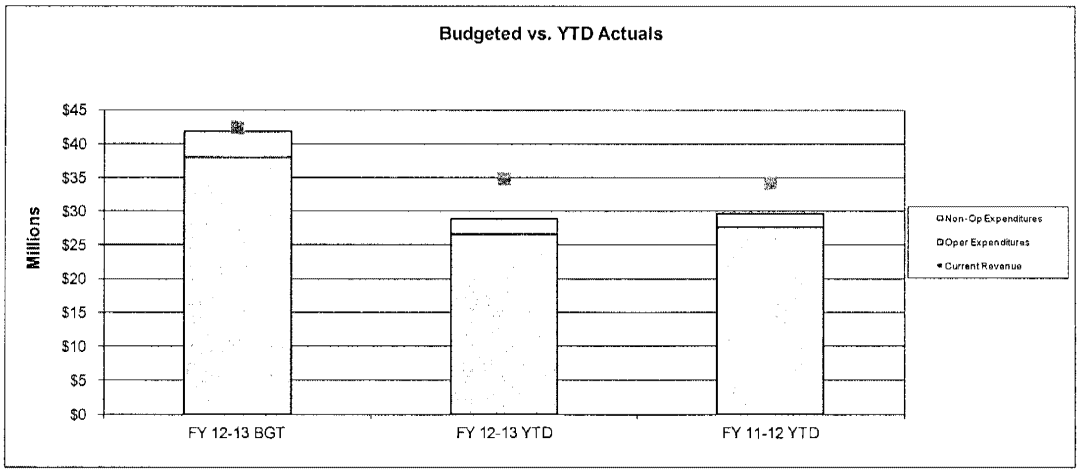
Please note that a reader's guide to some of the terminology used throughout the report is available through the hyperlink provided. As always, if you have questions or concerns about the information in this report, please do not hesitate to contact me at (541) 766-6990 or via e-mail at nancy.brewer@corvallisoregon.gov.

Nancy Brewer
Finance Director

PROPERTY TAX FUNDS COMBINED*

REVENUE	AMENDED BUDGET	3rd Quarter FY 12-13	UNAUDITED FY 12-13	FY 12-13 % REC/EXPEND	3rd Quarter FY 11-12	Y-T-D FY 11-12	FY 11-12 % REC/EXPEND
Budgeted Fund Balance	$5,271,580						
Property Taxes	$21,002,640	$1,097,482	$19,238,067	91.60%	$1,284,406	$19,250,502	94.95%
Other Tax	1,270,650	249,283	872,134	68.64%	238,040	805,558	69.98%
Licenses/Permits	5,708,610	1,594,886	3,740,768	65.53%	1,624,154	3,783,042	67.25%
Charges for Service	5,856,500	1,119,930	4,639,943	79.23%	1,099,800	4,366,130	79.82%
Intergovernmental	4,307,570	539,074	3,272,576	75.97%	564,229	3,315,745	66.92%
Fines/Forfeitures	830,110	188,441	512,773	61.77%	208,919	605,614	62.02%
Miscellaneous	574,030	94,455	459,314	80.02%	165,936	405,384	107.00%
Other Financing Sources	2,845,350	183,201	2,076,918	72.99%	104,722	1,667,111	86.11%
TOTAL CURRENT REVENUE	$42,395,460	$5,066,752	$34,812,492	82.11%	$5,290,207	$34,199,088	83.89%
EXPENDITURE BY DEPARTMENT							
City Manager's Office	$380,000	$54,005	$125,036	32.90%	$0	$0	0.00%
Community Development	1,311,410	308,236	915,296	69.79%	302,061	955,017	70.40%
Finance	629,740	156,105	452,212	71.81%	167,327	501,629	74.02%
Fire	10,455,220	2,480,615	7,514,812	71.88%	2,872,923	8,379,326	73.60%
Library	6,023,510	1,375,650	4,202,085	69.76%	1,400,814	4,257,713	65.19%
Parks and Recreation	6,078,310	1,242,647	4,102,451	67.49%	1,231,299	4,229,835	69.38%
Police	10,499,190	2,382,902	7,570,044	72.10%	2,454,248	7,569,616	71.43%
Public Works	1,218,900	187,217	719,775	59.05%	230,541	846,623	51.54%
Non-Departmental	1,362,100	328,726	1,011,922	74.29%	293,755	920,122	67.36%
TOTAL OPERATING EXPENDITURES	$37,958,380	$8,516,102	$26,613,633	70.11%	$8,952,968	$27,659,880	69.75%
Debt Service	$243,880	$25,530	$243,872	100.00%	$28,342	$244,422	100.00%
Transfers	3,005,900	107,773	2,047,291	68.11%	25,420	1,719,930	73.58%
Contingencies/Reserves	512,850	0	0	0.00%	0	0	0.00%
TOTAL ALL EXPENDITURES	$41,721,010	$8,649,405	$28,904,796	69.28%	$9,006,730	$29,624,232	69.62%
CURRENT REVENUE LESS TOTAL EXPENDITURES	$674,450	($3,582,653)	$5,907,697		($3,716,523)	$4,574,855	

* Includes General, Parks & Recreation, Fire & Rescue, and Library Funds



Mehlhaf's, Inc.

300 S.W. MADISON AVENUE CORVALLIS, OREGON 97333-4793 PHONE (503) 757-8070

Attachment 1

I would like to propose to the City Council that small businesses existing inventory of non compliance bags that were purchased before the bag ban became public be grandfathered in so that they may be used up and not create a financial hardship on these businesses and an unnecessary addition to our local landfill when they are disposed of in mass.

Sm Bag 12"x17" 1.75 mil – We ordered 5,000 in Oct 2010 and got 5,200 – We now have 3,200 left - Thus we used 2,000 bags in 2.33 yrs or 858 per yr, so we now have a 3.73 yr supply left @ $.1802 per bag = $576.64

Med Bag 15"x20" 1.75 mil –We ordered 10,000 in July 2011 and got 11,200 –We now have 8,100 left – Thus we used 3,100 bags in 1.75 yrs or 1,771 per yr, so we now have a 4.57 yr supply left @ $.2043 per bag = $1,654.83

Lg Bag 20"x23" 2 mil – We ordered 6,000 in July 2009 and got 6,200 – We now have 2,600 left – Thus we used 3,600 in 3.75 yrs or 960 per yr, so we now have a 2.71 yr supply left @ $.2936 per bag = $763.36

That's a total of 13,900 bags worth $2,994.83 to be sent to the landfill!!! I don't feel this is fair since we have to order our bags in a volume that takes us approximately 5 years to go through, and this ordinance came about in the fall of 2012, long after I had gotten in the most recent order. We will switch to a approved bag as we order replacement bags for our current inventory.

Richard Mehlhaf
Mehlhaf's Clothiers

MEMO

Attachment 2

NO

To City of Corvallis

STREET 501 SW Madison Ave

CITY, STATE Corvallis, OR 97339-1083

FROM MEHLHAF'S INC.
300 S.W. MADISON AVE.
CORAVLLIS, OR 97333
PHONE / FAX 541-757-8070

ATTN: Carla Halsworth
Management Assistant

DATE 6/6/13

SUBJECT Evidence of Bag Purchase Before Bag Ban

ACCT #

Enclosed please find copies of invoices of our three sizes of bags as evidence as to when we purchased them and in what amounts along with a copy of my letter to the City Council and the Administrative Services Committee detailing the inventory we now have, the costs, and an estimate on how long each bag will take us to work through. As I told the Committee ~~with~~ as we run out of a bag ~~that~~ we will be replacing it with a bag that meets the Bag ordinance.

Sincerely

IMPORTANT
WHEN RESPONDING TO THIS MEMO
PLEASE INCLUDE THE MEMO
NUMBER SHOWN ABOVE

SIGNED [redacted]

total 7/31/09

Invoice

Attachment 2, cont'd

NEUSCHWANGER ENTERPRISES INC
DBA PACKAGING SPECIALTIES
P O BOX 1649
LAKE OSWEGO OR 97035
(503) 620-3711

PACKAGING SPECIALTIES

Invoice Number: 0305017-IN
Invoice Date: 7/23/2009

Order Number: 0305017
Order Date 6/30/2009
Salesperson: M117
Customer Number: [redacted]

Sold To:
MEHLHAFS
300 SW MADISON ST
CORVALLIS, OR 97333

Ship To:
MEHLHAFS
300 SW MADISON ST
CORVALLIS, OR 97333

Confirm To:
TERI

Customer P.O.	Ship VIA	F.O.B.	Terms
RICH	REDDAWAY	MFG	NET 30 DAYS

Item Number	Unit	Ordered	Shipped	Back Ordered	Price	Amount
COMMAND						
/3	M	6.000	6.200	0.000	276.50	1,714.30

20x23 CUSTOM POLY BAGS
2 MIL BUFF POLY W/PATCH HANDLES
PRINTED 1C2S PMS #202C
BURGUNDY INK AS BEFORE

REPEAT ORDER 255256 3/06
CHANGED FROM DISCONTINUED TAN
POLY.

29.36¢ ea

Pmt 8/17/09
Ck 37549
R-29498

Net Invoice:	1,714.30
Less Discount:	0.00
Freight:	106.00
Sales Tax:	0.00
Invoice Total:	1,820.30

Entered 11/8/10

Invoice

Attachment 2, cont'd.

NEUSCHWANGER ENTERPRISES INC
DBA PACKAGING SPECIALTIES
P O BOX 1649
LAKE OSWEGO OR 97035
(503) 620-3711

PACKAGING SPECIALTIES

Invoice Number: 0320276-IN
Invoice Date: 10/27/2010

Order Number: 0320276
Order Date 10/12/2010
Salesperson: M117
Customer Number: [redacted]

Sold To:
MEHLHAFS
300 SW MADISON ST
CORVALLIS, OR 97333

Ship To:
MEHLHAFS
300 SW MADISON ST
CORVALLIS, OR 97333

Confirm To:
MW

Customer P.O.	Ship VIA	F.O.B.	Terms
RICH	UPS	MFG	NET 30 DAYS

Item Number	Unit	Ordered	Shipped	Back Ordered	Price	Amount
AMERICAN 3 M	M	5.000	5.200	0.000	167.10	868.92

12X16.5 CUSTOM POLY BAGS
1-3/4 MIL BEIGE LDPE POLY PRINTED
1C2S UNDER 50% INK COVERAGE
OF PMS #202C MAROON DIE CUT
HANDLES

EXACT REPEAT OF 265325 11/06

18.02¢ ea

Paid 11/19/10
Check 38390
R-29830

Net Invoice:	868.92
Less Discount:	0.00
Freight:	68.20
Sales Tax:	0.00
Invoice Total:	937.12

Entd 8/11/14

Attachment 2, cont'd.

Invoice

NEUSCHWANGER ENTERPRISES INC
DBA PACKAGING SPECIALTIES
P O BOX 1649
LAKE OSWEGO OR 97035
(503) 620-3711

PACKAGING SPECIALTIES

Invoice Number: 0328682-IN
Invoice Date: 8/2/2011

Order Number: 0328682
Order Date 7/5/2011
Salesperson: M117
Customer Number: [redacted]

Sold To:
MEHLHAFS
300 SW MADISON ST
CORVALLIS, OR 97333

Ship To:
MEHLHAFS
300 SW MADISON ST
CORVALLIS, OR 97333

Confirm To:
MW

Customer P.O.	Ship VIA	F.O.B.	Terms
RICH	REDDAWAY	MFG	NET 30 DAYS

Item Number	Unit	Ordered	Shipped	Back Ordered	Price	Amount
3	M	10.000	11.200	0.000	198.50	2,223.20
15X20 CUSTOM POLY BAGS						
1.75MIL BUFF POLY W/ PATCH HANDLE						
LOT		1.000	1.000	0.000	0.00	0.00
Lot						

800 per case
14 cases
3200
800
11,200

20.43¢ ea

Paid 9/1/11
check 38914
R-30063

Net Invoice:	2,223.20
Less Discount:	0.00
Freight:	64.68
Sales Tax:	0.00
Invoice Total:	2,287.88

MEMORANDUM
June 7, 2013

To: Mayor and City Council

From: Mary Steckel, Public Works Director

Subject: Resolution of Support and Authorizing the Application Submittal for the Transportation Growth Management (TGM) Grant Program to Complete the Transportation System Plan (TSP) Update

Issue:
The City of Corvallis submitted a grant application to the TGM Grant Program in the amount of $385,000. City Council action is required to complete the application process.

Background:
The City requested federal funding assistance of $300,000 to complete a TSP Update. The bulk of the program, if awarded, will be managed and organized by a consultant with City staff providing administrative oversight, fulfilling reporting requirements, and reviewing project submittals. The project is scheduled to begin in January 2014.

The City will provide a match of $85,000, for a total grant project cost of $385,000. The City's matching funds will be provided in the form of staff time, services and a cash match of $50,000. The match amount is accounted for in current budget items.

Discussion:
To apply for this grant, the City Council must approve a resolution that:

1. Grants authority to the City Manager to enter into an agreement with the TGM Program;
2. Expresses support from the City Council for the application;
3. Shows the capability of the City of Corvallis to fulfill its in-kind contributions; and
4. Shows that the City will strive to meet established deadlines for entering into a cooperative agreement with TGM.

Recommendation:
Staff recommends that the City Council adopt the resolution (attached).

Reviewed and concur:

James A. Patterson, City Manager

Nancy Brewer, Finance Director

RESOLUTION 2013-

A resolution submitted by Councilor _____.

Minutes of the meeting of , 2013.

WHEREAS, the City of Corvallis has applied for a grant in the amount of $300,000 from the Transportation Growth Management Program to procure contract services to implement the Transportation System Update, and;

WHEREAS, the grant application process requires an Official Resolution;

WHEREAS, the City supports the efforts outlined in the grant application;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES to grant authority to the City Manager to enter into an agreement with the Transportation Growth Management, to support the Transportation System Plan Update application submitted by the City of Corvallis, to ensure the capability of the City of Corvallis to fulfill its in-kind and cash contributions, and support efforts to meet established deadlines for entering into a cooperative agreement with the Transportation Growth Management.

_____
Councilor

Upon motion duly made and seconded, the foregoing resolution was adopted and the Mayor thereupon declared said resolution to be adopted.

MEMORANDUM

June 13, 2013

TO: Mayor and City Council

FROM: Nancy Brewer, Finance Director

SUBJECT: **Transfer Appropriations for Interfund Loan to the CD Revolving Fund**

I. Issue

To create appropriations and authorize an interfund loan.

II. Discussion

Increasing program delivery costs, coupled with a relatively rapid decline in federal resources since FY 10-11, have brought FY 12-13 revenues and expenditures much closer than in past years in the Community Development Revolving Fund. In each of the past two years expenditures have exceeded current revenues. Based on current projections through June 30 that account for slower than anticipated loan repayments and grant reimbursements, staff is recommending that an interfund loan of up to $120,000 be authorized by the end of FY 12-13 to attain a positive cash and fund balance in the Community Development Revolving Fund to meet financial reporting requirements.

The Development Services Fund has a higher projected fund balance and FY 12-13 revenues due to increased commercial activity and the Service Enhancement Review Fee (SERF) that was approved in January 2011and implemented incrementally over a three year period. Additionally, the fund has had sufficient savings in FY 12-13 to end the year with appropriations capacity to provide a one-year interfund loan to the CD Revolving Fund, at market rates, as permitted under GASB and local budget law.

Staff is recommending that approximately $120,000 in unused appropriations from FY 12-13 Community Development Department appropriations be transferred to Non-Operating Financial Uses in the Development Services Fund to provide sufficient appropriations for an interfund loan of up to that amount to the CD Revolving Fund at fiscal year-end.

III. Requested Action

Adopt the attached resolution transferring appropriations.

Review and Concur:

City Manager

Community Development Director

RESOLUTION 2013-__

A RESOLUTION TRANSFERRING APPROPRIATIONS WITHIN THE DEVELOPMENT SERVICES FUND FROM THE COMMUNITY DEVELOPMENT DEPARTMENT OPERATIONS TO NON-OPERATING TO FACILITATE AN INTERFUND LOAN TO THE COMMUNITY DEVELOPMENT REVOLVING FUND.

Minutes of the meeting of June 17, 2013, continued.

A resolution submitted by Councilor _____.

WHEREAS, ORS 294.463 allows appropriations to be transferred within a fund after the budget has been adopted; and

WHEREAS, the Community Development Revolving Fund is in need of an interfund loan to attain a positive cash and fund balance at the end of fiscal year 2012-2013; and

WHEREAS, the Community Development department will have savings in operating appropriations available in the Development Services Fund; and

WHEREAS, the Development Services Fund has capacity to grant an interfund loan to the Community Development Revolving Fund due to operational savings and sufficient fund balance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES that appropriations in the fiscal year 2012-2013 budget be transferred as shown below; and

BE IT FURTHER RESOLVED that the Finance Director be authorized to make the proper adjustments in the budget appropriations.

FUND	FROM	TO
Development Services Fund		
Community Development	$120,000	
Non-Operating Financial Uses		$120,000

_____
Councilor

Upon motion duly made and seconded, the foregoing resolution was adopted and the Mayor thereupon declared said resolution to be adopted.

MEMORANDUM

TO: **Collaboration Corvallis Steering Committee**

FROM: **Eric Adams, Project Manager**

DATE: **May 31, 2013**

SUBJECT: **Fourth Round of Work Group Recommendations**

Since the March 18, 2013, Steering Committee meeting, the three project work groups have continued to address the remaining Scope of Work objectives to develop a fourth round of recommendations. A brief summary of these recommendations is provided below. Please note that the Parking and Traffic Work Group is currently assessing potential recommendations regarding transportation planning and traffic management. These recommendations will be available for the Steering Committee's consideration following its June 4, 2013, meeting.

Also attached to this memorandum are updated versions of the two recommendation matrices that were presented to the Steering Committee at their last meeting. These revisions include updates on the status of recommendations accepted prior to the March 18 meeting, as well as the addition of recommendations accepted at that meeting.

I. Neighborhood Livability

Scope of Work Objective 5 – Consider the merits of creating an ongoing City and OSU supported group that would monitor achievement of livability goals and make recommendations to the City and OSU

Recommendation

1. **The Neighborhood Livability Work Group recommends to the Collaboration Corvallis Steering Committee that the City of Corvallis and Oregon State University form a Community Relations Advisory Body by January 1, 2014, that is tasked with the following objectives:**
   - **Monitor the success of policies and programs implemented to promote and improve neighborhood livability.**
   - **Identify the need for adjustments to existing neighborhood livability programs in response to changing conditions.**

- **Assist with the development of new policies and programs that promote neighborhood livability as the dynamic between the university and surrounding neighborhoods changes.**
- **Facilitate communication throughout the community in support of neighborhood livability.**

The work group recommends that the advisory body be composed of stakeholders representing the University's administration, local government, student organizations, community groups and neighborhood associations, rental housing owners and managers, healthcare advocates, and local businesses. The City of Corvallis and Oregon State University should identify and commit staff necessary for managing and administering the advisory body in order to achieve the stated objectives. Costs associated with forming and sustaining the advisory body should be shared equally by the City of Corvallis and Oregon State University. As appropriate, the City of Corvallis and Oregon State University should consider guidance from the International Town Gown Association concerning the formation and operation of such advisory bodies.

Basis for Recommendation

In response to Objective 5, the Neighborhood Livability Work Group reviewed the purpose and composition of similarly tasked advisory bodies from the following communities.

- Eugene, Oregon (http://gcr.uoregon.edu/community-relations);
- East Lansing, Michigan (http://wealllivehere.org/);
- Tucson, Arizona (http://externalrelations.arizona.edu/community.cfm); and
- Berkeley, California (http://office.chancellor.berkeley.edu/gcr/StdtNeighborRelations.shtml).

Discussions with staff who support these groups confirmed that their sustained existence has positively influenced relations between each respective university and local community. Many of the topics and issues addressed by these groups closely mirror those that caused the initiation of the Collaboration Corvallis project. Given the level of effort that has been expended to identify and implement strategies for resolving these issues, the work group believes it is prudent to create a standing advisory body charged with monitoring the success of those strategies over time, and exploring the need for new or alternate strategies as needed.

The recommended composition of the advisory body is generally consistent with the spectrum of stakeholders identified through the Collaboration Corvallis project. The work group concludes that their participation is essential in order for continued efforts to improve and sustain neighborhood livability to be effective.

II. Neighborhood Planning

Scope of Work Objective 2 – Review current development standards, and identify potential measures that would minimize potential impact from the creation of high density housing in or near lower density residential areas.

a. **Develop and enact Land Development Code (LDC) language that would implement selected mitigation measures (measures to mitigate impacts to neighborhood character, privacy, parking, and other issues, as identified).**

The recommendations presented below fall into two general categories: specific development standards intended to foster neighborhood-compatible infill development; and regulatory mechanisms for managing the design of residential infill development in order to achieve compatibility. Although not specifically defined by the Neighborhood Planning Work Group, the term "infill development" generally applies to the development or redevelopment of a property that is located within an established neighborhood characterized by distinct architectural styles and patterns of development (i.e., buildings of similar height, mass, and scale). For many existing neighborhoods within the Project Area, infill development may also result in redevelopment of properties at a higher density than was originally present because of changes in a property's zoning and the corresponding allowed density. While the Corvallis Comprehensive Plan places emphasis on encouraging a compact urban form through the efficient use of urbanized land, those aspirations are balanced against a desire to ensure that new development is compatible with its surroundings. The following recommendations were crafted with those considerations in mind.

A. Development Standard Recommendations

1. **The Neighborhood Planning Work Group recommends that the City of Corvallis explore implementation of a maximum Floor Area Ratio standard as the preferred method of addressing the mass, bulk, and scale of infill development in residential zones.**

2. **The Neighborhood Planning Work Group recommends that the City of Corvallis explore implementation of an average front yard setback standard for residential infill development, which would be determined based on existing development, but not include new dwellings constructed within the last five years.**

3. **The Neighborhood Planning Work Group recommends that the City of Corvallis review the Pedestrian Oriented Design Standards contained in the Land Development Code and revise them to reduce repetition of design and monotonous building faces. Key issues that should be addressed are: (1) making roof height articulation a mandatory design standard; (2) increasing the minimum length and depth of horizontal building offsets, and require horizontal offsets as a mandatory design element; and (3) ensure that such standards apply to multifamily dwelling types, as currently defined. Amendments to the current standards should also be made to require provision of roof articulation and building offsets more frequently as the length of a structure increases. Lastly, for developments with more than one building, options for implementing a quantitative measurement of minimum differentiation (e.g., percent differentiation) of dimensional aspects of building design should be explored. In conducting this review and making corresponding revisions, the City of Corvallis should consider the**

approaches taken by the City of Sumner, Washington and Town of Wake Forest, North Carolina.

4. **The Neighborhood Planning Work Group recommends that the City of Corvallis review Corvallis Land Development Code Section 4.10.60.04 (menus for Pedestrian Features and Design Variety) to explore whether additional dwellings types should be regulated by the subject standards. Particular attention should be paid towards assessing whether the current standards adequately address concerns raised about infill residential development through the Collaboration Corvallis project.**

5. **The Neighborhood Planning Work Group recommends that the City of Corvallis explore amending the Corvallis Land Development Code to require placement of off-street parking facilities (e.g., garages and driveways) towards the rear of infill residential lots with frontage along an improved alley. Further, amendments to the Land Development Code should be explored that would enable placement of off-street parking facilities at the rear of lots without alley frontage in situations where such configuration is common within the given neighborhood area. Issues to be considered include adjustments to minimum required driveway widths, minimum driveway and garage setbacks, maximum lot coverage, storm water drainage requirements, requiring shared driveways, and alley standards that would reflect development patterns in established residential neighborhoods.**

6. **The Neighborhood Planning Work Group recommends that the City of Corvallis consider amending the Corvallis Land Development Code to require varied roof plane orientation at least once every two to three units for multifamily dwelling types.**

7. **The Neighborhood Planning Work Group recommends that the City of Corvallis consider applying amendments regarding exterior building wall and roof articulation, and roof plane orientation to all areas of the city, and not just within the Collaboration Corvallis Project Area.**

8. **The Neighborhood Planning Work Group recommends that the City of Corvallis consider amending the existing Corvallis Land Development Code provisions regarding calculation of minimum window coverage percentage on dwelling facades to include the wall area within gabled building ends. In addition to windows, other architectural design elements should be allowed or required within gabled ends in order to satisfy the coverage requirement.**

<u>Basis for Recommendations</u>

The set of recommendations presented above responds to issues identified by the work group concerning the architectural compatibility of recent residential infill development. In general, these issues fall into one or more of the following categories, which were determined by comparing examples of recent infill development with the dwelling types and styles that are original to most of the neighborhoods within the Collaboration Corvallis Project Area.

- Building mass, bulk, and scale
- Building setbacks
- Architectural elements and site design

Based on this comparison, it was determined that the existing Land Development Code standards, which are tailored more toward development of "greenfields", have often resulted in new dwellings

that are of larger mass and scale than original dwellings; allow new, infill dwellings to be set back from the street at distances that do not complement the existing pattern of building placement along a block face; and do not always result in sufficient architectural design variation, especially for multifamily dwellings composed of several attached units. Each of these issues may cause infill development to be architecturally incompatible with original forms of residential development, and gradually erode the "character" of traditional neighborhoods within the Project Area as redevelopment takes place.

Concerns over compatibility were balanced against the recognition that the potential for an appropriate increase in density within these neighborhoods should not be precluded. Based on assessments of similar infill development regulations implemented in other jurisdictions researched for this topic, including Portland, Oregon; Sumner, Washington; Boulder, Colorado; Lake Oswego, Oregon; Geneva, Illinois; Alexandria, Virginia; Edmonton, Alberta; and Blacksburg, Virginia; the recommendations presented above should facilitate redevelopment to at least the minimum density permitted in each residential zone within the Project Area.

B. Regulatory Mechanism Recommendations

1. **The Neighborhood Planning Work Group recommends that the Infill Task Force or another representative work group be asked to work on concepts and recommendations for possible design guidelines similar to those devised for Ashland, Oregon and Portland, Oregon with illustrative, graphic examples. In working on the task, it is suggested that outreach to neighborhood groups be included. When design guidelines are adopted by the City of Corvallis they should be posted on the City's website and incorporated into a document that will be given to all developers when they first inquire.**

Basis for Recommendation

The work group has reviewed several examples of infill design guidelines from various jurisdictions across the country and within Oregon. In general, these documents provide illustrated descriptions of the preferred forms of infill residential development each community hopes to encourage. They are typically based on the goal of encouraging key characteristics of architectural styles and development patterns found in existing neighborhoods. Aspects of development commonly addressed by design guidelines include: the height and location of new construction in relation to existing dwellings; roof forms; window and door styles and their placement; exterior siding materials, roofing materials, building orientation; the location of off-street parking (i.e., driveways and garages); and the overall massing and scale of new construction in relation to existing development.

In some jurisdictions, these documents merely serve as informational pieces that are made available to help guide architects and contractors when designing new dwellings, while other jurisdictions utilize design guidelines as subjective decision criteria applied through a quasi-judicial design review process. In Oregon, because of "needed housing" law, the latter approach is only possible when an owner of residential property consents to such regulation (e.g., through some type of historic preservation program). In all other cases, only clear and objective standards that do not require the exercise of discretion can apply to residential development. This limitation, which is enforced through state law (ORS 197.307), significantly constrains the

ability to regulate architectural design, especially aspects that are easier to describe in qualitative terms or may warrant flexibility. Crafting a set of design guidelines as described above would help bridge a "regulatory gap" and allow the community to articulate, in layman's terms, the preferred character defining elements of neighborhood-compatible development.

Such guidelines would only serve an advisory purpose, and compliance with them would not be required through the land use or development permitting process – unless they were also relied on as decision criteria through a discretionary design review. This concept is discussed below as part of the "Historic Preservation Lite" recommendation.

2. **The Neighborhood Planning Work Group recommends that following development of design guidelines and implementation of recommended amendments to existing Land Development Code standards, including those previously forwarded to the Steering Committee, the City of Corvallis should solicit neighborhood input on the adoption of neighborhood-specific design standards.**

Basis for Recommendation

Through its review of various strategies implemented in other jurisdictions to regulate the design of residential infill development, the Neighborhood Planning Work Group considered the merits of implementing design standards that would only apply to certain neighborhoods areas. This approach is used by the City of Portland, among others, to require inclusion of particular design elements so that new development is compatible with the style and character of a given neighborhood. However, prior to taking this approach, the work group concluded that it would be prudent to formulate residential design guidelines based on the architectural styles and development patterns found in each neighborhood, particularly those within the Project Area. It is anticipated that a better understanding of whether and to what extent neighborhood-specific design standards are necessary.

If the community concludes that neighborhood-specific design standards are a necessary and desirable means of regulating infill development, a design standards overlay would be a useful means of implementing those clear and objective standards so they apply to only certain areas rather than throughout the city. For example, the City of Portland uses this mechanism to implement specific portions of its Community Design Standards. As applied in Corvallis, a design standard overlay might be structured to require a certain minimum roof pitch or allow a different maximum building height in a given neighborhood than could otherwise occur elsewhere in the city. This approach could be implemented in conjunction with a set of advisory design guidelines that would address aspects of design that are difficult to regulate through clear and objective standards (e.g., window placement patterns).

3. **The Neighborhood Planning Work Group recommends that City of Corvallis staff develop and present to the City Council a proposal for implementing a "Historic Preservation Lite" district. The proposal should consider and address the following elements:**

    a. **Incentives for property owner participation – such as flexibility from minimum off-street parking standards, building setbacks, and building heights that would apply upon**

redevelopment of a property, as well as potential reductions to land use and building permit fees associated with the redevelopment of a property.

b. Considerations for the inclusion of a property in a "Historic Preservation Lite" district, including:

i. Whether a property owner's decision to participate upon formation of a district should be permanent and binding on all future owners.

ii. Whether opportunities should be provided for additional properties to be added to a district after its original formation.

iii. Whether the age of a structure (i.e., the date or general period of its original construction) should be used as a criterion for participation in a district.

iv. Whether and to what extent the physical condition of a structure should be used as a criterion for participation in a district.

v. Reliance on information about the appearance, architectural style, and age of existing dwellings gathered through the Neighborhood Photo Survey.

Basis for Recommendation

Based on testimony received by the Neighborhood Planning Work Group, residents of neighborhoods within and outside of the Collaboration Corvallis Project Area are concerned about the demolition of existing dwellings, particularly those which could qualify as historic resources. In addition, subsequent redevelopment may not always be compatible with original patterns of development, which, as discussed above, can cause adverse impacts to a neighborhood's character and sense of place.

The "Historic Preservation Lite" concept may be an effective means of regulating the demolition of existing residential structures and subsequent redevelopment. In comparison to the existing historic preservation program managed by the City of Corvallis through provisions in Chapter 2.9 of the Land Development Code, this approach would allow for the formation of locally adopted districts regardless of the number of participating properties. Consistency with preservation standards for a National Historic District would also not be necessary, meaning that the scope of regulated development activities would not have to be as comprehensive as the range of activities currently addressed by Chapter 2.9. In addition to demolition and redevelopment, these comparatively rigorous standards are intended to protect and preserve the historic integrity of listed resources through application of discretionary review criteria addressing a broad spectrum of architectural design elements. Some property owners have expressed concern over this degree of regulation if the primary concern is only related to demolition and redevelopment.

Despite constituting a lesser degree of protection for potentially historic resources, it would be possible to create this locally imposed and locally regulated district as a type of historic preservation measure and qualify for the exemption in state "needed housing" law that allows a local jurisdiction to apply subjective review criteria to housing development. Other Oregon jurisdictions, such as the City of Salem and Washington County, have successfully taken this approach by devising a set of review criteria to determine when it may be in the community's

best interest to allow demolition of historic homes, as well as inform the design of subsequently redeveloped dwellings so they are compatible with the surrounding neighborhood.

Because participation in the district would be voluntary, the result could be a broad range of participation, such that some blocks might have no or only a few participating properties, while other blocks might have full participation. The implementing ordinance could be crafted so that once a property owner consents to participation, the property remains "in the district" in perpetuity. Alternatively, the ordinance could be written to allow for removal of a property under certain circumstances.

For those participating properties, the model discussed by the work group would regulate demolition of existing dwellings and subsequent redevelopment through a mandatory design review process using discretionary criteria as a basis for determining whether demolition was appropriate and redevelopment was compatible. Those criteria could be the same design guidelines discussed above, a set of review criteria supplemented design standards, or some combination thereof. As with the design standards overlay, it is not anticipated that property owners would incur any costs as a result of participating, unless one of the regulated activities was proposed through the design review process.

IV. Summary

The Steering Committee should expect to receive additional recommendations in response to the following Objectives at the next quarterly meeting, which is anticipated to occur near the beginning of September 2013.

Neighborhood Planning

Objective 2 – Review current development standards, and identify potential measures that would minimize potential impact from the creation of high density housing in or near lower density residential areas.

a. *Develop and enact Land Development Code (LDC) language that would implement selected mitigation measures (measures to mitigate impacts to neighborhood character, privacy, parking, and other issues, as identified).*

Forthcoming recommendations from the Neighborhood Planning Workgroup will focus on the possible creation of additional mechanisms that would regulate the demolition of dwellings that are not addressed by existing or recommended historic preservation measures.

Objective 1 – Consider pros and cons of making adjustments to zoning/density in areas near the University.

a. *Review current zoning, City Comprehensive Plan, other local policy direction, as well as direction from the statewide planning program (DLCD).*

b. *Determine if there are appropriate locations within the City for lower and higher density housing.*

(1) Include in the review, impact on traffic and livability in other areas; CTS impact; and other pedestrian, bicycle, and traffic impacts that would occur from having higher density zoning in areas further away from campus.

c. Determine if the benefits of making such adjustments outweigh the disadvantages.

Several underlying considerations related to Objective 1 have been previously discussed by the Neighborhood Planning Work Group. Potential recommendations in response to this objective may be limited to identification of the trade-offs associated with adjustments to existing zoning patterns and what additional research would be necessary in order to inform decisions to rezone certain areas.

<u>Parking and Traffic</u>

Objective 3 – Find opportunities to better manage traffic volumes and parking impacts within study area.

Objective 5 – Implement combined solutions to address both traffic and parking as much as practicable.

Since the March 18, 2013, Steering Committee meeting, the Parking and Traffic Work Group has received presentations from various City of Corvallis and OSU staff concerning the existing framework for transportation planning. Issues discussed so far include integration of transportation planning efforts conducted by the City and OSU; programs and incentives for reducing use of single occupancy vehicles as a primary transportation mode; programmatic and infrastructure improvements that could improve the safety of bicycle and pedestrian travel. Additional presentations on regional transportation planning efforts and connections between the local regulatory process for land use and provision of transportation facilities are scheduled for upcoming meetings. Once the work group has had an opportunity to fully assess this new set of information, the anticipated outcome will be recommendations on transportation planning policies that should be accounted for through future updates to the City of Corvallis Transportation Master Plan, the OSU Campus Master Plan, and related efforts at the regional level.

MEMORANDUM

TO: **Collaboration Corvallis Steering Committee**

FROM: **Eric Adams, Project Manager**

DATE: **May 28, 2013**

SUBJECT: **Draft Proposed Scope of Work for Housing Work Group**

The Collaboration project management team, in conjunction with leaders from the City of Corvallis and Oregon State University, have developed a proposed Housing Work Group charge for your consideration and comment. An outline is presented below along with potential membership interests. Also, some general considerations are identified.

There will be an opportunity to discuss this proposal and provide feedback to the project management team at the June 4, 2013, Steering Committee meeting.

Housing Work Group Charge

- Serve as an advisory body in assisting city of Corvallis' efforts to implement the study and policy review called for in the City Council's housing goal.

- Work collaboratively with Benton County to examine mixed housing needs in a regional context and as appropriate, engage regional partners in developing and recommending solutions to the county and Collaboration Project Steering Committee.

- Investigate best practices related to addressing housing needs, particularly in comparable university communities.

- Act as a housing sounding board; evaluate opportunities for OSU to increase student housing on campus, and to link student housing growth to the OSU Campus Master Plan and opportunities for the city of Corvallis and Benton County to increase the supply of affordable family housing.

- Review concepts and provide recommendations to the City and OSU related to incentives for off-campus student housing projects, e.g. those located in preferred areas or those projects that provide certain features that will be compatible for neighborhoods, downtown business district and/or provide enhanced services for students.

- Evaluate the housing needs of OSU faculty and staff – and other Corvallis employers -- and recommend actions that would address these needs.

Potential Representation

- Local affordable housing advocate
- OSU Housing and Dining representative
- Local housing developer
- OSU student
- City of Corvallis Planning Commission member
- City of Corvallis Housing and Community Development Commission member
- Financial services industry (i.e., bank/credit union) representative
- OSU Faculty Senate representative
- Benton County representative
- Real estate professional
- OSU Human Resources representative
- Private sector employer representative

Considerations

- The work of this housing work group will likely extend beyond the Collaboration Project's three-year timeline. It is to be expected that work will continue beyond this horizon and the City and OSU will need to support ongoing work in areas such as housing. It is contemplated that the Housing Work Group will typically meet on a monthly basis.

- Housing is a multi-faceted and complex issue that involves many local and regional interests. We need to ensure that the Housing Work Group's scope of work, representation and expertise and requisite staff support stands a good chance to result in a meaningful and actionable product.

- In that there are multiple entities engaged in housing related work and policy, we will need to be sensitive to real or perceived overlap of responsibilities, etc. As part of developing a specific work plan, the Housing Work Group will need to become familiar with the roles of other entities in order to develop a specific work plan that complements and enhances the existing housing related work within the community and region.

City Manager Monthly
June 2013

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The Budget Twist and the College Baseball World Series – A message from City Manager Jim Patterson

It is a challenge to derive a balanced budget proposal in only four to six months, especially in the current economic environment where deficits from one year to the next can be as high as seven figures. The Corvallis Budget Commission approved a City budget on April 30. Less than two weeks after, the City of Corvallis was notified of the Hewlett Packard Property Tax Appeal decision. With that decision in favor of the HP appeal, the City of Corvallis owes $2.1 million dating back to 2008 and the impact of the appeal to the permanent rate property tax collection in the future is expected to be at least $600,000.

City staff, primarily our Finance Department led by Finance Director Nancy Brewer, immediately jumped into action to address the pending adoption of a balanced budget with the financial picture literally changing overnight and the June 30 deadline for budget adoption looming. After consultation with Department Directors and the City Manager, Finance staff did what all professionally trained and dedicated public employees do … they did their job! Finance Director Brewer led the effort to pull together all the hard work that went into formulating a fiscally prudent plan to deal with this unexpected, unanticipated financial emergency in a calm and seamless manner. Finance Director Brewer provided an immediate heads up to the City Council at the May 20 Council meeting, again at the City Council work session on May 22 with Budget Commissioners present, and again with the City Council on June 3, 2013, all in open public meetings. Thanks to this exemplary effort, the City Council will be able to adopt a balanced budget at their June 17 meeting. Now the conversation will shift to consideration of a local option levy for public safety and a renewal levy 02-74. The City Council will hold a special meeting on July 8, 2013 to hear public testimony on proposed levy packages and costs.

Congratulations are in order to Head Coach Pat Casey, his staff, and the Oregon State Beavers baseball team for their exciting win in the Super Regional over Kansas State. With the game 3 victory here in Corvallis, the win sends them back to Omaha for the College Baseball World Series. The existence of OSU athletics is an important part of our local and regional economy and with this latest success by the 2006 and 2007 College World Series Champions, the City of Corvallis and the State of Oregon are once again front and center. Thank you Oregon State Student-Athletes for your contributions to our great City and Go Beavers!

Remember to support our Corvallis Farmers Market every Wednesday and Saturday from 9am to 1pm at 1st and Jackson. For more information about important community events taking place in Corvallis, check out www.VisitCorvallis.com. Support of these and additional events are vital to our local economy.

Enjoy your summer!

CORVALLIS
ENHANCING COMMUNITY LIVABILITY

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CITY MANAGER'S REPORT

JUNE 13, 2013

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2013-05

REPORTING PERIOD: MAY 2013

I. ORGANIZATIONAL HIGHLIGHTS

- The City Manager commends Finance Director Nancy Brewer and her staff for their efforts and hard work to address the unexpected Hewlett-Packard property tax appeal decision.
- The City Hall Ambassador Program was recognized with the International Institute of Municipal Clerks Program Excellence in Governance Award during the international conference. The Ambassador Program, staffed almost entirely by volunteers, processed almost 3,000 inquiries during its first year and saved the City one full-time-equivalent staff position.

II. MAYOR'S DIARY

I have engaged in the following activities, in addition to meeting and corresponding with constituents and presiding at the twice-monthly City Council meetings and meetings with Council leadership:

Speaking engagements
- ROTC Joint Service Review
- City of Corvallis employee recognition event
- Benton County Drug Treatment Court graduation
- Willamette Angel Conference
- Leadership Corvallis government day
- Fund-raising Walk for Cystic Fibrosis

Special meetings
- Attended Benton County-hosted Legislative Breakfast with local state legislators
- Staffed Government Comment Corner at Corvallis-Benton County Public Library
- Met with Eugene Mayor Kitty Piercy and Regional Solutions staff to discuss planning framework for Regional Accelerator and Innovation Network (RAIN) project

- Testified at Oregon Senate sub-committee meeting concerning the RAIN project
- Co-facilitated an Ethical Decision Making workshop for local high school students
- Met with Oregon State University (OSU) graduate students doing project concerning the Center Against Rape and Domestic Violence
- Met with OSU students doing project concerning public safety
- Attended Cascades West Council of Governments Finance and Board of Directors meetings
- Chaired oversight committee meeting of Benton County's 10-Year-Plan to End Homelessness
- Participated in conference call to help plan League of Oregon Cities' annual conference
- Attended dedication of OSU's Native American Cultural Center
- Attended annual tour of Rock Creek Watershed
- Attended fund-raising event for Soroptimist International of Corvallis
- Attended fund-raising dinner for Corvallis-Uzhhorod Sister Cities Association

Proclamations
- National Historic Preservation Month
- Older Americans Month
- Public Service Recognition Week
- Drinking Water Week
- Police Week

Appointments
- Citizens Advisory Commission on Civic Beautification and Urban Forestry
- Citizens Advisory Commission on Transit (2)
- Corvallis-Benton County Public Library Board

III. FIRE

A. Department Highlights

Response Activity - May 2013	City	Non-City	Total
Fires	16	2	18
Overpressure/Rupture	0	0	0
Requests for Ambulance	302	83	385
Rescue (Quick Response Team)	102	24	126
Hazardous Condition	8	0	8
Service Requests	41	11	52
Good Intent	43	17	60
False Calls	28	4	32
Other	0	0	0
TOTAL RESPONSES OVERALL	**540**	**141**	**681**

- Firefighter Dan Cox retired, effective May 31, following more than 26 years of service. He will work back under contract for a limited period of time.
- The process to fill the Fire Prevention Officer vacancy (due to Carla Pusateri's retirement) closed May 10. Panel interviews will be held during the first week of June.
- The process to fill the Battalion Chief vacancy (due to Charles Carver's retirement) is underway.

IV. LIBRARY

A. Department Highlights

- During May, 47,407 patrons visited the Corvallis Library – an average of 1,823 per open day. Another 85,941 users accessed Library services from their computers. System-wide, 134,129 items were checked out, including 25,305 held items that were picked up.
- System-wide, 120 programs were held, with 3,409 attendees of all ages.
- A hearing loop system was installed in the Main Meeting Room. The system connects to the existing sound system so that attendees with specially equipped hearing aids can tune in. We also have a few individual receivers with headphones that will do the same thing for folks without their own hearing aids.
- We reviewed documentation for the upgrade to the Library information line telephone system. Several parts of the script that greet incoming callers will be revised.
- The first session of a new book club for adults focusing on graphic novels was held.
- We officially moved in and opened the new Monroe Community Library.
- The Library received a $20,000 grant from the Margaret E. Hull Advised Fund of the Oregon Community Foundation. The grant is to be used to benefit the new Monroe Community Library. Planned purchases include meeting room furniture, audio-video equipment, and kitchen appliances; decorative wooden benches; and children's area supplies and furnishings.
- All plans have been finalized for Summer Reading 2013 "Dig into Reading," which will have a soft kick-off June 8. The first program, featuring the Chintimini Music Festival Players, will be June 19. The United States Department of Agriculture free lunch program is scheduled to begin June 17.

B. Other

- Programs during May included essayist Kathleen Dean Moore and pianist Rachelle McCabe presenting "Can Words Sing? Can Music Speak?"; "Writing Lives: the short personal essay from invention to publication," a

two-part writing workshop presented by George Estreich and Aria Minu-Sepehr; "The Voters Have Spoken: Oregon's Controversial Ballot Initiatives," another session of the Big Conversation series, co-sponsored by Oregon Humanities; Native American author and storyteller Joseph Bruchac performed "Keepers of the Earth: Native American Stories and Music," an event co-sponsored by the Spring Creek Project; a book release event for Judith Li's Ellie's Log: Exploring the Forest Where the Great Tree Fell.

- Library staff provided a tour for three librarians visiting from Fujian Province, China, through the Horner Library Staff Exchange Project. The librarians were from an academic library, a public library, and the provincial library.

V. PARKS AND RECREATION

A. Department Highlights

Administration/Planning

- Began developing a healthy vending and nutritional policy for programs and events.
- Formed a marketing committee to enhance rental occupancy and programming in low periods.
- Recruited volunteers for Avery Administration Building.
- Continued construction of the Rotary picnic shelter at Willamette Park.
- Determined solution to repair the "dinosaur bones" in Avery Park-project to be completed in June.

Aquatic Center

- 2,400 patrons participated in 50 pool rentals.
- In preparation for the summer season, trained 80 lifeguards in orientation, policy and procedures, and rescue and accident prevention skills.
- Friday Family Movie Night was one of the largest ever, with more than 80 children and parents participating.
- 1,167 children and adults participated in the swimming and water safety lessons.
- The Long Course (50 Meters) Invitational Swim Meet held May 17-19 brought more than 1,200 athletes and spectators from communities across Oregon and the region.
- 1,633 adults and seniors participated in the Fitness and Therapy classes.
- Certified 43 citizens in CPR, First Aid, and other health- and safety-related courses.

Parks and Natural Areas

- Replaced the playground fall material at Chintimini and Peanut Parks, bringing them back into compliance with safety standards.

- Began rough mowing of tall grass areas for fire prevention and weed control.
- Repaired the trip hazards on the asphalt path in Riverbend Park.

Recreation

- Youth lacrosse program had 89 participants, up 14 from last season.
- Staff participated in the preparation of the 21st Century Grant for Corvallis School District 509J. The Boys and Girls Club, OSU, Benton County Health Department, and Parks and Recreation Department worked on the after-school program proposal.
- Adult softball was back on schedule after a few days of rained-out games.
- Presented the cost-recovery methodology and Family Assistance program at the Healthy Kids Healthy Communities Annual Conference. Staff travel expenses were paid for through the Robert Wood Johnson Foundation.

Senior Center

- Celebrated National Older Americans Month with an event commemorating National Health and Fitness Day May 29. This event focused on marketing the Senior Center and inviting new people to visit, while promoting fitness programs.
- Sent 30 participants on trips to hear the Dalai Lama speak in Portland, Oregon, and to attend the Iris Gardens Memorial Day barbeque.

VI. POLICE

A. Department Highlights

Officers investigated 2,153 incidents this month. Following are the highlights:

- Detectives followed up on a series of residential burglaries. They located a backpack that was left at the scene of an attempted burglary in the area. They located stolen property from the burglaries, as well as paperwork belonging to the suspect. The crime laboratory was able to identify the same suspect from fingerprints lifted off some recovered property. The 23-year-old man was charged with Burglary, Attempted Burglary, Theft, and Identity Theft.
- Detectives set up an undercover on-line persona of a 14-year-old girl. The account was contacted by a 65-year-old man. They made arrangements to meet; and when he arrived in Corvallis, he was met by detectives, who arrested him and charged him with On-line Sexual Corruption of a Minor. Detectives later served search warrants on his truck, phone, on-line account, and residence and seized evidence.
- An officer was involved in a short pursuit while attempting to stop a vehicle for a traffic violation. The driver fled on foot and was apprehended a short distance away. The vehicle was seized for a search warrant after a K-9

alerted positively to the presence of drugs. A scale and several empty baggies and containers with methamphetamine and heroin residue were discovered during a consent search of the driver's property. The suspect was charged with Pursuit, Warrant Arrest, Possession of a Controlled Substance-Meth, and Reckless Endangering.

- Records staff processed 1,215 Police reports, entered 449 traffic citations, and performed 276 background checks. Staff generated 76 incident reports, 13 percent of the total reports taken during this reporting period.

Tactical Action Plans (TAP)

- TAP-8 Battle of the Bands/Flat Tail Music Festival at OSU
  Additional staffing was brought in and bicycle teams were deployed to address livability issues surrounding the event. Over the course of the weekend, three fraternities received second response notices (SRNs) and related citations (Hosting/Loud Noise, etc). Dozens of SRNs were served, and many non-traffic citations were issued. Oregon State Police Mobile Response Team provided additional support.

9-1-1 Center Calls for Service

- The Corvallis Regional Communications Center dispatched 3,314 calls for police, fire, and medical assistance this month as follows:

POLICE		FIRE AND MEDICAL	
Corvallis Police	2,153	Corvallis Fire/Ambulance	559
Benton County Sheriff	460	Other Fire/Medical	35
Philomath Police	107		
TOTAL	2,720	**TOTAL**	594

B. Other

- Officer Sapp and Roxy attended inter-agency K-9 training with the Albany Police Department and the Linn County Sheriff's Office.
- Sergeant Goodwin spoke at an OSU Panhellenic Council (sorority leadership) meeting.
- Officer Kantola presented to two health classes at Corvallis High School, speaking about the dangers of drugs and drinking and driving.
- Officer Withington participated in the "Light it Up" bicycle safety event with Public Works.
- Officer Molina attended the career fair at Portland State University.
- Officer Christoson gave a presentation on driving to members at the Elks Lodge.
- Officer Stauder completed two presentations at Corvallis High School discussing sex crimes with students.

- Officer Parrish and Officer Sapp attended the Basic Instructor Development Course
- Officer Brenner attended training regarding responding to Alzheimer's patients.
- Officer Kantola and Detective Duncan attended the annual Drug Recognition Expert conference in Grand Ronde, Oregon.
- Detective Poole attended the 2013 Computer and Enterprise Investigations Conference in Orlando, Florida.
- Detective Poole attended the Federal Bureau of Investigation Hostage Negotiations Course in Salem, Oregon.
- Lieutenant Zessin taught Emergency Vehicle Operator Course (EVOC) to Cops and Robbers.

VII. PUBLIC WORKS

A. Department Highlights

Administration Division

- In conjunction with Administrative Services Committee, developed a process to allow businesses to apply for a one-time exemption to the Single-Use Plastic Carryout Bags Ordinance if they show an undue burden related to compliance.
- Began using the 37-kilowatt photovoltaic solar array system at Fire Station No. 1, the City's second solar project funded by Pacific Power's Blue Sky customers and the Energy Trust of Oregon.
- Implemented a new process that allows residents to access residential parking permit forms and instructions on-line through the City Web site in an effort to make the process easier and reduce the number of vehicle trips to the Public Works Administration Office.

Engineering Division

- Completed the rail crossing order for SW 15th Street and SW Washington Avenue for reconstruction and signalization of the grade/crossing as part of the OSU Dormitory traffic mitigation.

Transportation Division

- Staff expanded the annual Get There Corvallis event to a two-week period. The events included a bicycle and pedestrian law clinic, a Bike Extravaganza at OSU, free bicycle movie at the Darkside Cinema, and the chance to win daily prizes for residents making trips using an alternative transportation option. Participants logged 253,168 non-single-occupant-vehicle (SOV) miles which consisted of 4,819 bicycle trips, 614 bus trips, 1,173 carpool

trips, and 1,087 walking trips. This reduced an estimated 232,844 pounds of CO_2.

- Installed 187 bicycle lights on the bicycles of unlit cyclists at the intersection of NW Monroe Avenue and NW Kings Boulevard. This was another Light it Up event organized by the Transportation Division and Corvallis Police Department staff, with assistance of volunteers from the City's Bicycle and Pedestrian Advisory Commission and Corvallis Sustainability Coalition.
- Conducted outreach meetings for the Second Street re-paving project with the Downtown Parking Committee, Downtown Corvallis Commission, and the Downtown Corvallis Association. The project is scheduled to begin July 22, 2013.

Utilities Division

- Conducted the annual public tour of the Corvallis Forest. Approximately 90 people attended, including Mayor Manning and Councilors Beilstein and Hirsch.
- In cooperation with the Corvallis Sustainability Coalition and the Benton Soil and Water Conservation District, conducted the annual public tour of urban streams.
- Received notice from the National Association of Clean Water agencies that the wastewater utility won a platinum achievement award for nine consecutive years of 100-percent compliance with the terms and conditions in the Environmental Protection Agency/Department of Environmental Quality-issued discharge permit.
- Reviewed several new Computerized Maintenance Management Systems for the water and wastewater treatment plants. These systems automate and document maintenance activities and will facilitate implementation of the asset management system for the treatment processes.

B. Other

- Public Works System Administrator Kyle Hanley worked diligently with a private citizen to provide remote access to a Commission meeting. The process began when the citizen requested an interactive live video/audio stream to the Benton County Special Transportation Advisory Committee (STAC) meetings. The citizen was physically unable to travel to the meeting location but was interested in being able to interact at the meetings. The citizen indicated this interest was due to how much City services have had a positive impact on him personally.

  Staff began brainstorming the fastest and most cost-effective way to provide this service. After three scenarios were drawn up, the decision was to use Google Hangout technology (a free service provided by Google), existing City

equipment consisting of a laptop with a built-in webcam, and external speakers. The citizen donated a wide-angle webcam and an omni-directional microphone.

As a result of this work, the capacity exists for up to 10 citizens to join a Hangout session for the STAC meeting from any location worldwide. It takes approximately five minutes to set up the required equipment. The technology used allows citizens to see, hear, and interact with the STAC meeting members and to virtually be in the same room as the STAC members without having to travel to the meeting location. This accomplishment is a major step forward in using technology to serve our citizens.

VIII. CITY MANAGER'S OFFICE

A. Department Highlights

- The Economic Development Office responded to two national recruitment leads, six expansion leads, two retention leads, and six start-up leads.
- The Economic Development Office is coordinating logistics for the following events:
  - July 18-19 – Oregon Economic Development Association Summer Conference
  - Monthly Pub-Talks for the Willamette Innovators Network
  - Monthly Willamette Innovators Network Board meetings
- The Economic Development Office is coordinating with OSU, University of Oregon, and regional communities to establish the Regional Accelerator Innovation Network (RAIN).
- The Economic Development Office engaged Cleland Marketing Consulting to provide branding, marketing, Web portal, and social media services. It kicked-off in May with a Benton County area photo contest.
- A City-sponsored Ward 8 meeting was held on May 14 with Councilor Traber and City staff.
- Began work on annual boards and commissions re-appointments and vacancies.
- Co-facilitated the Corvallis Leadership Government and Public Services Day.

IX. COMMUNITY DEVELOPMENT

A. Department Highlights

- Development Services Division staff processed 31 residential and 80 non-residential plan reviews for proposed construction projects, and conducted 1,109 construction inspections during May.
- Created 58 new Code Enforcement cases as a result of citizen complaints received.
- Of the 215 plumbing, mechanical, and electrical permits issued during May, 84 (or 39 percent) were issued on-line.
- Planning Division staff received four land use applications during May, including one Historic Preservation Permit application.
- Planning Division staff issued decisions on four land use applications, including the decision to place the SW 49th Street Annexation on the November 2013 ballot, along with the associated zone change if the annexation is approved by voters.
- On May 10, the Planning Division staff bid a fond farewell to Associate Planner Brian Latta, who moved on to serve as the City Administrator for the town of Harrisburg, Oregon.
- Housing Division staff provided one down payment-assistance loan of $15,000 to a low-income family to help them purchase their first home; an Essential Repair program loan to rehabilitate a home owned by a very-low-income owner, in the amount of $23,574, was also approved and closed during May.
- Rehabilitation of the Willamette Neighborhood Housing Services-owned Lancaster Bridge affordable rental housing complex is underway and going very well. The project is being funded with a $383,000 HOME Investment Partnerships Program (HOME) grant.
- During its May meeting, the Corvallis Housing and Community Development Commission approved a draft Fiscal Year 2013-2014 through Fiscal Year 2017-2018 Community Development Block Grant (CDBG)/HOME Consolidated Plan and Fiscal Year 2013-2014 Action Plan. The plans were made available for public review and comment and will be considered for approval by the City Council during a public hearing July 1.
- Housing Division staff received 40 Rental Housing Program-related contacts during May outlining 62 separate issues, with 21 issues related to habitability and 41 of a non-habitability nature. Eleven of the habitability issues reported are or may be subject to the Rental Housing Code, so Housing Division staff are working with complainants to confirm violations and then, as applicable, achieve resolution or move to enforcement.
- The OSU/City Collaboration Project Parking and Traffic and Neighborhood Planning Work Groups each met twice during May. The Parking and Traffic

Work Group reviewed potential traffic management policy consideration for future updates to the Corvallis Transportation Master Plan and OSU Campus Master Plan. The Neighborhood Planning Work Group continued its discussion towards recommendations to the Collaboration Project Steering Committee on Design Guidelines, Neighborhood Design Standards Overlay, and the "Historic Preservation Lite" concept. The Neighborhood Livability Work Group completed its assigned work program in April.

X. FINANCE

A. Department Highlights

- Budget staff assisted with data gathering and analysis for possible new and/or renewed local option levy for Council work session(s).
- Utility Billing staff continued review and demonstration of remittance automation software.
- MIS staff completed the SharePoint 2013 migration and implementation project.
- MIS staff completed implementation of the MobileTrak solution for the Fire Department to enable the Department access to real-time information associated with 9-1-1 calls.

XI. MISCELLANEOUS

- Attached is the City Attorney's Office Report to the City Council for May.

James A. Patterson
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

May 2013

The following are highlights of the City Attorney's Office activities during May 2013:

1. Continued assistance to City Manager's office regarding water main break legal issues.
2. Assistance to Finance Department regarding Visa/Mastercard class action settlement memorandum to Council.
3. Assistance to Library and City Manager's Office with Fenner property option agreement.
4. Meetings with Human Resources Department and preparation of City's Last Best Offer for CRCCA binding arbitration.
5. Meeting with Human Resources & Finance Departments regarding renting City-owned property.
6. Meetings with Planning Department various current planning issues.
7. Participation in review of Hewlett-Packard property tax issue for Finance Department and City Manager's Office.

Ongoing/Future Matters:

1. Continued preparation for CRCCA binding arbitration.
2. Enforcement actions re: code violations (building, rental housing, land development code).
3. Continued work on public records requests.
4. Continued assistance on internal investigations, employee grievances and other employment matters.
5. Assistance in preparing findings for land use decisions.
6. Enforcement of City ordinances and prosecution of offenses in Corvallis Municipal Court.

Monthly Business Activity Report – June 6, 2013

BEC:

- All of the BEC spaces are filled – 9 clients
- Coordinated monthly Brown Bag luncheon at Chamber office
- Coordinated monthly "Will it Fly" (WIF) pitch presentation

Start-ups:

- Responded to two hotel recruitments
- Assisted a new start-up with location information
- Assisted a new start-up with finance information
- Responded to another location request concerning a business start-up
- Made referral to the SBDC for another business start-up

Retention / Expansion:

- Worked with a local traded-sector company on issues related to retention, and an ultimate expansion. He plans to move forward with his expansion.
- Met with a new business owner to discuss development difficulties
- Worked on business expansion with three local trade sector agricultural businesses
- Followed up on a business expansion lead looking for a location at the AIP
- Worked on a business expansion lead looking for executive management talent

Recruitment

- Worked on a state recruitment lead – Project Davis
- Responded to a location request from a traded sector McMinnville business

Assisted with	Past Month	Since 9/17/12
Start-up	6	36
Expansion	6	35
Retention	2	6
Recruitment	2	16
Net Job Growth (Annual)*		
Enterprise Zone	92	
General	380	
*quarterly updates		

Monthly EDC Strategic Plan Update

<u>Big Ideas:</u>

1. Provide critical financial assistance to growing businesses through tools such as (a) Urban Renewal Districts and (b) a local economic development loan program. Supports goals 1, 2a, and 3 (if URD covers one or more EZ locations).

- Responded to requests for information concerning financing alternatives
- Responded to requests for information concerning Enterprise Zone incentives

2. Leverage the OSU-Corvallis relationship and Memorandum of Understanding to provide unprecedented advantages to Corvallis-based startups, including research infrastructure access, incubator/accelerator resources, HR and purchasing infrastructure, and innovative community networking. Supports goals 1 and 2a.

- On-going meetings with Ron Adams, John Turner, Dan Whitaker, Brian Wall, Mark Lieberman and Ilene Kleinsorge for the Venture Accelerator and RAIN
- Prepared an EDC letter of support for the RAIN project funding to the Joint Ways & Means Committee
- Sent a letter of support for the Venture Accelerator to the National Collegiate Inventors and Innovators Alliance

3. Support business growth by providing properly zoned and serviced land and maintaining a timely and predictable development review process. Verify via benchmarking that Corvallis is best-in-class regarding comparable university towns across the U.S. Supports goals 2a, 2b, 3.

a. In particular, pursue opportunities to develop a research park for science intensive companies, ideally ones that have strong synergy with OSU research strengths. Consider public investment opportunities for such a park, ranging from public ownership to infrastructure development and business financing tools.

- Significant properties have been identified to address this idea
- Properties are being added and updated in Expand In Oregon database

b. An opportunistic, but nevertheless valuable, strategy is to recruit new tenants for vacant space in Enterprise Zone areas (HP campus, Sunset Research Park, Airport Industrial Park) as well as to invest in additional land and building resources designed to meet the needs of scientific- and technology-oriented business and industry.

- On-going referral to businesses seeking land and building space
- Responded to six leads this month

4. Recognize that economic development must be a core/organic local government service as opposed to an entirely outsourced effort. Accordingly, create and staff a permanent city/county Economic Development Office, reporting to the city manager, to implement the above actions, manage business outreach and assistance; coordinate business lead responses and community and business asset promotion; and propose and implement new efforts to ensure Corvallis's competitiveness for business investment. Supports ALL goals.

- Economic Development Officer recruitment resulted in 42 applications that met minimum qualifications. An offer has been made and accepted, and the new Economic Development Officer should start July 1, 2013.

Smaller Steps:

1. Develop a best-in-class information gateway portal that will provide resources to support business development with information about demographics and economics, technical and financial assistance programs, available land and building resources (Goals1, 2a, 2b, and 3).

- The Website continues to be updated with current demographic information, links for assistance, and upcoming events
- Expand In Oregon database is being updated
- Executive Pulse has migrated data purchased from Hoovers/D&B which includes over 5,000 data sets. Training is scheduled in July after the EDO is on board.
- Contracted with Cleland Marketing to develop branding, marketing strategy, website / web portal and implementation of social media. This project is underway and should be completed in mid-July/2013.

2. Support programs sponsored by local and regional partners to facilitate innovation, entrepreneurship, and business investment. Examples include the Willamette Angel Conference and Willamette Innovators Network (Goals1and 2a).

- Assisting in forming a 501.c.6 for WiN
- Coordinated WiN board meetings and planning meetings
- Coordinating monthly WiN Pub Talks
- Coordinating WiN Expo for October/2013
- A new contract is being negotiated with the Business Enterprise Center which will include business advisory services through LBCC's Small Business Development Center (~10 hours/week) and monthly reporting.

3. Build a strong relationship with the local business community through the account manager concept, and an ongoing Business Visitation program involving government and community leaders (Goals 2a and 2b).

- Continue to have joint business visits with Business Oregon BDO, Sean Stevens

4. Ensure that City has an effective and productive relationship with Business Oregon, the State's economic development agency, for access and response to business development leads (Goal 3).

- Working with Ted Werth (Business Oregon) to access their business lead information (database)
- Participating in Oregon Economic Development Association Governmental Affairs Committee
- Participating in Oregon Economic Development Association Conference Planning Committee. The summer conference will be in Corvallis July 18-19.

5. Pursue outside resources to fund expanded business development programs in Benton County (Goals 1, 2a, 2b and 3).

- Mostly accomplished, but will continue to pursue other resources as they become available

6. Provide a business-oriented welcoming program for key recruits of local employers (Goals 2a, 2b, and 3).

- Done and will continue to operate

ADMINISTRATIVE SERVICES COMMITTEE
SCHEDULED ITEMS

June 13, 2013

MEETING DATE	AGENDA ITEM
June 19	• Single-Use Plastic Carryout Bags Ordinance Exemption Requests
July 3	• Single-Use Plastic Carryout Bags Ordinance Exemption Requests
July 17	• Local Option Levy Ballot Title and Explanatory Statement
August 7	• Council Policy Review and Recommendation: • CP 91-3.02, "City Compensation Policy"
August 21	
September 4	• Visit Corvallis Fourth Quarter Report • Downtown Corvallis Association Fourth Quarter Report -- Economic Improvement District
September 18	

October 9	• Fourth Quarter Operating Report
	• Council Policy Reviews and Recommendations:
	  • CP 92-1.05, "Miscellaneous Property Ownership"
	  • CP 94-2.09, "Council Orientation"

October 23	• Utility Rate Annual Review
	• Council Policy Reviews and Recommendations:
	  • CP 04-1.09, "Public Access Television"
	  • CP 91-3.04, "Separation Policy"

November 6	
November 20	
December 4	• Visit Corvallis First Quarter Report • Downtown Corvallis Association First Quarter Report -- Economic Improvement District • Comprehensive Annual Financial Report • First Quarter Operating Report
December 18	

ASC PENDING ITEMS

- Comcast Franchise Renewal Update — Public Works
- Council Policy Review and Recommendation:
  - CP 96-6.03, "Economic Development Policies" — CMO
- Tax Incentive Program for Downtown Area — Community Development
- Economic Development Policy on Tourism — Community Development
- Municipal Code Review: Chapter 4.01, "Solid Waste Regulations" — Community Development

Regular Meeting Date and Location:
Wednesday of Council week, 3:30 pm – Madison Avenue Meeting Room

HUMAN SERVICES COMMITTEE
SCHEDULED ITEMS

June 13, 2013

MEETING DATE	AGENDA ITEM
June 18	• Majestic Theatre Management Annual Report
July 2	• Corvallis Farmers' Market Annual Report • Social Services Allocations – Fiscal Year 2013-2014

July 16	• Council Policy Reviews and Recommendations:
	  • CP 98-4.12, "Guidelines for Public Art Selection"
	  • CP 07-4.15, "Use of Computer Lab Equipment and Public Internet Access at Senior Center"

August 6	
August 20	• Social Services Semi-Annual Report
September 3	
September 17	• Rental Housing Program Annual Report
October 8	• Council Policy Review and Recommendation: • CP 92-4.05, "Library Meeting Rooms Policy"
October 22	
November 5	
November 19	

December 3	• 2013-2014 Social Services Allocation Process and Calendar
	• Council Policy Reviews and Recommendations:
	  • CP 07-4.16, "Code of Conduct for Patrons at Parks and Recreation Facilities, Events, and Programs"
	  • CP 92-5.04, "Hate/Bias Violence"

December 17	

HSC PENDING ITEMS

- Municipal Code Review: Chapter 5.01, "City Park Regulations" (Alcoholic Beverages in Parks) — Parks & Recreation
- Municipal Code Review: Chapter 5.03, "Offenses" (Smoking Enforcement Hiatus); Chapter 8.10, "Tobacco Retail Licenses" — Police/City Attorney's Office
- Municipal Code Review: Chapter 9.02, "Rental Housing Code" — Community Development

Regular Meeting Date and Location:
Tuesday of Council week, 2:00 pm – Madison Avenue Meeting Room

URBAN SERVICES COMMITTEE
SCHEDULED ITEMS

June 13, 2013

MEETING DATE	AGENDA ITEM
June 18	• Corvallis Forest Stewardship Plan Update
July 2	• 49th Street Annexation Explanatory Statement and Display Advertisement
July 16	• Residential Parking Districts Expansion
August 6	
August 20	
September 3	No meeting
September 17	

October 8	• Council Policy Reviews and Recommendations:
	  • CP 04-1.08, "Organizational Sustainability"
	  • CP 91-7.07, "Sanitary Sewers; Responsibility for"
	  • CP 05-7.17, "Utility/Transportation Facility Extensions Through Public Areas"
	  • CP 91-9.03, "Parking Permit Fees"

October 22	
November 5	
November 19	
December 3	
December 17	

USC PENDING ITEMS

- Airport Master Plan — Public Works
- Municipal Code Review: Chapter 8.13, "Mobile Food Units" (2014) — Community Development
- NW Cleveland Avenue Traffic Update (February 2014) — Public Works

Regular Meeting Date and Location:
Tuesday of Council week, 5:00 pm – Madison Avenue Meeting Room

UPCOMING MEETINGS OF INTEREST

City of Corvallis

JUNE - SEPTEMBER 2013
(Updated June 13, 2013)

JUNE 2013

Date	Time	Group	Location	Subject/Note
13	**5:20 pm**	**City Council Work Session**	**Madison Avenue Mtg Rm**	**HRC/PC interviews**
15		No Government Comment Corner		
17	***5:30 pm***	***City Council Work Session***	***Downtown Fire Station***	***PC interview***
17	**6:00 pm**	**City Council**	**Downtown Fire Station**	
18	2:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
18	5:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
19	12:00 pm	Housing and Comm Dev Cmsn	Madison Avenue Mtg Rm	
19	3:30 pm	Administrative Services Committee	Madison Avenue Mtg Rm	
19	5:30 pm	Arts and Culture Commission	Parks and Rec Conf Room	
19	7:00 pm	Planning Commission	Downtown Fire Station	
20	5:30 pm	OSU/City Collaboration Project Parking and Traffic Work Group	Madison Avenue Mtg Rm	
20	6:30 pm	Parks, Natural Areas, and Rec Brd	Downtown Fire Station	
22	10:00 am	Government Comment Corner	Library Lobby – Mike Beilstein	
25	*7:30 am*	*City Legislative Committee*	*City Hall Meeting Room A*	*tentative*
25	5:00 pm	Cmsn for Martin Luther King, Jr.	Madison Avenue Mtg Rm	
26	5:00 pm	Watershed Management Adv Cmsn	Madison Avenue Mtg Rm	
27	5:30 pm	OSU/City Collaboration Project Neighborhood Planning Work Grp	Osborn Aquatic Center	
29	10:00 am	Government Comment Corner	Library Lobby - Penny York	

JULY 2013

Date	Time	Group	Location	Subject/Note
1	**6:00 pm**	**City Council**	**Downtown Fire Station**	
2	7:00 am	Airport Commission	Madison Avenue Mtg Rm	
2	2:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
2	4:00 pm	Downtown Parking Committee	Downtown Fire Station	
2	5:00 pm	Urban Services 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		City Holiday – all offices closed		
5	7:00 am	Bicycle and Pedestrian Adv Cmsn	Madison Avenue Mtg Rm	
6	10:00 am	Government Comment Corner	Library Lobby - TBD	
8	3:00 pm	Economic Development Cmsn	Madison Avenue Mtg Rm	
8	***6:00 pm***	***City Council Special Meeting***	***TBD***	***levy – public comments***
9	*7:30 am*	*City Legislative Committee*	*City Hall Meeting Room A*	*tentative*
9	6:00 pm	Historic Resources Commission	Downtown Fire Station	
10	8:20 am	Citizens Advisory Cmsn on Transit	City Hall Meeting Room D	
10	5:30 pm	Downtown Commission	Madison Avenue Mtg Rm	
11	8:30 am	Citizens Advisory Cmsn on Civic Beautification and Urban Forestry	Parks and Rec Conf Room	
13	10:00 am	Government Comment Corner	Library Lobby - TBD	

15	**6:00 pm**	**City Council**	**Downtown Fire Station**	
16	2:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
16	5:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
17	12:00 pm	Housing and Comm Dev Cmsn	Madison Avenue Mtg Rm	
17	3:30 pm	Administrative Services Committee	Madison Avenue Mtg Rm	
17	5:30 pm	Arts and Culture Commission	Parks and Rec Conf Room	
17	7:00 pm	Planning Commission	Downtown Fire Station	
18	6:30 pm	Parks, Natural Areas, and Rec Brd	Downtown Fire Station	
20	10:00 am	Government Comment Corner	Library Lobby - Biff Traber	
22	*7:00 pm*	*Mayor/City Council/City Manager quarterly work session*	*Madison Avenue Mtg Rm*	
23	5:00 pm	Cmsn for Martin Luther King, Jr.	Madison Avenue Mtg Rm	
24	5:00 pm	Watershed Management Adv Cmsn	Madison Avenue Mtg Rm	
27	10:00 am	Government Comment Corner	Library Lobby - Richard Hervey	

AUGUST 2013

Date	Time	Group	Location	Subject/Note
2	7:00 am	Bicycle and Pedestrian Adv Cmsn	Madison Avenue Mtg Rm	
3	10:00 am	Government Comment Corner	Library Lobby - Penny York	
5	**6:00 pm**	**City Council**	**Downtown Fire Station**	
6	7:00 am	Airport Commission	Madison Avenue Mtg Rm	
6	2:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
6	4:00 pm	Downtown Parking Committee	Downtown Fire Station	
6	5:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
7	3:30 pm	Administrative Services Committee	Madison Avenue Mtg Rm	
7	7:00 pm	Planning Commission	Downtown Fire Station	
7	7:30 pm	Library Board	Library Board Room	
8	7:30 am	Investment Council	Madison Avenue Mtg Rm	
8	8:30 am	Citizens Advisory Cmsn on Civic Beautification and Urban Forestry	Parks and Rec Conf Room	
10	10:00 am	Government Comment Corner	Library Lobby - Julie Manning	
12	3:00 pm	Economic Development Cmsn	Madison Avenue Mtg Rm	
13	6:00 pm	Historic Resources Commission	Downtown Fire Station	
14	8:20 am	Citizens Advisory Cmsn on Transit	Madison Avenue Mtg Rm	
14	5:30 pm	Downtown Commission	Madison Avenue Mtg Rm	
15	6:30 pm	Parks, Natural Areas, and Rec Brd	Downtown Fire Station	
15	***5:30 pm***	***City Council/Board of Commissioners joint meeting***	***TBD***	
17	10:00 am	Government Comment Corner	Library Lobby - Mike Beilstein	
19	**6:00 pm**	**City Council**	**Downtown Fire Station**	
20	2:00 pm	Human Services Committee	Madison Avenue Mtg Rm	
20	5:00 pm	Urban Services Committee	Madison Avenue Mtg Rm	
21	12:00 pm	Housing and Comm Dev Cmsn	Madison Avenue Mtg Rm	
21	3:30 pm	Administrative Services Committee	Madison Avenue Mtg Rm	
21	5:30 pm	Arts and Culture Commission	Parks and Rec Conf Room	
21	7:00 pm	Planning Commission	Downtown Fire Station	
24	10:00 am	Government Comment Corner	Library Lobby - TBD	
27	5:00 pm	Cmsn for Martin Luther King, Jr.	Madison Avenue Mtg Rm	
28	5:00 pm	Watershed Management Adv Cmsn	Madison Avenue Mtg Rm	
31		No Government Comment Corner		

SEPTEMBER 2013

Date	Time	Group	Location	Subject/Note
2		*City Holiday – all offices closed*		
3	*7:00 am*	*Airport Commission*	*Madison Avenue Mtg Rm*	
3	*2:00 pm*	*Human Services Committee*	*Madison Avenue Mtg Rm*	
3	*4:00 pm*	*Downtown Parking Committee*	*Downtown Fire Station*	
3		*No Urban Services Committee*		
3	***6:00 pm***	***City Council***	***Downtown Fire Station***	
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*	
6	*7:00 am*	*Bicycle and Pedestrian Adv Cmsn*	*Madison Avenue Mtg Rm*	
7	*10:00 am*	*Government Comment Corner*	*Library Lobby - TBD*	
9	*3:00 pm*	*Economic Development Cmsn*	*Madison Avenue Mtg Rm*	
9	*7:00 pm*	*Mayor/City Council/City Manager Quarterly Work Session*	*Madison Avenue Mtg Rm*	*tentative*
10	*6:00 pm*	*Historic Resources Commission*	*Downtown Fire Station*	
11	*8:20 am*	*Citizens Advisory Cmsn on Transit*	*Madison Avenue Mtg Rm*	
11	*5:30 pm*	*Downtown Commission*	*Madison Avenue Mtg Rm*	
12	*8:30 am*	*Citizens Advisory Cmsn on Civic Beautification and Urban Forestry*	*Parks and Rec Conf Room*	
14	*10:00 am*	*Government Comment Corner*	*Library Lobby - Richard Hervey*	
16	***6:00 pm***	***City Council***	***Downtown Fire Station***	
17	*2:00 pm*	*Human Services Committee*	*Madison Avenue Mtg Rm*	
17	*5:00 pm*	*Urban Services Committee*	*Madison Avenue Mtg Rm*	
17	*12:00 pm*	*Housing and Comm Dev Cmsn*	*Madison Avenue Mtg Rm*	
18	*3:30 pm*	*Administrative Services Committee*	*Madison Avenue Mtg Rm*	
18	*5:30 pm*	*Arts and Culture Commission*	*Parks and Rec Conf Room*	
18	*7:00 pm*	*Planning Commission*	*Downtown Fire Station*	
19	*6:30 pm*	*Parks, Natural Areas, and Rec Brd*	*Downtown Fire Station*	
21	*10:00 am*	*Government Comment Corner*	*Library Lobby - Biff Traber*	
24	*5:00 pm*	*Cmsn for Martin Luther King, Jr.*	*Madison Avenue Mtg Rm*	
25	*5:00 pm*	*Watershed Management Adv Cmsn*	*Madison Avenue Mtg Rm*	
28	*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

PC – Planning Commission

HRC –Historic Resources Commission

MEMORANDUM

June 11, 2013

TO: Mayor and City Council

FROM: Nancy Brewer, Finance Director NB

SUBJECT: **FY 13-14 Budget Public Hearing and Adoption**

I. Issue

The City Council must conduct a public hearing and adopt the budget for FY 13-14.

II. Discussion

The City Council held a public hearing on June 3 to receive the Budget Commission's recommended budget. Based on information received by the City between the Budget Commission's public hearing on April 30 and the City Council public hearing on June 3, the City Council was asked to amend the budget and increase the levy amount for general obligation bonded debt. This required re-publication of the City Council's recommended budget and the City Council must hold a second public hearing on the new budget amounts. This public hearing will complete the requirements to adopt the FY 13-14 budget.

The attached resolution reflects the City Council's recommended budget from the June 3 action. Staff does not have any additional changes.

III. Requested Action

The City Council is asked to open a public hearing, receive comments on the recommended budget, close the public hearing, deliberate, and adopt the FY 13-14 budget and levy property taxes via a resolution to be read by the City Attorney.

Review and Concur:

City Manager

RESOLUTION 2013-__

A RESOLUTION LEVYING TAXES AND APPROPRIATING THE FY 2013-14 BUDGET.

Minutes of the meeting of June 17, 2013 continued.

A resolution submitted by Council member _____.

WHEREAS, the Corvallis Budget Commission convened on April 23, 2013 to receive the City Manager's Proposed Budget for FY 13-14; and

WHEREAS, the Corvallis Budget Commission held a public hearing and deliberated on April 30, 2013, and recommended that the City Council adopt a budget totaling $122,660,372; and

WHEREAS, the Corvallis Budget Commission unanimously adopted a motion to recommend the City Council levy the maximum permanent tax rate for operations of $5.1067 per thousand dollars of assessed value, a local option levy tax rate of $0.45 per thousand dollars of assessed value, as approved by voters on May 17, 2011, and a total of $1,097,440 for debt service; and

WHEREAS, the City Council held a public hearing on June 3, 2013 and further amended the Budget Commission's recommended budget at its regular meeting on June 3, 2013 as permitted under ORS 294.456; and

WHEREAS, the City Council held an additional public hearing on June 17, 2013 after re-noticing a proposed change made at the June 3, 2013 meeting for the total amount to levy for debt service, and approved this change to the Budget Commission's recommended budget at its regular meeting on June 17, 2013 as permitted under ORS 294.456;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF CORVALLIS that the 2013-14 budget of is hereby adopted.

IT IS FURTHER RESOLVED that the City Council hereby levies the maximum tax rate of $5.1067 per thousand dollars of assessed value, which is subject to the limitations of Section 11b, Article XI of the Oregon Constitution, as provided for in the budget adopted in the above paragraph of this resolution. This tax rate shall be levied and assessed pro rata upon all taxable property within the City of Corvallis as of 1:00 A.M., July 1, 2013.

IT IS FURTHER RESOLVED that the City Council hereby levies a local option levy tax rate of $0.45 per thousand dollars of assessed value, which is subject to the limitations of Section 11(4) or 7(c), Article XI of the Oregon Constitution, as provided for in the budget adopted in the above paragraph of this resolution. This tax rate shall be levied and assessed pro rata upon all taxable property within the City of Corvallis as of 1:00 A.M., July 1, 2013.

IT IS FURTHER RESOLVED that the full amount of bonded principal and interest for general obligation debt which is not subject to the limitations of Section 11b, Article XI of the Oregon Constitution be levied for the 2009A General Obligation Refunding Bonds at an amount totaling: $1,177,440 .

IT IS FURTHER RESOLVED that the amounts of the appropriations for the fiscal year beginning July 1, 2013 shall be as follows:

GENERAL FUND		
Operating Budget:		
City Manager's Office	$326,250	
Community Development Department	1,309,840	
Finance Department	646,770	
Fire Department	10,485,960	
Library Department	5,878,150	
Parks & Recreation Department	6,164,230	
Police Department	10,649,520	
Public Works Department	1,026,260	
Non-Departmental	1,448,070	
Non-Operating Budget:		
Transfers	2,481,170	
Other Financing Uses	774,640	
Debt Service - Principal	195,000	
Debt Service - Interest	48,180	
Contingency	630,000	
TOTAL GENERAL FUND		$42,064,040
STREET FUND		
Operating Budget:		
Community Development Department	$22,120	
Public Works Department	4,170,440	
Non-Operating Budget:		
Transfers	1,513,550	
Contingency	73,180	
TOTAL STREET FUND		$5,779,290
PARKS AND RECREATION FUND		
Non-Operating Budget:		
Transfers	$3,529,528	
TOTAL PARKS AND RECREATION FUND		$3,529,528
PARKS SYSTEMS DEVELOPMENT CHARGE FUND		
Non-Operating Budget:		
Transfers	$995,020	
TOTAL PARKS SYSTEMS DEVELOPMENT CHARGE FUND		$995,020
9-1-1 EMERGENCY COMMUNICATIONS FUND		
Operating Budget:		
Police Department	$2,320,330	
Non-Operating Budget:		
Transfers	90,510	
Contingency	45,240	
TOTAL 9-1-1 COMMUNICATIONS FUND		$2,456,080

DEVELOPMENT SERVICES FUND

Operating Budget:		
Community Development Department	$3,274,050	
Non-Operating Budget:		
Transfers	85,470	
Contingency	50,000	
TOTAL DEVELOPMENT SERVICES FUND		$3,409,520

FIRE AND RESCUE FUND

Non-Operating Budget:		
Transfers	$1,053,035	
TOTAL FIRE AND RESCUE FUND		$1,053,035

COMMUNITY DEVELOPMENT REVOLVING FUND

Operating Budget:		
Community Development Department	$3,141,770	
Non-Operating Budget:		
Transfers	23,710	
Contingency	30,760	
TOTAL CD REVOLVING FUND		$3,196,240

PARKING FUND

Operating Budget:		
Community Development Department	$4,220	
Finance Department	273,220	
Police Department	373,560	
Public Works Department	495,330	
Non-Operating Budget:		
Transfers	273,040	
Contingency	13,340	
TOTAL PARKING FUND		$1,432,710

TRANSIT FUND

Operating Budget:		
Public Works Department	$4,021,090	
Non-Operating Budget:		
Transfers	16,860	
Contingency	87,770	
TOTAL TRANSIT FUND		$4,125,720

2011 OPERATING LEVY FUND

Non-Operating Budget:		
Transfers	$1,908,620	
TOTAL 2011 OPERATING LEVY FUND		$1,908,620

LIBRARY FUND		
Non-Operating Budget:		
Transfers	$1,040,884	
TOTAL LIBRARY FUND		$1,040,884
CAPITAL IMPROVEMENT FUND		
Non-Operating Budget:		
Capital Projects	$6,334,925	
TOTAL CAPITAL CONSTRUCTION FUND		$6,334,925
GENERAL OBLIGATION DEBT SERVICE FUND		
Non-Operating Budget:		
Debt Service - Principal	$835,000	
Debt Service - Interest	232,250	
TOTAL G.O. DEBT SERVICE FUND		$1,067,250
PENSION OBLIGATION DEBT SERVICE FUND		
Operating Budget:		
Non-Departmental	$1,350	
Non-Operating Budget:		
Debt Service - Principal	570,260	
Debt Service - Interest	2,030,080	
TOTAL PENSION OBLIGATION DEBT SERVICE FUND		$2,601,690
DAVIDSON FUND		
Operating Budget:		
Library Department	$0	
TOTAL DAVIDSON FUND		$0
WATER FUND		
Operating Budget:		
Community Development Department	$56,850	
Public Works Department	7,675,400	
Non-Operating Budget:		
Capital Projects	1,306,580	
Transfers	2,473,970	
Other Financing Uses	495,400	
Debt Service - Principal	930,000	
Debt Service - Interest	36,500	
Contingency	188,930	
TOTAL WATER FUND		$13,163,630

WASTEWATER FUND		
Operating Budget:		
Community Development Department	$54,640	
Public Works Department	8,308,200	
Non-Operating Budget:		
Capital Projects	1,594,930	
Transfers	2,193,070	
Debt Service - Principal	1,863,940	
Debt Service - Interest	389,710	
Contingency	191,840	
TOTAL WASTEWATER FUND		$14,596,330
STORM WATER FUND		
Operating Budget:		
Community Development Department	$55,560	
Public Works Department	2,263,460	
Non-Operating Budget:		
Capital Projects	787,500	
Transfers	696,950	
Contingency	45,780	
TOTAL STORM WATER FUND		$3,849,250
AIRPORT FUND		
Operating Budget:		
Public Works Department	$621,050	
Non-Operating Budget:		
Capital Projects	112,850	
Transfers	19,620	
Debt Service - Principal	109,050	
Debt Service - Interest	6,000	
Contingency	9,950	
TOTAL AIRPORT FUND		$878,520
FLEET MAINTENANCE FUND		
Operating Budget:		
Public Works Department	$855,450	
Non-Operating Budget:		
Contingency	16,000	
TOTAL FLEET MAINTENANCE FUND		$871,450
FACILITY MAINTENANCE FUND		
Operating Budget:		
Public Works Department	$809,840	
Non-Operating Budget:		
Contingency	10,000	
TOTAL FACILITY MAINTENANCE FUND		$819,840

TECHNOLOGY AND COMMUNICATIONS FUND		
Operating Budget:		
Finance Department	$1,417,940	
Public Works Department	190,830	
Non-Operating Budget:		
Contingency	30,000	
TOTAL TECHNOLOGY AND COMMUNICATIONS FUND		$1,638,770
ADMINISTRATIVE SERVICES FUND		
Operating Budget:		
City Manager's Office	$1,876,930	
Finance Department	2,667,130	
Non-Operating Budget:		
Contingency	30,000	
TOTAL ADMINISTRATIVE SERVICES FUND		$4,574,060
RISK MANAGEMENT FUND		
Operating Budget:		
City Manager's Office	$1,093,830	
Non-Operating Budget:		
Contingency	275,000	
TOTAL RISK MANAGEMENT FUND		$1,368,830
TOTAL FY 13-14 APPROPRIATIONS		$122,755,232

IT IS FURTHER RESOLVED THAT the City Manager is hereby directed to certify to the Director of Records and Elections of Benton County, Oregon; the County Assessor of Benton County, Oregon; and the Department of Revenue of the State of Oregon, the tax rate of $5.1067 per thousand dollars of assessed value made by this resolution.

IT IS FURTHER RESOLVED THAT the City Manager is hereby directed to certify to the Director of Records and Elections of Benton County, Oregon; the County Assessor of Benton County, Oregon; and the Department of Revenue of the State of Oregon, the voter approved local option levy of $0.45 per thousand dollars of assessed value made by this resolution.

IT IS FURTHER RESOLVED THAT the City Manager is hereby directed to certify to the Director of Records and Elections of Benton County, Oregon; the County Assessor of Benton County, Oregon; and the Department of Revenue of the State of Oregon the full amount of $1,177,440 in bonded principal and interest for general obligation debt made by this resolution.

Upon motion duly made and seconded, the foregoing resolution was adopted and the Mayor thereupon declared said resolution be adopted.

Memorandum

To: **Mayor and City Council**

From: **Ken Gibb, Community Development Director**

Date: **June 10, 2013**

Subject: **LUBA Remand of the Creekside Center I & II Approval (PLD09-00004 / CDP09-00003 / SUB09-00002)**

I. Issue

At issue is the Oregon Land Use Board of Appeals (LUBA) remand of a City Council decision to approve the Creekside Center I & II Conceptual and Detailed Development Plan, Conditional Development Permit, and Tentative Subdivision Plat (**Order # 2010-077 – see Exhibit D**). The City Council's decision occurred on December 20, 2010.

II. Background

The site is identified on the Benton County Assessor's Map 12-5-05 DD, as Tax Lots 500 and 600, and is located at the northwest corner of SW 53rd Street and SW Philomath Boulevard (Hwy 20/34). The property is owned by Apple Creek I LLC. The site is 6.64 acres and is currently undeveloped with the exception of a single-family residence located on the southern portion of Tax Lot 600.

The applications for Conceptual and Detailed Development Plan, Conditional Development Permit, and Tentative Subdivision Plat ("application") were submitted on July 10, 2009. The proposed development includes seven buildings intended to contain approximately 43,000 square feet of commercial retail and restaurant uses, and associated parking, landscaping and pedestrian-related improvements, a Shopping Street, multi-use paths, and Tracts set aside for Natural Features protection.

Review History

- September 1, 2010 – The Planning Commission conducted a public hearing for the subject application.
- September 15, 2010 – The Planning Commission deliberated and voted to approve the application, subject to various conditions of approval. A notice of decision was signed on September 16, 2010 (Order # 2010-056).
- September 28, 2010 – The City received two appeals of the Planning Commission's decision. One appeal was filed by the League of Women Voters of Corvallis, and the second appeal was filed by the applicant.
- November 1, 2010 - The City Council conducted a public hearing to consider the appeals of the Planning Commission's decision.

- November 15, 2010 – The City Council deliberated and reached a tentative decision to approve the application, which had the effect of denying one of the appeals by the League of Women Voters of Corvallis, and upholding the appeal submitted by the applicant.

- December 20, 2010 – The City Council adopted Formal Findings in support of its decision. A notice of decision was signed on December 20, 2010 (**see Exhibit D**).

- January 10, 2011 - The City received a Notice of Intent to Appeal the City Council decision to LUBA. The appeal was filed by Corinne Sherton, Attorney, on behalf of Petitioners, League of Women Voters of Corvallis and Elizabeth Frenkel, (League of Women Voters of Corvallis and Elizabeth Frenkel vs City of Corvallis, LUBA No. 2011-002). In the LUBA filing, four assignments of error were outlined by the appellants.

- June 28, 2011 - LUBA issued a Final Order and Opinion that includes a description of the four assignments of error supplied by the appellant, and whether or not the City produced sufficient findings to address the assignments of error (**see Exhibit C**). LUBA determined that the City had not made adequate findings in support of the proposal with respect to three of the four assignments of error raised in opposition. All four assignments of error raised by the appellants concerned the inadequacy of findings produced by the City with regard to decision making criteria associated with Natural Features protections.

- April 5, 2013 - The applicant submitted a letter to the Planning Division asking the City to act on the remand (**see Exhibit A**). Additionally, the applicant submitted a narrative that addresses the issues on remand, as well as revisions to the original application and conditions of approval, intended to address the issues on remand.

- April 15, 2013 - The City Council scheduled a hearing for May 20, 2013, to consider the LUBA remand. The City Council decided to hold the hearing as a de-novo hearing.

- May 6, 2013 – The City Council reviewed its decision to schedule the May 20, 2013, public hearing. The Council decided to modify its decision, to review the case in whole as opposed to de novo, and to re-schedule the public hearing for June 17, 2013.

III. Discussion and Purpose of Public Hearing

In the appeal to LUBA, the appellants identified four assignments of error in regard to City Council's decision to approve the Creekside Center I & II application. All four assignments of error raised by the appellants concerned the inadequacy of findings produced by the City with regard to decision making criteria associated with Natural Features protections. In its Final Opinion and Order, LUBA dismissed one of the assignments of error, but upheld three others either in whole or in part. The specific nature of each assignment of error is discussed below.

The purpose of the remand hearing is twofold:

1. Address assignments of error sustained by LUBA
2. Consider changes to the application that are intended to address the LUBA remand, and ensure that the application and the changes, as a whole, comply with applicable LDC decision making criteria.

The Staff analysis is therefore organized into two main areas of discussion. The discussion begins by first outlining each of the assignments of error sustained by LUBA, along with a discussion of the applicable LDC review criteria and how findings might be developed around those criteria. The second area of discussion will evaluate the changes to the application that were intended to address the issues on remand, and to ensure that the project, as a whole, continues to conform to the applicable LDC decision making criteria.

IV. Assignments of Error Sustained in LUBA Remand

As noted in the Background and Discussion above, the City Council's original decision concerning the Creekside Center application occurred on December 20, 2010. The City Council's decision was appealed to the Oregon Land Use Board of Appeals (LUBA) on January 10, 2011, and on June 28, 2011, LUBA issued a Final Order and Opinion that includes a description of the four assignments of error supplied by the appellant, and whether or not the City produced sufficient findings to address the assignments of error (**see Exhibit C**).

All four assignments of error raised by the appellants concern LDC decision making criteria associated with Natural Features protections and Minimum Assured Development Area (MADA) available to the development under LDC Chapter 4.11.

Minimum Assured Development Area is defined in LDC Chapter 1.6 as follows:

> **Minimum Assured Development Area (MADA)** - Minimum area on a development site that is permitted to be disturbed for development, regardless of the Natural Resources or Natural Hazards Overlay designation(s) on the site. The methodologies for determining the MADA are listed in Chapter 4.11 - Minimum Assured Development Area (MADA).

Although the subject Creekside Center development site contains mapped Natural Resources and Natural Hazards that are required to be protected per LDC standards, the LDC also allows development to occur in portions of those protected areas, through the MADA provisions.

LUBA determined that the City had not made adequate findings in support of the proposal with respect to three of the four assignments of error raised in opposition, and the issues on remand primarily concern the City's original findings related to the LDC MADA provisions.

Overview of Assignments of Error Sustained by LUBA

The topics of the three assignments of error sustained by LUBA are listed below. There are four bulleted items, because they summarize sub-issues raised by LUBA in their remand of the three assignments of error.

- Whether the multi-use path proposed along the north side of Dunawi Creek qualifies for an increase in the Minimum Assured Development Area ("MADA") because it is required by the Corvallis Transportation Plan or the City of Corvallis Park and Recreation Facilities Plan, or is necessary to provide public access to or through designated open space areas, as required by LDC 4.11.50.02.c.4;

- Whether the area of wetland mitigation associated with construction of the multi-use path proposed along the north side of Dunawi Creek qualifies for an increase in the MADA because it is required by the Department of State Lands ("DSL") and/or the U.S. Army Corps of Engineers ("COE"), as required by LDC 4.11.50.02.c.2;

- Whether, based upon the above findings, the City has awarded a sufficiently large number of MADA credits to allow development in protected areas as permitted under LDC 4.13.50.b.6 and LDC 4.13.80.01.c.2; and

- Whether, based upon the above findings, it is necessary to allow a stormwater detention facility to encroach within the riparian easement area on Tax Lot 500 in order to allow utilization of the MADA for the project, as required by LDC 4.13.70.02.d.4.

Minimum Assured Development Area (MADA)

The specific decision making criterion implicated in the LUBA remand is LDC Section 2.5.40.04.a.14, which concerns preservation and/or protection of Significant Natural Features. In order to determine whether a development proposal complies with LDC Section 2.5.40.04.a.14, the development must be evaluated against additional applicable LDC development standards contained in Chapters 4.2 (Landscaping), 4.5 (Natural Hazard Provisions), 4.11 (Minimum Assured Development Area (MADA)), and 4.13 (Riparian Corridor and Wetland Provisions). As noted, this criterion includes a requirement that the application complies with the standards in LDC Chapter 4.11 – Minimum Assured Development Area (MADA). As noted above, it is the MADA provisions and the City's original Findings related to those provisions that are the key concern raised in the LUBA remand.

Base MADA

4.11.50.02 – Calculation of the Base Minimum Assured Development Area (MADA)

b. Nonresidential Sites – The base Minimum Assured Development Area of a nonresidential site shall be calculated by multiplying the acreage of the site by the Minimum Assured Development Area per acre, as shown in Table 4.11-2 – Determining Minimum Assured Development Area (MADA) for Nonresidential Zones, below. Acreage calculations shall be rounded to two decimal points. If a site contains multiple zones, the base Minimum Assured Development Area for each zone shall be determined. The total base Minimum

Assured Development Area shall be the sum of the base Minimum Assured Development Areas of all the zones.

LDC Table 4.11-2
Determining Minimum Assured Development Area (MADA) for Nonresidential Zones

Zone	Base MADA / Acre	Area Credits	Total MADA
Mixed Use Community Shopping	**19,600 sq. ft.**		

In its original decision, the City Council found that the base MADA for the subject site, which is located in the MUCS zoning designation, was as follows (**see Exhibit D – pages 38 and 39**):

Table 1 - Base Minimum Assured Development Area (Base MADA)

Base Minimum Assured Development Area			
Tax Lot	Area of Lot	Base MADA per LDC Table 4.11-2	Base MADA for Creekside Center Lot
Tax Lot 500	4.6412 acres	19,600 sq. ft./acre	90,968 sq. ft.
Tax Lot 600	1.9953 acres	19,600 sq. ft./acre	39,108 sq. ft.
Total Base MADA =			130,076 sq. ft.

The opponents did not appeal the City's base MADA determination to LUBA (only the City's calculation of MADA credits above the base amount). The modifications to the site plan submitted to address the LUBA remand do not affect the calculation of the base MADA, since the development site's acreage and its MUCS zone has not changed since the original application.

Additional MADA Credits Available – Four Types

LDC Section 4.11.50.02

c. Additional Allowances for Determining the Minimum Assured Development Area of Residential and Nonresidential Sites – The Minimum Assured Development Area calculated in Section 4.11.50.02.a and Section 4.11.50.02.b may be increased above the base MADA by adding the areas determined by the provisions below:

In addition to the base MADA provided for in LDC Section 4.11.50.02.b, the Minimum Assured Development Area may be increased above the base amount, depending on whether or not the proposed development qualifies for specific credits outlined in LDC Section 4.11.50.02.c.

There are four possible MADA credits listed in LDC Section 4.11.50.02.c. In the original application, the applicant proposed to utilize all four of the credits, and the City granted all MADA credits as requested (**see Exhibit D – page 75**). The four MADA credits were applied in the original application to 13 specific developed areas of the site (**see Exhibit D – page 37**). In some cases, the proposed development improvements utilized more than one MADA credit type, because the specific improvement qualified for two of the four types of MADA credit.

As noted above, two of the issues in the LUBA remand are the City's Findings related to granting two of the four possible MADA credits. The other two MADA credits are not at issue in the LUBA remand. Since all four of the MADA credits can be added together cumulatively, to obtain a total area associated with MADA credits, the third and fourth issues raised in the LUBA remand can only be sufficiently addressed if the City can find that the development proposal qualifies for all of the subject MADA credits.

The applicant has provided a detailed analysis of the Base MADA and additional MADA credits that they are seeking as part of this development request. The MADA analysis used in the original City decision is illustrated on **Exhibit D – pages 37 through 40** of this staff report. To address the issues on remand, the applicant is proposing revisions to the site plan, which resulted in corresponding changes to the MADA calculations. The revised MADA calculations are included as **Exhibit A – pages 96 through 99** to this staff report.

A description of each of the four MADA credits possible under LDC Section 4.11.50.02.c is provided below, along with a discussion concerning how each MADA credit was utilized in the original application, what Findings the City made relative to that credit, if and how the MADA credit is at issue in the LUBA remand, if the application has been revised to address the particular credit, and whether or not the revised application, as a whole, qualifies for each credit. A summary of the four possible MADA credits relative to this development proposal is included in the table below.

	MADA Credit Description	MADA Credit Associated With:		
		Original Application	Revised Application	Associated With Specific LUBA Remand Issue
MADA Credit 1:	The area of public right-of-way dedications resulting from a required width in excess of the width needed for a local street, provided the required street is identified in the Corvallis Transportation Plan	✓	✓	-
MADA Credit 2:	The area of Wetland mitigation that is required by the Department of State Lands and/or the U.S. Army Corps of Engineers when infrastructure must be extended through a Wetland. The area credited shall be based upon the written requirements of the associated permit approval of the Department of State Lands and/or the U.S. Army Corps of Engineers, whichever is greater	✓	✓	✓
MADA Credit 3:	Above-ground stormwater detention facilities designed and constructed consistent with the Corvallis Design Criteria Manual	✓	✓	-
MADA Credit 4:	Trails required by the Corvallis Transportation Plan or the City of Corvallis Park and Recreation Facilities Plan, or necessary to provide public access to or through designated open space areas	✓	✓	✓

The discussion below includes a detailed description of each of the four types of MADA credits available in LDC Section 4.11.50.02.c, along with a description of the specific site improvements associated with each particular MADA credit.

MADA Credit #1 (Right-of-Way Dedications)

LDC Section 4.11.50.02

c. Additional Allowances for Determining the Minimum Assured Development Area of Residential and Nonresidential Sites – The Minimum Assured Development Area calculated in Section 4.11.50.02.a and Section 4.11.50.02.b may be increased above the base MADA by adding the areas determined by the provisions below:

1. The area of public right-of-way dedications resulting from a required width in excess of the width needed for a local street, provided the required street is identified in the Corvallis Transportation Plan;

In the City Council's original decision, Council made specific findings relative to the calculation of MADA, including specific acknowledgment of the application of available credits under LDC Section 4.11.50.02.c (**see Exhibit D – page 75**), which allowed the proposed development to exceed the base MADA. In the prior decision, the City allowed MADA credits under LDC Section 4.11.50.02.c.1 for the following right-of-way dedications (**see Exhibit D – pages 37 through 39**):

- 1,517 square feet for a five (5)-foot wide dedication for 53rd Street on Tax Lot 500 (Area 3 on SP1.8)
- 5,416 square feet for a twelve (12)-foot wide dedication for Highway 20/34 on Tax Lot 500 (Area 6)
- 2,470 square feet for a seventeen (17)-foot wide dedication for Highway 20/34 on Tax Lot 600 (Area 11)

The opponents did not appeal this aspect of the City Council's decision to LUBA. The proposed revisions submitted as part of the remand review do not modify the size or location of the dedications or the related MADA credits.

Therefore, based on LDC Chapter 4.0, which requires public right-of-way dedications consistent with the City's Transportation Plan to occur with development of the subject site, the original and revised application qualifies for the MADA credits under LDC Section 4.11.50.02.c.1.

MADA Credit #2 (Wetland Mitigation Required by DSL / COE)

2. The area of Wetland mitigation that is required by the Department of State Lands and/or the U.S. Army Corps of Engineers when infrastructure must be extended through a Wetland. The area credited shall be based upon the written requirements of the associated permit approval of the Department of State Lands and/or the U.S. Army Corps of Engineers, whichever is greater;

Multi-Use Paths and Associated MADA Credit Calculations for Wetland Mitigation
As noted above, the original application incorporated all four MADA credits, and the City awarded those credits as part of its decision. With the revised application, the applicant is again requesting all four MADA credits.

In the original application, the applicant proposed two public multi-use paths. One path is proposed along the site frontage on SW 53rd Street, and incorporates an existing multi-use path and proposes improvements to that existing path.

The second proposed multi-use path is to be located along the north side of Dunawi Creek. The path was determined by the City to be a requirement of development of the site, based on the Land Development Code provisions in Chapter 4.0, and based on the City's adopted facilities plans (Park and Recreation Facilities Plan and the Transportation Plan). Because the City determined that the multi-use path was required with development of the site, the development qualified for two MADA credits related specifically to the multi-use path on the north side of Dunawi Creek. The credits associated with the Dunawi Creek multi-use path are identified in the table above as credits # 2 (LDC Section 4.11.50.02.c.2) and # 4 (LDC Section 4.11.50.02.c.4.) As noted above, the City's original decision granted both of the available MADA credits for the Dunawi Creek multi-use path.

The application has been modified so that the MADA credit available under LDC Section 4.11.50.02.c.2 and associated with the proposed public multi-use path that runs along the north side of Dunawi Creek is no longer being requested. As noted in the table above, the area associated with that specific MADA credit is equivalent to the area of Wetland mitigation that is required by the Department of State Lands and/or the U.S. Army Corps of Engineers when infrastructure must be extended through a Wetland. The application has been revised to account for the uncertainty of whether or not the Department of State Lands (DSL) and the US Army Corps of Engineers will grant permits for the trail construction through the Proximate Wetland and Riparian Corridor on the north side of Dunawi Creek (**see Exhibit B**).

To account for the loss of MADA associated with the credit, the applicant has reduced the square footage of two of the proposed buildings, and reduced the area of the overall development encroachments into the south side of the Dunawi Creek Riparian Corridor and Proximate Wetlands. Therefore, at least a portion of the development is no longer reliant on that particular MADA credit.

As noted above, the original and revised application includes a second public multi-use path, located along the west side of SW 53rd Street, which also qualifies for the MADA credit available under LDC Section 4.11.50.02.c.2. The applicant is still requesting the MADA credit for the 53rd Street multi-use path. The applicant obtained a wetland fill permit from DSL for Tax Lot 500, and has completed the requirements for purchase of wetland mitigation credits, associated with that permit. The approved wetland fill permit accounts for the encroachments associated with the 53rd Street multi-use path, but does not account for the proposed multi-use path along the north side of Dunawi Creek.

In the City Council's original decision, Council made specific findings relative to the aware of MADA credits under subsection 2. The following MADA credits were awarded in the original decision (**see Exhibit D – pages 37 through 39**):

- 9,345 square feet for the area associated with potential wetland mitigation related to construction of the multi-use path on the north side of Dunawi Creek on Tax Lot 500 (Area 2 on SP1.8)
- 725 square feet for the area associated with 53rd Street right-of-way constructed through the wetlands on the east side of Tax Lot 500 in the vicinity of the new private driveway (Area 4)
- 6,345 square feet for the wetland mitigation area associated with construction of the private driveway and stream crossing on Tax Lot 500 (Area 8)
- 3,149 square feet for the wetland mitigation associated with construction of the required local street on the west side of Tax Lot 500 (Area 10)
- 3,043 square feet for the area associated with potential wetland mitigation related to construction of the multi-use path on the north side of Dunawi Creek on Tax Lot 600 (Area 14)

LUBA remanded the City's decision to approve the application because, although the decision allowed MADA credits under this criterion, the City's findings did not adequately address whether the area of wetland mitigation for the multi-use path located north of Dunawi Creek (Areas 2 and 14 on Sheet SP1.8) qualifies for an increase in the MADA because that mitigation is required by DSL and/or the USACOE. As noted above, the existing wetland fill permit does not account for construction of the multi-use path on the north side of Dunawi Creek, because at the time that the fill permit application was filed in 2004, the subject public multi-use path was not included in the development plans for the site.

As noted above, the applicant has revised the proposed Conceptual and Detailed Development Plan and the calculation of MADA credits (**see Exhibit A – pages 96 through 99**). The applicant is no longer requesting MADA credits for the area of wetland mitigation that is required by DSL or the USACOE (associated with the multi-use path located north of Dunawi Creek). In its original decision, the City Council applied two MADA credits to the multi-use path. One of the credits was awarded under this criterion (LDC Section 4.11.50.02.c.2), and an additional credit was granted per LDC Section 4.11.50.02.c.4. The credit originally requested under the criterion in LDC Section 4.11.50.02.c.2, associated with DSL / COE required wetland mitigation, and no longer requested would have allowed additional development encroachments that the applicant was applying to private development on the south side of Dunawi Creek. The applicant has chosen to scale back the development plans, to account for this loss in MADA credit, due to the uncertainty of whether or not DSL and the USACOE would permit the multi-use path to be constructed and require associated wetland mitigation.

Although the City's previous decision also allowed MADA credits under this criterion for other identified areas—including Area 4 (mitigation for right-of-way through the wetlands), Area 8 (mitigation for the access drive), and Area 10 (mitigation for required local street), the opponents did not challenge, and LUBA did not remand, these aspects of the City's decision. With the revised application, the applicant is still requesting

MADA credits for Areas 4, 8, and 10. Additionally, it should be noted that the existing, approved DSL fill permit and wetland mitigation plan accounts for the development impacts to the wetlands on Tax Lot 500, associated with the improvements to SW 53rd Street and the site driveway on 53rd Street. Therefore, the wetland mitigation requirements of DSL and associated with those improvements has been verified.

Additionally, with the revised application, the applicant is requesting 1,242 square feet of MADA credit for mitigation for local street public right-of-way through the wetlands on Tax Lot 600 (Area 15 in the revised application – **see Exhibit A – page 97**). This additional MADA credit is now a known quantity in terms of wetland impacts, because since the original approval, the applicant has received concurrence from DSL regarding the boundaries of wetlands on Tax Lot 600 (**see Exhibit B – page 5**).

Based on the revised application, and known wetland mitigation requirements associated with the approved DSL wetland fill permit for Tax Lot 500, the MADA credits available under LDC Section 4.11.50.02.c.2 may be awarded for Areas 4 and 8. While the revised application seeks similar MADA credits outlined in LDC Section 4.11.50.02.c.2 for Tax Lots 500 and 600, associated with construction of the new local public street, there is no guarantee that DSL and/or the US Army Corps of Engineers will grant wetland fill permits and associate required wetland mitigation specifically for construction of the street on Tax Lots 500 and 600. However, the applicants CDP and DDP do not rely on use of this MADA credit for the private components of the development plan. The MADA credit associated with the local public street on Tax Lots 500 and 600 is specifically targeted toward construction of the street, which is a requirement of the Land Development Code. The City's original approval accounted for the possibility that DSL and/or the USACOE might not grant wetland fill permits to allow for construction of the local public street. Condition of Approval #4, included in the original City Council decision, and revised with this remand application, relies on DSL approval for either a new or revised wetland fill permit that accounts for development impacts to wetlands, not anticipated with the existing 2004 wetland fill permit. In the LUBA appeal, the appellants cited use of Condition # 4 as the third assignment of error.

In its decision, LUBA upheld the City's use of Condition of Approval # 4 to account for this uncertainty (**see Exhibit C – pages 14 and 15**), and denied the third assignment of error cited by the appellants.

Therefore, as revised and conditioned, the application qualifies for the MADA credits associated with DSL required wetland mitigation, per LDC Section 4.11.50.02.c.2.

MADA Credit #3

3. Above-ground stormwater detention facilities designed and constructed consistent with the Corvallis Design Criteria Manual; and

In the original decision, the City allowed MADA credits to the development under this subsection for the following above-ground stormwater detention facilities:

- 2,730 square feet for a detention pond on Tax Lot 500 (Area 9)
- 2,007 square feet for a detention pond on Tax Lot 600 (Area 12)

The opponents did not appeal this aspect of the original decision to LUBA. The modifications to the proposed CDP and DDP include relocation of the detention ponds further south, away from Dunawi Creek. The detention facilities are required to be provided on the development site, per LDC Section 4.0.130, and would qualify for this MADA credit, as long as other applicable LDC standards and the standards in the Corvallis Design Criteria Manual are satisfied.

In its original decision, the City Council found that the proposed detention facilities qualified for the MADA credits under this subsection. The rationale for granting these MADA credits has not changed between the original application and the revised application. The proposed revisions to the CDP and DDP relocate the detention facilities further away from Dunawi Creek.

Therefore, because the LDC requires the construction of the stormwater detention facilities, consistent with LDC Chapter 4.0 and the applicant is proposing to construct and provide the stormwater facilities consistent with the Corvallis Design Criteria Manual, the MADA credit available under LDC Section 4.11.50.02.c.3 may be granted.

MADA Credit #4

4. Trails required by the Corvallis Transportation Plan or the City of Corvallis Park and Recreation Facilities Plan, or necessary to provide public access to or through designated open space areas.

In the original decision, the City allowed MADA credits to the development under this subsection for each of the two proposed public trail facilities, as follows:

- 9,345 square feet for a public multi-use path on the north side of Dunawi Creek on Tax Lot 500 (Area 1)
- 1,517 square feet for a public multi-use path along the 53rd Street frontage of the site (Area 5)
- 3,043 square feet for a public multi-use path on the north side of Dunawi Creek on Tax Lot 600 (Area 13)

In the original decision, the City allowed MADA credits under this subsection in the total amount of 12,388 square feet for the multi-use path located north of Dunawi Creek, for its entire distance across the subject site. LUBA remanded the City's decision on this issue, but did not take issue with the same MADA credit as it applied to the multi-use path along SW 53rd Street (Area 5).

In its opinion, LUBA stated that the City's findings "do not contain any adequate explanation by the city why the path qualifies for MADA credit" under this subsection." (**see Exhibit C – page 6**). However, LUBA supported the City's findings relative to the requirement that the path be provided on this development site, in part by its discussion under assignment of error # 2 (**see Exhibit C – pages 12 and 13**). As noted in the

original decision, the City found that the multi-use path is an improvement required with development, based on LDC Chapter 4.0, and the City's Transportation Plan and Park and Recreation Facilities Plan. See discussion below, concerning the multi-use path and its relationship to the Transportation Plan and Park and Recreation Facilities Plan.

On remand, the applicant is proposing to maintain consistency with LDC Sections 4.0.20 and 4.0.30, which requires that the applicant dedicate a fifteen (15)-foot wide right-of-way for the multi-use path across the subject site. The constructed multi-use path would likely be twelve (12) feet in width, but may disturb as much as 15 feet. However, as noted above, there is considerable uncertainty as to whether or not DSL and USACOE would permit the path to be constructed, or if permissible, what the path construction details would be. The multi-use path is proposed to be located within a 45-ft. wide area shown on the plans (**see Exhibit A – page 104**), to allow flexibility in the alignment for maximum protection of the Significant Trees within the forested wetland. The total dedication, based on the maximum 15-ft. disturbance, is 8,281 square feet across Tax Lot 500 and 2,714 square feet across Tax Lot 600, for a total of 10,995 square feet (**see Exhibit A – pages 96 through 99**).

A discussion concerning how the proposed multi-use path located on the north side of Dunawi Creek is consistent with the City's Transportation Plan and Park and Recreation Facilities Plan is included below.

Corvallis Transportation Plan (CTP)
The Corvallis Transportation Plan requires the multi-use path. The CTP incorporates the City's Trails Master Plan, which itself requires the multi-use path. At page 6-1, the CTP incorporates the City's Trails Master Plan ("TMP") by reference and explains that the facilities identified in the TMP are needed:

> *"The Trails Master Plan, adopted by the City Council as an element of the Comprehensive Plan on November 19, 1990, identifies existing and needed pedestrian and multiuse trails within Corvallis and is incorporated with this Transportation Plan by reference."*

A copy of CTP page 6-1 is attached (**see Exhibit A – page 64**). In turn, the TMP at page A-4 includes a map identifying existing and future trails in the City. A copy of this map is attached as **Exhibit A – page 65**. This map depicts a "Future Trail" crossing the subject site in the approximate location where the multi-use path is shown on the modified site plan. The TMP map, as included in the CTP, is not labeled "conceptual" or "draft."

Therefore, to the extent the City's earlier findings found that the TMP map was "conceptual," it is not as set forth in the CTP. Further, the "Future Trail" designation of the Path is contrasted with another, more conceptual designation on the map—"Potential Trail Corridors." In this way, the TMP, as incorporated within the CTP, requires the Path to serve pedestrian and multi-use needs in the City.

Additional support for this conclusion is provided in the City of Corvallis Park and Recreation Facility Plan, which states that the CTP has "adopted" the Path. Second, the

CTP also requires the Path at pages 6-5 and 6-6 under Section 6.40 "Future Conditions." In this section, the CTP requires safe, convenient pedestrian facilities connecting developments and activity centers consistent with the LDC. Then, the CTP explains that developing trails, including the Path, consistent with the TMP will fulfill this requirement:

> *"Implementation of the trails plan through construction of trails along drainageway dedications and other identified trail corridors (see Figure A-4) will also contribute to this system."*

A copy of CTP pages 6-5 and 6-6 is **attached as Exhibit A – pages 66 and 67.** Based on these facts, and LDC Section 4.0.30.c, which states:

> ***Where a development site is traversed by or adjacent to a future trail linkage identified within either the Corvallis Transportation Plan or the Trails Master Plan, improvement of the trail linkage shall occur concurrently with development. Dedication of the trail to the City shall be provided in accordance with Section 4.0.100.d.***

Staff believe that the CTP requires the multi-use path as a condition of approving the proposed development plan.

City of Corvallis Park and Recreation Facilities Plan ("PRFP")
The City's PRFP requires the multi-use path because it is identified as an adopted facility necessary to serve the City's recreation needs. The subject path is identified in the list of projects needed to complete the 20-Year Plan for parks and recreation facilities. See Table 17, a copy of which is attached **(see Exhibit A – page 71 - labeled as "T-13 Squaw Creek Trail (S)").** Additionally, the PRFP Trails Plan Map **(see Exhibit A – page 72),** depicts the subject multi-use path as a proposed facility.

The PRFP Trail Comparison Map **(see Exhibit A – page 73)** identifies the subject multi-use path as an "*Adopted Trail/Multi-Use Path."* According to the legend for this map, the City applied this designation to *"[t]hose [trails] that are shown and have been adopted in the Transportation Plan but are not yet built."*

Trails with this designation are contrasted with facilities designated on this map as "Proposed Trail" and "Potential Trail Corridor," which are more conceptual designations. Although the map is labeled as "Conceptual", this label refers to the routes identified in the map. It does not mean that the need or necessity of the facilities is conceptual in nature. In fact, the PRFP states as much:

> *"This is a conceptual plan intended to guide development. The map is not intended to identify specific affected properties, rather, it represents the needs, standards, and/or aspirations of the community."*

Necessary to Provide Public Access To or Through Designated Open Space Areas

The MADA credit outlined in LDC Section 4.11.50.02.c.4 requires that the City find that the multi-use path "is necessary to provide public access to or through designated open

space areas." The portion of the subject site along both sides of Dunawi Creek— where the applicant proposes to locate the subject multi-use path—is designated "Open Space – Conservation" on the City's Comprehensive Plan Map, a copy of which is attached **(see Exhibit A – page 74).**

> **Applicable Comprehensive Plan Land Use Designations**
> **40.4.3 Open Space - Conservation**
> **All predominantly open spaces reserved for general community use, and/or natural hazards/resource preservation, including parks, preserves, general drainageway corridors, and other natural hazard and natural resource areas. Under the Open Space - Conservation designation, limited development may be permitted on private lands, provided that the development provides access to and through the OS-C areas for public infrastructure and/or enjoyment and does not create a hazard, interfere with the drainage function of the streams, or the functions of other significant natural features.**

The multi-use path is necessary to provide public access through the designated "Open Space-Conservation" area for three (3) reasons:

1. It is required to satisfy the pedestrian connection and block perimeter standards in LDC Section 4.0.60.n, which require a pedestrian-through connection for each block face greater than 400 feet. The block face beginning at the SW 53rd Street driveway and running north is greater than 400 feet. Therefore, an east-west pedestrian-through connection is required on the proposed development site. In light of the extensive natural resource areas north of the creek, the multi-use path must be located in open space areas in order to satisfy the spacing standards.
2. The multi-use path is necessary to implement the "Open Space – Conservation" designation of the Comprehensive Plan. According to Section 40.4.3 (see above) of the City's Comprehensive Plan, a developer impacting Open Space-Conservation lands must provide access across the designated open space for public infrastructure: "Under the Open Space – Conservation designation, limited development may be permitted on private lands, provided that the development provides access to and through the OS-C areas for public infrastructure." In order for the proposal to comply with the Comprehensive Plan, it is necessary for the applicant to provide the multi-use path to or through the designated Open Space – Conservation area on the subject site.
3. In its original decision, the City Council found (**see Exhibit D – pages 63 and 64**) that locating and constructing the multi-use path within Highly Protected Riparian Corridors and Riparian related Areas north of Dunawi Creek is necessary to maintain a functional path system. As noted above, LUBA affirmed the City Council's conclusion and findings on this issue. The City Council may rely upon these findings as additional support for its conclusion that the subject multi-use path is necessary to provide public access to or through designated open space areas.

Based upon this evidence and argument, the application satisfies this subsection, and 10,995 square feet of MADA credits may be granted to the proposed development. City Council findings that affirm these conclusions will address LUBA's remand under this subsection.

Highly Protected Riparian Corridor Protections

4.13.50 – USE LIMITATIONS AND EXCEPTIONS WITHIN HIGHLY PROTECTED RIPARIAN CORRIDORS AND RIPARIAN-RELATED AREAS

b. Building, Paving, and Grading Activities – The placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, are prohibited. Exceptions to the drainageway restrictions may be made for the purposes identified in items 1-7 of this Section, provided they are designed and constructed to minimize adverse impacts to Riparian Corridors and Riparian-related Areas.

6. Development associated with the Minimum Assured Development Area that would be allowed in accordance with Chapter 4.11 – Minimum Assured Development Area (MADA); and

The City found in its original decision that the proposed development could occur in Highly Protected Riparian Corridors and Riparian-related Areas on the subject site because the development was associated with MADA and MADA credits allowed by the City. As explained above, LUBA remanded the City's decision for additional findings regarding the City's allowance of MADA credits for the multi-use path under LDC Section 4.11.50.02.c (2) and (4.) LUBA reasoned that until the City properly justified its calculation of MADA credits, the City could not allow development in protected areas under the exception offered by this subsection:

> "...without findings justifying the award of MADA credit under LDC 4.11.50.02(c), the city may not ...allow development in the protected areas."
> (**see Exhibit C – page 13**).

Based upon the discussion above in response to LDC 4.11.50.02, in the revised materials, the applicant has not requested and thus does not qualify for MADA credits for the multi-use path located north of Dunawi Creek, under LDC Section 4.11.50.02.c.2. However, the applicant has demonstrated with evidence and argument that the multi-use path qualifies for 10,995 square feet of MADA credits under LDC 4.11.50.02.c.4, as discussed above. Accordingly, 10,995 square feet of MADA credits under LDC 4.11.50.02.c may be granted.

The Base Minimum Assured Development Area (MADA) for Tax Lot 500 is 90,968 square feet **(see Exhibit A – page 96).** Including the MADA credits for the multi-use path located north of Dunawi Creek, along with all other available MADA credits as discussed above, there are 30,130 square feet of MADA credits on Tax Lot 500, for a total MADA (base plus credits) of 121,098 square feet. 77,745 square feet of Tax Lot 500 is unconstrained (outside of Proximate Wetlands and Riparian Corridor).

The Base MADA for Tax Lot 600 is 39,108 square feet **(see Exhibit A – page 97).** Including the MADA credits for the multi-use path located north of Dunawi Creek, along with all other available MADA credits as discussed above, there are 8,433 MADA credits on Tax Lot 600 for a total MADA (base plus credits) of 47,541 square feet. 44,318 square feet of Tax Lot 600 is unconstrained (outside of Proximate Wetlands and Riparian Corridor).

Total MADA (Base MADA and MADA credits) for the development site is 168,639 square feet. The total amount of unconstrained area on the development site is 122,063 square feet. Since the total MADA exceeds the unconstrained area, MADA applies to the development site, and an additional 46,576 square feet of development may encroach into constrained areas to allow for utilization of the MADA (**see Table 2, below**). These calculations are detailed in the two (2)-page document labeled Attachment O-2, a revised version of which is included with the applicant's remand submittal **(see Exhibit A – pages 96 through 99).**

Table 2 - Summary of MADA / Allowable Encroachment Area

	Unconstrained Area	Base MADA + Credits	Allowed Encroachment per Total MADA
Tax Lot 500	**77,745 sq. ft.**	**121,098 sq. ft.**	**43,353 sq. ft.**
Tax Lot 600	**44,318 sq. ft.**	**47,541 sq. ft.**	**3,223 sq. ft.**
Total	**122,063 sq. ft.**	**168,639 sq. ft.**	**46,576 sq. ft.**

Finally, it should be noted that, although the proposed development qualifies for 10,995 square feet in MADA credits for developing the multi-use path north of Dunawi Creek, the path also counts as part of the gross development area in a total amount of 10,995 square feet.

In effect, development of the multi-use path cancels out the MADA benefit of the path. As such, developing it has a net zero effect on MADA availability for the development of private improvements on the subject site. In other words, from a MADA standpoint, the private portion of the development and the degree to which that private development encroaches on Natural Resources is permitted at the same size regardless of whether the multi-use path is developed.

The calculations on Attachment O-2 illustrate these points. For example, if the multi-use path is not developed on Tax Lot 500, it lowers MADA credits by the path's disturbance area of 8,281 square feet, so the adjusted MADA total for Tax Lot 500 is 112,817 square feet. However, not developing the multi-use path also reduces the gross proposed development area by that same 8,281 square feet to 112,770 square feet, less than the adjusted total MADA. Likewise, if the subject multi-use path is not developed on Tax Lot 600, it lowers MADA credits by the path's disturbance area of 2,714 square feet so the adjusted MADA total for Tax Lot 600 is 44,827 square feet. However, not developing the path also reduces the gross proposed development area by that same 2,714 square feet to 44,595 square feet, less than the adjusted total MADA.

Based upon the above-referenced findings and the figures summarized above, encroachment into the Highly Protected Riparian Corridors and Riparian-related Areas by structures and/or impervious surfaces is necessary for purposes of this subsection. LUBA's remand did not require the City to reconsider whether development in the areas of encroachment was designed and constructed to minimize adverse impacts to Riparian Corridors and Riparian-related Areas. Accordingly, this standard is satisfied and addresses LUBA's remand under this subsection.

Riparian and Drainageway Easement Widths

4.13.70.02 – Easements, Easement Restrictions, Dedications, and Easement Widths

* * * *

d. Easement Widths – When an easement is required, the appropriate width shall be as described in "1," through "5," below. However, in no case shall riparian easements include areas containing existing buildings that are intended to remain, nor shall easements include development area assured under "4," below.

For areas with Riparian Corridors, as designated on the City's Riparian Corridors and Wetlands Map, the associated easement width and requirements shall be as follows:

> **4. If, through the provisions of Chapter 4.11 – Minimum Assured Development Area (MADA), it is determined that encroachment into a Riparian Corridor area is necessary to allow for utilization of the Minimum Assured Development Area, any associated easement requirement shall be relaxed to the extent necessary to allow for the minimum necessary encroachment into the resource area.**

Based on the original decision, the City allowed development of the stormwater detention pond within the riparian easement area on Tax Lot 500 under LDC Section 4.13.70.02.d.4. LUBA remanded the City's decision for additional findings on this issue, concluding that the City Council erred in allowing development within the easement area where the total MADA has not yet been determined.

As explained above, LUBA remanded the City's decision for additional findings regarding allowance of MADA credits for the multi-use path under LDC Section 4.11.50.02.c (2) and (4). According to LUBA, *"without knowing the MADA for the development, the city could not determine under LDC 4.13.70.02.d.2 whether 'encroachment into a Riparian Corridor area is necessary to allow for utilization of' MADA"* **(see EXHIBIT C – pages 16 and 17).**

Based upon the findings set forth above in response to LDC Section 4.11.50.02, on remand, the MADA, including credits, attributed to the application exceeds the unconstrained areas of the subject site. Therefore, per LDC Chapter 4.11, development may encroach into a Riparian Corridor area to allow for utilization of the MADA.

Conclusions Regarding MADA Calculations and Award of MADA Credits

The findings supporting the MADA calculations can be summarized as follows:

1. The applicant is not requesting MADA credits for the multi-use path located on the north side of Dunawi Creek, under LDC Section 4.11.50.02.c.2 (for the area of the multi-use path that relates to wetland mitigation required by DSL and/or the USACOE). Accordingly, the City Council should not allow any MADA credits under this subsection.
2. The applicant has demonstrated with evidence and argument that the subject multi-use path satisfies LDC Section 4.11.50.02.c.4. This section refers to trails that are required by the Corvallis Transportation Plan or the Park and Recreation

Facilities Plan. Accordingly, 10,995 square feet of MADA credits may be granted under this subsection.

3. The Base MADA for Tax Lot 500 is 90,968 square feet. Including the additional allowed MADA credits for the subject multi-use path, there are 30,130 square feet of MADA credits on Tax Lot 500, for a total MADA (base plus credits) of 121,098 square feet. 77,745 square feet of Tax Lot 500 is unconstrained (outside of Proximate Wetlands and the Highly Protected Riparian Corridor).
4. The Base MADA for Tax Lot 600 is 39,108 square feet. Including the additional allowed MADA credits for the subject multi-use path, there are 8,433 MADA credits on Tax Lot 600 for a total MADA (base plus credits) of 47,541 square feet. 44,318 square feet of Tax Lot 600 is unconstrained (outside of Proximate Wetlands and the Highly Protected Riparian Corridor).
5. The development site has an unconstrained area of 122,063 square feet.
6. The development site has a Minimum Assured Development Area (Base MADA plus all available credits) of 168,639 square feet.
7. In total, a minimum of 46,576 square feet of development may encroach into constrained areas to allow for utilization of the MADA.
8. The base MADA and MADA credit calculations are detailed in the application submitted on remand **(see Exhibit A – pages 96 through 99).**
9. Based upon the above-referenced findings and the figures summarized above, encroachment into a Highly Protected Riparian Corridor area is necessary to allow for utilization of the MADA. Accordingly, under this subsection, any associated easement requirement for the stormwater pond on Tax Lot 500 may be relaxed to the extent necessary to allow for the minimum necessary encroachment into the resource area. This standard is satisfied and addresses LUBA's remand under this subsection.

Use Limitations Within Locally Protected Wetlands

4.13.80.01 – Use Limitations and Exceptions Within Locally Protected Wetlands

* * * *

c. Building, Paving, and Grading Activities – Within LPW areas, the placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, is prohibited, except as outlined below. Exceptions to the LPW restrictions may be made for the purposes identified in "1" and "2," below, provided they are designed and constructed to minimize adverse impacts to Wetland Functions.

* * * *

2. Activities outlined in sections 4.13.50.b.2, 4.13.50.b.5, and 4.13.50.b.6.

In the original decision, the City Council allowed building, paving, and grading activities within Locally Protected Wetlands under this exception based upon the City Council's determination that development would be allowed in conjunction with the applicant's usage of MADA under LDC Section 4.13.50.b.6. Because LUBA remanded the City's decision with direction that the City make new findings in response to LDC Section 4.13.50.b.6, LUBA effectively remanded the City's justification for allowing development under LDC Section 4.13.80.01.c.2.

Based upon the findings in response to LDC Section 4.13.50.b.6 set forth above, the base MADA plus credits will exceed the unconstrained area of the development site, thus necessitating development in Riparian areas under LDC Section 4.13.50.b.6, and by reference, necessitating development in Wetlands under LDC Section 4.13.80.01.c.2. This addresses LUBA's remand under this subsection.

V. Modifications to Site Plan and Conditions of Approval

Along with the request to proceed with the LUBA remand hearing, the applicant submitted revised drawings and conditions of approval for the application (**see Exhibit A**).

Proposed Site Plan Modifications

The following modifications to the original application are proposed (**see Exhibit A – pages 17 and 18**):

- Located one of two multi-use paths north of Dunawi Creek in a fifteen (15)-foot wide disturbance area that will be located within a forty (40)-foot wide area shown on the plans extending from the SW 53rd Street right-of-way west across the subject site, with the exact location to be determined by the City in the future. The subject multi-use path was included in the original application and its location has not changed. The change associated with the path is that the applicant is not seeking specific private development credits associated with Minimum Assured Development Area (MADA) for the path at this time.
- Eliminated the access sidewalk to the stormwater pond behind Buildings B and C
- Reduced the overall proposed development area by approximately 11,000 square feet
- Reduced Building B to 5,327 square feet from 5,874 square feet and made related modifications to the east elevation to reflect the narrower dimension and to the north elevation to remove service doors
- Reduced Building F to 7,500 square feet from 9,000 square feet and made related modifications to the east and west building elevations to remove two (2) bays
- As described by the applicant, eliminated six (6) vehicular parking spaces from Tax Lot 600 and four (4) vehicular parking spaces from Tax Lot 500 and added one (1) vehicular parking space on Tax Lot 600. The actual reduction, as compared to the original application, is 10 spaces.
- Eliminated sidewalk on west side of SW 53rd Street entry driveway, instead, shifting pedestrian traffic via crosswalk across entry driveway to sidewalk on SW 53rd Street
- Relocated the trash enclosures north of Building C out of the public right-of-way
- Shifted the east/west future public right-of-way to the south to increase the distance from Dunawi Creek; also extended this right-of-way 31 feet into Tax Lot 500 to coordinate with the north/south future public right-of-way
- Reduced the number of trees along the east side of the Shopping Street and along the west side of Building F

- Made minor adjustments in the location of the angled parking spaces and crosswalk between Buildings C and F to accommodate the above modifications in the site plan

The applicant submitted a "Site Comparison / Overlay" illustration which compares the original site plan with the modified version (**see Exhibit A – page 87 and Figure 1, below**). The illustration highlights, in red, the site plan components from the original approval that have been altered or removed. In general, the applicant has scaled back the level of development which has the net effect of lessened impacts to the south side of the Dunawi Creek Riparian Corridor, Wetlands, and Floodplain.

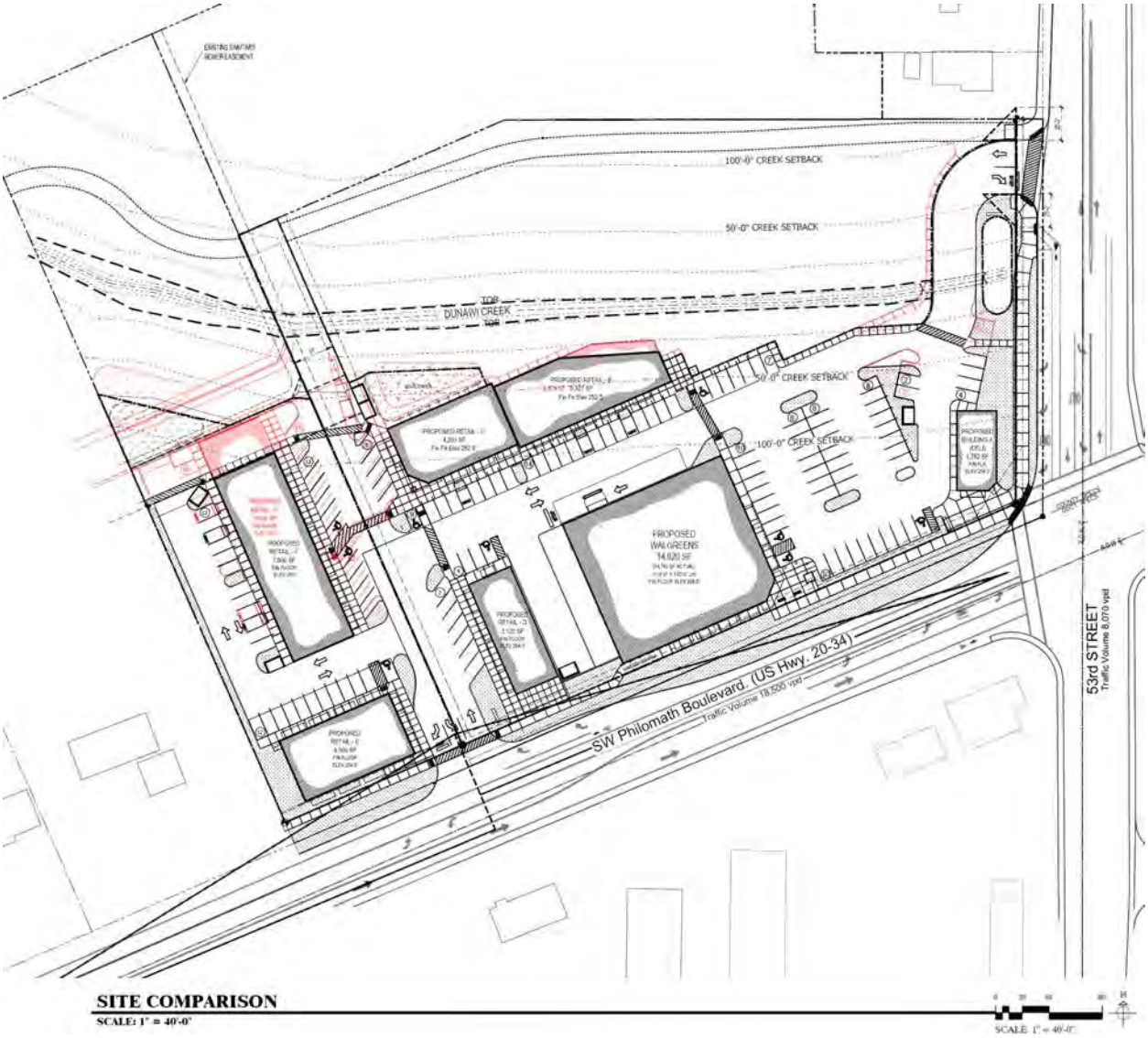

Figure 1 - Site Comparison / Overlay

The discussion below evaluates each of the applicable decision making criteria, the original City Council findings relative to the criteria, if the proposed site plan modifications comply with applicable LDC review criteria, and how the modifications address the issues on remand. Because City Council chose to re-open the public hearing and consider the case in whole, it will be necessary to include a discussion concerning all applicable LDC review criteria for all three land use applications (Conceptual and Detailed Development Plan, Conditional Development Permit, and Tentative Subdivision Plat).

However, for efficiency, this staff report will acknowledge those components of the application that have not changed and will simply provide a cross-reference to that location in the record (**Exhibit D**) where a more detailed discussion and Findings were made by the City Council, indicating that the applicable criterion has been satisfied. For the components of the application that have changed, Staff have provided a more in-depth discussion in this staff report concerning the applicable LDC review criteria, and have highlighted how the change also addresses the remand issues sustained by LUBA.

VI. Conceptual and Detailed Development Plan (Planned Development)

The applicant is requesting approval of a Conceptual and Detailed Development Plan (Planned Development) to consider several requested variations to LDC development standards. Du/admine to the degree of the variations being requested, a Planned Development approval is necessary. The applicable review criteria for a Conceptual and Detailed Development Plan are found in LDC Chapter 2.5. The applicant originally requested, and the City approved, seven (7) variations. The appeal to LUBA did not involve this aspect of the City's decision. However, due to the proposed site plan changes intended to address the issues on remand, one of the requested variations is impacted by the applicable review criteria, and new Findings will need to be made that address the changes and how the application, as modified, complies with the applicable review criteria.

Applicable Review Criteria

2.5.40.04 – Review Criteria
Requests for the approval of a Conceptual Development Plan shall be reviewed to ensure consistency with the purposes of this Chapter, policies and density requirements of the Comprehensive Plan, and any other applicable policies and standards adopted by the City Council. The application shall demonstrate compatibility in the areas in "a" below, as applicable, and shall meet the Natural Resource and Natural Hazard criteria in "b" below:

a. Compatibility Factors
1. Compensating benefits for the variations being requested;

A. Original Decision: As mentioned above, the original application included seven requested variations to LDC standards. The City Council found in its original decision, that the application complies with the criterion for compensating

benefits for all seven of the requested variations (**see Exhibit D – pages 76 through 81**). Of the seven requested variations, only the following variation is affected by the site plan changes submitted for the remand:

> LDC Section 4.11.50.04.c: The prescribed order of encroachments into Natural Features, based on Minimum Assured Development Area (MADA) allowances. The site contains several mapped Natural Resources and Natural Hazards. Following the strict order of encroachments would require that a portion of the development occur on the north side of Dunawi Creek. The applicant proposed to alter the order of encroachments, so that the majority of development would occur on the south side of the Dunawi Creek.

B. Issues on Remand: The appellants did not appeal, based on the specific criterion, related to the MADA order of encroachments variation.

C. Modification Requires Supplemental Findings? : Yes. In addressing the issues related to LUBA's remand, the applicant has proposed to reduce the development envelope on the south side of Dunawi Creek, so that there is less encroachment into the protected Natural Hazard and Natural Resource areas. The proposed modification has the effect of altering the original degree of variation requested to the order of encroachments prescribed in LDC Section 4.11.50.04.c. The changes to the application do not alter any of the other previously requested variations.

   The City Council's original decision found that strict adherence to the prescribed order of Natural Feature encroachments in LDC 4.11.50.04.c. would require the applicant to develop on the north side of Dunawi Creek in the area north of the 100- foot Highly Protected Riparian Corridor setback, within the Locally Protected Wetlands and 100-Year Floodplain before developing in the 100-foot Highly Protected Riparian Corridor setback south of Dunawi Creek. This outcome would have caused extensive impacts to the highly valued forested wetland and riparian corridor north of Dunawi Creek. Thus, the City approved Variation #1 to concentrate the impacts of development on the south side of Dunawi Creek and to preserve a greater area of the Highly Protected Riparian Corridor, Locally Significant Wetland, and 100-Year Floodplain on the north side of Dunawi Creek.

   As modified, the proposed development results in less encroachment within the 100-foot Highly Protected Riparian Corridor setback and the 50-foot base Riparian Corridor due to the reduction in the size of Buildings B and F; elimination of the access sidewalk behind Buildings B and C, elimination of (9) vehicle parking spaces, and elimination of the sidewalk west of the access driveway connecting to SW 53rd Street. The modified site plan continues to propose that no private commercial development occur in the forested wetland north of Dunawi Creek, with the exception of the driveway crossing the creek at the northeast corner of the site.

D. Conclusion: The applicant is requesting a lesser variation to the MADA order of encroachments standard (LDC Section 4.11.50.04.c) than requested with the original application, without compromising the compensating benefits of

preserving the resource areas north of the creek. As modified, there are still adequate compensating benefits associated with the requested variation. None of the other six variations requested as part of the original approval are affected by the proposed site plan modifications. The criterion for compensating benefits associated with requested variations is satisfied.

2. Basic site design (the organization of Uses on a site and the Uses' relationship to neighboring properties);

A. Original Decision: In its decision, City Council found that the proposed Conceptual and Detailed Development Plan satisfied the criterion for basic site design (**see Exhibit D – page 81**), subject to conditions of approval.
B. Issues on Remand: The appellants did not cite this criterion in their appeal to LUBA.
C. Modification Requires Supplemental Findings? : Yes. As noted above, the applicant has proposed modifications to the site plan, which are primarily concentrated in the areas north of Buildings B, C, and F. Otherwise the basic site design has not substantially changed from the original design. The modifications do not alter the type and general location of uses, or the type and general location of access, on-site parking and circulation systems, landscaping, buffering, or setbacks. Although the modifications reduce the total commercial floor area of the development, the proposed commercial floor area of the buildings (including the drive-through facility for Walgreen's) is still approximately 43,022 gross square feet, which exceeds the minimum commercial floor area requirement of 42,090 square feet. Further discussion of the Floor Area Ratio calculations is set forth in response to LDC 3.19.40.03.a. below.

Pedestrian Circulation
Although the modifications affect two (2) on-site pedestrian sidewalks (**see Exhibit A – page 87**), one (1) of these sidewalks—the sidewalk behind Buildings B and C connecting to the stormwater retention pond— was not originally provided to meet a LDC requirement. The other sidewalk, located on the west side of the SW 53rd Avenue driveway, has been relocated to the south, approximately half way between the driveway entrance on SW 53rd Street and SW Philomath Boulevard, and continues to provide safe and convenient pedestrian access between the public sidewalk along SW 53rd Street and the internal sidewalk system. Continued provision of this sidewalk complies with LDC Sections 4.0.30.b and 4.10.70.03.a. The modifications associated with the sidewalks reduce the area of development in the 50-foot base Riparian Corridor and the 100-foot Highly Protected Riparian Corridor setback.

Floor Area Ratio Standards
The MUCS zone requires that developments provide a minimum floor area associated with commercial uses. The zone implements this by establishing a minimum Floor Area Ratio (FAR) of 0.25 and a maximum FAR of 1.0.

3.19.40.03 – Commercial Floor Area Ratio
Minimum commercial Floor Area Ratios (FARs) are required for all property with a Mixed Use Community Shopping designation. This requirement ensures that commercial land is preserved for primarily commercial purposes. For an explanation of how to apply/calculate FARs, see the definition of Floor Area Ratio in Chapter 1.6 - Definitions.
All commercial and mixed use developments shall comply with the following standards for commercial floor area:

> **a. For Commercial Use Types, the minimum FAR shall be 0.25 and the maximum FAR shall be 1.0. When a project is composed of two or more phases, development in each phase shall fall within the minimum and maximum FAR requirements or an alternative FAR requirement proposed and approved through a Planned Development Review process.**

In addressing this provision, the applicant references the following LDC definitions for "Area, Net" and "Floor Area Ratio (FAR)" set forth in LDC Chapter 1.6. These definitions provide as follows:

> **Area, Net - Total area of a parcel or site, usually expressed in acres and excluding existing public street rights-of-way and, if a developer desires, excluding public parks, Significant Natural Feature areas dedicated to the public, and/or other areas permanently precluded from development due to development constraints or conservation easements. Planned streets shall not be excluded from the net area.**
>
> **Floor Area Ratio (FAR) - Gross floor area of all buildings on a lot or development site divided by the net area of a lot or development site on which the buildings are located. See Area, Net. In cases where outdoor areas are directly related to the subject land use(s) (e.g., outdoor storage areas; planting areas for nurseries, tree farms, and agricultural businesses; portions of parking lots used for storage and circulation of moving vans associated with moving businesses; etc.), these outdoor areas may be included in the Floor Area Ratio square footage calculation. However, unless specified otherwise, in no case shall standard parking and circulation areas, landscaping, etc., be included in the Floor Area Ratio square footage calculation.**

For purposes of calculating the Floor Area Ratio, the applicant has elected to exclude the Natural Features from the Net Area. The proposed CDP and DDP satisfy the Floor Area Ratio requirements for the Property and for each tax lot, as illustrated in the following table:

Table 3 - Floor Area Ratio Calculations

Area	Site Area	Minimum Building Floor Area (0.25 FAR)	Maximum Building Floor Area (1.0 FAR)	Proposed Building Floor Area (sq. ft.)
Total Area (without subtracting areas protected Natural Features	289,082	72,721	289,082	43,022 (15% FAR - does not comply)
Area, Net (subtracting areas of protected Natural Features)	168,360	42,090	168,360	43,022 (25% FAR - complies)
Tax Lot 500	121,051	30,262	121,051	31,022 (complies)
Tax Lot 600	47,309	11,827	47,309	12,000 (complies)

D. Conclusion: The City Council found, in its original decision, that the proposed CDP and DDP are consistent with the criterion for basic site design. This specific criterion was not cited in the appeal to LUBA. The modifications to the CDP and DDP do not alter the organization of uses on the development site, or the relationship of those uses to neighboring properties. The modifications include a reduction in commercial floor area for the development site that remains consistent with the standard in LDC Section 3.19.40.03. The criterion for basic site design is satisfied.

3. Visual elements (scale, structural design and form, materials, etc.);

A. Original Decision: The City Council found that the application complies with this criterion (**see Exhibit D – pages 81 and 82**), because the building architecture complies with applicable development standards from the MUCS zone (LDC Section 3.19.40) and the commercial Pedestrian Oriented Design Standards in LDC Chapter 4.10 (LDC Section 4.10.70).

B. Issues on Remand: The opponents did not appeal this aspect of the City Council's decision to LUBA.

C. Modification Requires Supplemental Findings? : Yes. The proposed modifications include revisions to two of the seven buildings included in the original approval (**see Exhibit A – pages 107, 110, and 112**). The affected buildings are Building B and Building F. The applicant is proposing to reduce the floor area of Building B from 5,874 sq. ft. to 5,327 sq. ft., and to reduce the floor area of Building F from 9,000 sq. ft., to 7,500 sq. ft., for an overall decrease in building floor area of 2,047 sq. ft. The primary purpose of reducing the building area is to reduce the overall development impacts and encroachments into the south side of the Dunawi Creek Riparian Corridor and Proximate Wetlands. Because the floor area of Buildings B and F changed, a corresponding change in

the floor plans (**see Exhibit A – page 112**) and architectural elevations occurred (**see Exhibit A - pages 107 and 110**).

D. Conclusion: Although the modified application reduces the floor area of two (2) buildings, it does not materially modify or affect the scale, structural design and form or materials associated with the building architecture. Additionally, the changes in the building architecture do not adversely impact compliance with the applicable MUCS (LDC Section 3.19.40) and commercial Pedestrian Oriented Design Standards (LDC Section 4.10.70). In conclusion, building architecture was not a subject of the LUBA appeal, and the original application and modified application complies with the applicable criterion for visual elements.

4. Noise attenuation;

A. Original Decision: The City Council found that the proposed development is consistent with the applicable compatibility criterion for noise in its original, December 20, 2010, decision (**see Exhibit D – page 82**).
B. Issues on Remand: This criterion was not implicated in the assignments of error filed with LUBA.
C. Modification Requires Supplemental Findings? : No.
D. Conclusion: The original development plan was found to be consistent with this criterion and the criterion was not subject to assignments of error filed in the LUBA case. The proposed changes to the development plan will not generate additional noise impacts beyond what was anticipated in the original proposal. This criterion is satisfied.

5. Odors and emissions;

A. Original Decision: The City Council found that the proposed development is consistent with the applicable compatibility criterion for odors and emissions in its original, December 20, 2010, decision (**see Exhibit D – pages 82 and 83**).
B. Issues on Remand: This criterion was not implicated in the assignments of error filed with LUBA.
C. Modification Requires Supplemental Findings? : No.
D. Conclusion: The original development plan was found to be consistent with this criterion and the criterion was not subject to assignments of error filed in the LUBA case. The proposed changes to the development plan will not generate additional impacts associated with odors and emissions beyond what was anticipated in the original proposal. This criterion is satisfied.

6. Lighting;

A. Original Decision: The City Council found that the proposed development is consistent with the applicable compatibility criterion for lighting in its original, December 20, 2010, decision (**see Exhibit D – page 83**), subject to condition of approval # 15 (**see Exhibit D – page 7**).
B. Issues on Remand: This criterion was not implicated in the assignments of error filed with LUBA.

C. Modification Requires Supplemental Findings? : Yes. The proposed changes in the site plan (**see Conceptual Lighting Plan – see Exhibit A – page 95**) result in some of the pole mounted light fixtures moving southward, because the development envelope in the area of Building F has shifted further away from Dunawi Creek. The applicant is not proposing any other changes to the fixture and lighting design. The change in pole location should not have a material change in lighting impacts, as compared to the original approval (**see Exhibit D – page 36**), where City Council found that the criterion for lighting compatibility was satisfied, with the exception that lighting impacts upon the riparian corridor should be lessened.

D. Conclusion: In its decision, City Council found that, subject to a condition of approval, the proposed Conceptual Lighting Plan is consistent with the compatibility criterion for lighting. The lighting criterion was not the subject of the LUBA appeal. The proposed changes in the site plan resulted in the relocation of two of the pole mounted light fixtures, but the overall impact in terms of compatibility is lessened because the lighting has been relocated closer to the center of site, away from the riparian corridor. The original condition # 15 is still applicable, and as conditioned, this criterion has been satisfied.

7. Signage;

A. Original Decision: The City Council found that the proposed development is consistent with the applicable compatibility criterion for signs in its original, December 20, 2010, decision (**see Exhibit D – pages 83 and 84**), subject to condition of approval # 37 (**see Exhibit D – page 18**), because the number, size, location, and height of signs are consistent with LDC standards in Chapter 4.7. The condition of approval requires that the development comply with the City's sign code standards in LDC Chapter 4.7.

B. Issues on Remand: This criterion was not implicated in the assignments of error filed in the appeal to LUBA.

C. Modification Requires Supplemental Findings? : Yes. The applicant's revised sheet SP1.2 (**see Exhibit A – page 86**) includes a revision to the Walgreen's Pylon Sign Elevation. However, the net effect of the change is that the sign is shorter in height, and contains less sign area than the original approval. The proposed sign is consistent with the MUCS sign standards.

D. Conclusion: In it decision, City Council found that, subject to a condition of approval, the proposal is consistent with the compatibility criterion for signs, consistent with the LDC standards in Chapter 4.7. The signage criterion was not the subject of the LUBA appeal. The proposed changes in the application resulted in a change to the Walgreen's Pylon Sign Elevation on Sheet SP1.2, but the overall impact in terms of compatibility is lessened because the sign has been reduced in size. The original condition # 37 is still applicable, and as conditioned, this criterion has been satisfied.

8. Landscaping for buffering and screening;

A. Original Decision: In the original decision, City Council found that the Conceptual Landscape Plan (**see Exhibit D – page 34**) was consistent with LDC standards for landscaping, screening, and buffering (**see Exhibit D – pages 84**

and 85), subject to several conditions of approval (**see Exhibit D – pages 14 through 18**).

B. Issues on Remand: The opponents did not appeal this aspect of the decision to LUBA.

C. Modification Requires Supplemental Findings? : Yes. The applicant has proposed changes to the Conceptual Landscape Plan (**Sheet SP1.4 – see Exhibit A – page 92),** and condition of approval # 36 (**see Exhibit A – page 77**) as a result of the proposed changes to the overall site plan and lessened encroachments into the Riparian Corridor. The changes have the net effect of fewer new trees provided along the east and west facades of Building F, and fewer trees north of Building C near the refuse enclosures. However, the proposed lessened impacts of development on the Riparian Corridor should help to preserve additional existing vegetation within the Riparian Corridor. Additionally, the proposed changes to the Conceptual Landscape Plan, in conjunction with the original conditions of approval, are consistent with the LDC standards in Chapter 4.2, and with the criterion for landscaping. The proposed change to Condition # 36 does not have a material effect on overall landscaping provided, but rather addresses a change in the count for vehicle parking spaces that was noted in the original condition of approval, as it pertains to landscaping that abuts the vehicle parking north of Building A. The requirements for screening and buffering adjacent to these vehicle parking spaces, per LDC Section 4.2.30, 4.2.40 and 4.2.50 remain satisfied.

D. Conclusion: In its original decision, the City Council found that the proposed Conceptual Landscape Plan is consistent with LDC standards for landscaping, buffering and screening, based on additional conditions of approval. The opponents did not appeal the application based on this criterion. The applicant submitted revisions to the Conceptual Landscape Plan to address the issues on remand. The material changes in the landscape plans primarily are a result of the applicant's proposal to lessen impacts on the Riparian Corridor, by reducing the development envelope adjacent to Dunawi Creek. While the changes resulted in a reduction of the amount of provided new trees on site, the changes also will result in removal of less vegetation within the Dunawi Creek Riparian Corridor. As noted above, the applicant has proposed a change to Condition # 36, which does not directly affect the proposal's consistency with the applicable LDC buffering and screening requirements found in LDC Section 4.2.30, 4.2.40, and 4.2.50. As proposed, the revised Conceptual Landscape Plan and related condition of approval # 36 are consistent with this criterion.

9. Transportation facilities;

A. Original Decision: In the original decision, City Council found that the application (**see Exhibit D – page 85**) is consistent with LDC standards that require that developments be adequately served by public transportation infrastructure, to support vehicle, bicycle, and pedestrian circulation. Compliance with the transportation facilities criterion is contingent upon several conditions of approval that require improvements for public and private streets, and pedestrian and bicycle facilities, including multi-use paths.

B. Issues on Remand: The opponents did not appeal the original decision based on this criterion. However, the opponents did appeal based on other applicable LDC

criteria related to provision of one of the two public multi-use paths on the subject site.

Vehicle Circulation / Refuse Enclosure Access
Transportation improvements are proposed along the site frontages of SW 53rd (Benton County jurisdiction) and SW Philomath Blvd./Hwy 20/34 (ODOT jurisdiction) as well as an internal shopping street (private) and a public street which provides for connectivity between adjacent parcels. The proposed modifications to the application associated with the LUBA remand (**see Exhibit A – page 86**) do not substantially change the configuration of any of the transportation facilities. There are no revisions to the proposed improvements on SW 53rd Street, or SW Philomath Blvd. The local street cross-section remains the same, but the location is shifted approximately 30 feet to the south. The shopping street is shortened by 30 feet. These revisions continue to comply with applicable LDC sections listed in the original staff report to the Planning Commission and City Council.

Staff have concerns with the revisions to the site development plans, associated with the refuse enclosures near the intersection of the northern end of the private shopping street and the new public local street, near Building C. Previously the dumpsters were located on-site, abutting the private shopping street. The new location is east of the public sidewalk at the intersection of the two streets, and abutting the new public right-of-way. There are three design concerns which need to be addressed with the construction plans:

1. gates to refuse enclosures should not swing out over the sidewalk;
2. the sidewalk will need to be designed to allow garbage truck access, and
3. the skewed concrete sidewalk / pedestrian crossing across the commercial driveway approach should be parallel to the local street and located within the right of way

Some of these concerns could also be addressed by locating the dumpsters in an appropriate on-site location with pick-up access from the private site vs. a public street (**see Staff Recommended Condition of Approval # 42**).

Pedestrian and Bicycle Circulation -
Public multi-use paths are transportation facilities that are required on this development site, based on LDC Sections 4.0.20, 4.0.30, 4.0.40, and 4.0.60.n. A proposed public multi-use path, located on the north side of Dunawi Creek, is being provided on the development site in order to comply with the applicable LDC Chapter 4.0 standards mentioned above. A more in-depth discussion is included above, regarding the specific assignments of error sustained by LUBA, which concern the multi-use path located on the north side of Dunawi Creek. In its decision concerning the second assignment of error, LUBA did not take issue with the City's findings regarding whether or not the subject multi-use path is required. LUBA supports the City's findings regarding the necessity of the path to maintain a functional transportation system, consistent with LDC Section 4.13.50.b.2 (**see Exhibit C – pages 12 and 13**). Therefore, LUBA supports the City's findings relative to the multi-use path being required with this development.

At issue on remand is LUBA's determination that the City did not provide sufficient findings to address how specific Minimum Assured Development Area (MADA) credits, associated with construction of the multi-use path were applied to the development. The nuance between the findings associated with the requirement for the path, and how MADA credits associated with the path are applied to the development site, is what caused LUBA to sustain the second assignment of error, in part. A detailed discussion of MADA and how the MADA credits associated with the subject multi-use path are applied to the development site is included under the Natural Features criteria below.

C. Modification Requires Supplemental Findings? : No. The modified application includes the multi-use path, and all other transportation facilities proposed in the original application. Refer to the discussion below, concerning the timing and construction of the path, relative to application of Minimum Assured Development Area (MADA) credits.
D. Conclusion: The opponents did not raise compliance with this criterion in their appeal to LUBA. The modified site plan does not change any of Applicant's commitments to provide the transportation facilities identified in the original application, nor does it increase the development's projected impacts to transportation facilities. Therefore, the criterion for transportation facilities is satisfied.

10. Traffic and off-site parking impacts;

A. Original Decision: In the original decision, the City Council found that the proposed CDP and DDP complied with the criterion for traffic and off-site parking impacts (**see Exhibit D – pages 85 and 86**), subject to conditions of approval for improvements to adjacent streets (SW 53rd Street and SW Philomath Boulevard), to mitigate for traffic impacts. The original application included a traffic study, and review by ODOT and Benton County, who have jurisdiction over Hwy 20/34 (SW Philomath Boulevard) and SW 53rd Street, respectively. In the original decision, the Council found that sufficient vehicle parking was provided on site such that the criterion for off-site parking impacts was satisfied.
B. Issues on Remand: This criterion was not cited in the appeal to LUBA.
C. Modification Requires Supplemental Findings? : Yes. The proposed modifications to the application associated with the LUBA remand reduce the square footage associated with Buildings B and F, resulting in a potential for fewer trips, and less impacts to traffic and off-site parking.

In the original decision, City Council found that the development would not cause off-site parking impacts because 141 on-site vehicular parking spaces were proposed, a figure that exceeded the minimum number of spaces specified in the LDC Section 4.1.30 (123) but was less than the maximum number of spaces specified in LDC Section 4.1.20.o (160). The opponents did not appeal this aspect of the Council's decision to LUBA. However, the parking issue is properly before the City Council because the applicant has modified the site plan on

remand to reduce the total square footage of commercial uses and to reduce the number of parking spaces.

As noted above, the modified site plan reduces the total square footage of uses on the site and eliminates (10) vehicle parking spaces. The proposed building area has been reduced to approximately 41,321 square feet of retail uses and approximately 1,782 square feet of restaurant uses (assuming seating area at 40% of total gross floor area), which reduces the range of allowed on-site vehicular parking spaces to between 118 and 152. The following table further illustrates these parking calculations:

Table 4 - Minimum Vehicle Parking Calculations

MINIMUM VEHICLE PARKING REQUIREMENTS				
Building & Use	Floor Area	Parking Req. Per LDC 4.1.30	# of Spaces Required	# of Spaces Provided
Building A (restaurant)	1,782 sq. ft.	1 per 50 sq. ft. (public seating = 40% of gross floor area)	14.26	
Buildings B, C, D, E, and F (retail)	24,648 sq. ft.	1 per 400 sq. ft.	61.62	
Walgreen's (retail)	16,673 sq. ft.	1 per 400 sq. ft.	41.68	
			118	131

The modified site plan depicts 131 on-site vehicular parking spaces, which is within the permitted range of the LDC. Therefore, the modified site plan provides adequate on-site parking, ensuring that the development will not cause any impacts to off-site parking. The modified site plan does not affect the number or location of bicycle parking spaces.

D. Conclusion: In its original decision, the City Council found that the proposal complies with the criterion for traffic and off-site parking impacts. This criterion was not cited in the appeal to LUBA. With the proposed site plan and building area revisions, the vehicle parking provided on site has been altered so that less vehicle parking is provided, when compared to the original approval. As demonstrated in the remand submittal, sufficient vehicle parking has been provided on site to account for the minimum and maximum standards specified in LDC Sections 4.1.20 and 4.1.30. Given that there are not any changes to the level of transportation improvements associated with the modifications, the traffic impacts associated with the proposed changes meet the compatibility criterion. Therefore, the criterion for traffic and off-site parking impacts remains satisfied.

11. Utility infrastructure;

A. Original Decision: In the original decision, City Council found that the application is consistent with the applicable criterion for utility infrastructure (**see Exhibit D – page 86**), subject to several conditions of approval.
B. Issues on Remand: The appellants did not appeal to LUBA based on this criterion.
C. Modification Requires Supplemental Findings? : No. Revisions associated with the LUBA remand do not substantially change the configuration of any of the utility infrastructure. The relocation of the westerly detention pond 30 feet to the south provides an additional buffer area between the site and Dunawi Creek. These revisions continue to comply with applicable LDC sections listed in the original staff report to the Planning Commission and City Council.

   Given there are not any substantial changes to the utility infrastructure associated with the revisions, Staff find the proposed changes meet the compatibility criteria for LDC section 2.5.40.04.a.11.

D. Conclusion: In its decision, the City Council found that the application satisfies this criterion because there exists, or the development was conditioned to provide, adequate utility infrastructure to serve the development site. The opponents did not appeal this aspect of the decision to LUBA. The modified site plan does not alter or affect the demand for, or provision of, utility infrastructure or related conditions. Therefore, the criterion for utility infrastructure is satisfied.

12. Effects on air and water quality (note: a DEQ permit is not sufficient to meet this criterion);

A. Original Decision: In its decision, the City Council found that the proposed CDP and DDP complied with the criterion, based on the development's impacts on air and water quality (**see Exhibit D – page 87**).
B. Issues on Remand: The opponents did not appeal this aspect of the City Council's decision to LUBA.
C. Modification Requires Supplemental Findings? : No.
D. Conclusion: The City Council found that the original application complied with the compatibility criterion for effects on air and water quality. The criterion was not cited in the appeal to LUBA. The application, as modified, continues to meet this criterion.

13. Design equal to or in excess of the types of improvements required by the standards in Chapter 4.10 – Pedestrian Oriented Design Standards; and

A. Original Decision: The City Council's original decision found that the criterion for Pedestrian Oriented Design Standards was satisfied based on the application submittal and subject to conditions of approval addressing specific Pedestrian Oriented Design Standards (**see Exhibit D – pages 87 and 88**).
B. Issues on Remand: This criterion was not subject to the LUBA appeal.
C. Modification Requires Supplemental Findings? : Yes. As noted above, the applicant has proposed revisions to the CDP and DDP that affect specific pedestrian walkways on the development site. As noted above in the discussion

above under the criterion for Basic Site Design, the walkway originally proposed north of Buildings B and C was not required based on a LDC standard.

As noted in the discussion above, the second walkway affected by the proposed revisions, located halfway between the driveway on 53rd Street and SW Philomath Boulevard, was relocated from its previous alignment along the western edge of the 53rd Street driveway. Although the sidewalk has been relocated, it continues to comply with LDC Sections 4.0.30.b and 4.10.70.03.a. The modified site plan still provides continuous internal sidewalks to all customer entrances and between customer entrances, as required by LDC 4.10.70.03.a.1. The proposal continues to provide sidewalks along the full length of building walls featuring a customer entrance and along all walls parallel to and abutting parking areas larger than eight (8) parking spaces, as required by LDC 4.10.70.03.a.2. Finally, the modified plan continues to provide connections between on-site sidewalks and sidewalks along public streets, as required by LDC 4.10.70.03.a.3. The modified development plan does not impact any of the other applicable Pedestrian Oriented Design Standards associated with the original application.

D. Conclusion: The City Council's original decision concerning the criterion for Pedestrian Oriented Design Standards found that the proposed development is consistent with the criterion, subject to conditions of approval. The applicable Pedestrian Oriented Design Standards from LDC Chapter 4.10 are not cited in the appeal to LUBA. The proposed modifications to the application affect two of the walkways proposed in the original application, and no other Pedestrian Oriented Design Standards are involved in the modifications. As noted in the discussion above, only one of the two walkways affected by the revisions is subject to the design standards in LDC Sections 4.0.30.b and 4.10.70.03.a. The proposed modification is consistent with the stated LDC standards. Therefore, the criterion in LDC Section 2.5.40.04.a.13 is satisfied.

14. Preservation and/or protection of Significant Natural Features, consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Streets shall also be designed along contours, and structures shall be designed to fit the topography of the site to ensure compliance with these Code standards.

A. Original Decision: The City Council found in its original decision, that the proposed CDP and DDP complies with the applicable LDC review criteria related to preservation and protection of Significant Natural Features (**see Exhibit D – pages 57, 61, 62, 63, 71 through 76, and pages 88 and 89**), with the exception of the requested variation to the allowed order of encroachments standard from LDC Chapter 4.11, as described under the criterion above related to compensating benefits. As noted in the discussion above, City Council found that the requested variation to the order of encroachments standard was satisfied by compensating benefits associated with concentrating development on the south side of Dunawi Creek. Additionally, City Council adopted several conditions in its original approval, to ensure that as site development occurs, that the Natural Features protection standards in LDC Chapters 4.5, 4.11, and 4.13 will be

satisfied. The site contains a Highly Protected Riparian Corridor, Proximate and Locally Protected Wetlands, and Highly Protected 100-Year Floodplain (including 0.2-ft. Floodway). All of these Natural Features are associated with Dunawi Creek.

B. Issues on Remand: This issue is properly before the City Council on remand for two (2) reasons. First, LUBA remanded the Decision for additional findings in response to specific provisions of LDC Chapters 4.11 and 4.13. These provisions are addressed below, and such responses are incorporated herein by reference.

C. Modification Requires Supplemental Findings? : Yes. As noted in the discussion under LDC Section 2.5.40.04.a.1, the issue is also properly before the City Council because modifications to the site plan reduce the degree of Variation #1 (the prescribed order of Natural Feature encroachments in LDC 4.11.50.04.c.)

For the reasons explained above in response to LDC 2.5.40.04.a.1, strict adherence to the prescribed order of encroachments would have caused impacts to the highly valued forested wetland and riparian corridor north of Dunawi Creek, while Variation #1 allows the applicant to preserve a greater portion of this area by concentrating development impacts on the south side of the creek.

With the proposed site plan modifications, the applicant is proposing fewer development encroachments to the south side of Dunawi Creek. Encroachments are permitted in order to utilize the MADA, consistent with the findings set forth below in response to LDC 4.11 and 4.13.

Additionally, as explained in the attached letter from Marquess & Associates, Inc., dated March 29, 2013 (**see Exhibit A – page 100**), the modifications to the site plan do not require a new floodplain study or change the conclusions set forth in the original floodplain study dated June 3, 2010, which is included in the record of the original proceedings for the application. Given there are less encroachments into Natural Features areas than previously approved, Staff find the proposed changes meets the compatibility criteria for LDC section 2.5.40.04.a.14.

Since the original City Council approval in 2010, the developer has received DSL concurrence for a wetland delineation on Tax Lot 600, which revises the wetland boundary data for Tax Lot 600 (**see Exhibit B – page 5**). The change in the wetland boundary does not affect the overall development site in terms of how the application complies with the Minimum Assured Development Area standards and allowable encroachments. Additionally, the developer has received a renewal of a Fill Permit from DSL (Permit #32863-FP Renewal) for the subject site (**see Exhibit A – page 79).** As renewed, this permit is valid through November 22, 2013. The proposed modifications satisfy the criterion for Natural Features protections.

D. Conclusion: As noted above, in its original decision, the City Council found that the criterion for preservation and protection of Natural Features is satisfied. Findings related to this criterion are the primary subject of the appeal to LUBA, and are associated with the remand from LUBA. A specific discussion concerning LUBA's remand and findings related to specific provisions of the Land Development Code related to Natural Features protections and Minimum

Assured Development Area is included below. By reference, the findings noted in the discussion below are incorporated here. As noted in the discussion below, the proposed modifications are consistent with the applicable criteria for Natural Features protections and application of Minimum Assured Development Area. This criterion is satisfied.

b. Natural Resources and Natural Hazards Factors –

1. **Any proposed variation from a standard within Chapter 2.11 – Floodplain Development Permit, Chapter 4.5 – Floodplain Provisions, Chapter 4.11 – Minimum Assured Development Area (MADA), Chapter 4.12 – Significant Vegetation Protection Provisions, Chapter 4.13 – Riparian Corridor and Wetland Provisions, or Chapter 4.14 – Landslide Hazard and Hillside Development Provisions shall provide protections equal to or better than the specific standard requested for variation; and**

A. Original Decision: In its original decision, City Council approved a variation to LDC 4.11.50.04.c, to allow encroachments into the 100-foot Highly Protected Riparian Corridor prior to the Locally Protected Wetland, and by allowing development to occur within the 50-foot base Riparian Corridor prior to using all allowable encroachments into the Locally Protected Wetland and 100-foot Highly Protected Riparian Corridor (**see Exhibit D – pages 76 and 77**). As noted in the original Council findings, Council found that the Natural Resources and Natural Hazards on the north side of Dunawi Creek are better protected, as compared to impacts on Natural Features that would occur had the applicant followed the prescribed order of encroachments.

B. Issues on Remand: The opponents appeal to LUBA did not cite this specific criterion.

C. Modification Requires Supplemental Findings? : Yes. As noted in the discussion above, this issue is properly before the City Council on remand because the modified site plan reduces the degree of the requested variation.

The proposed modification to the CDP and DDP satisfies this criterion because the proposed variation provides protections equal to or better than LDC Section 4.11.50.04.c. Strict adherence to the prescribed order of Natural Feature encroachments in LDC Section 4.11.50.04.c. would require development to occur on the north side of Dunawi Creek in the area north of the 100-foot Highly Protected Riparian Corridor setback, within the Locally Protected Wetlands and 100-Year Floodplain before developing in the 100-foot Highly Protected Riparian Corridor setback south of Dunawi Creek. This outcome would cause impacts to the highly valued forested wetland and riparian corridor north of Dunawi Creek.

By contrast, the proposed modifications and associated variation allows the applicant to concentrate the impacts of development on the south side of Dunawi Creek, which is already impacted by development, and to preserve a greater area of the Highly Protected Riparian Corridor, Locally Significant Wetland, and 100-Year Floodplain on the north side of Dunawi Creek. Preservation of this large area north of the creek without any development provides more benefits to the environment than preserving two separate, smaller areas on either side of the creek, as strict adherence to Chapter 4.11 would have required.

D. Conclusion: As noted above, the City Council found that the proposed CDP and DDP complied with the criterion in LDC Section 2.5.40.04.b1. This specific criterion was not implicated in the appeal to LUBA. However, in order to address the specific issues on remand from LUBA, the applicant's revised development plan triggers the need to review this criterion in light of the changes. The proposed site plan changes reduce the amount of the requested variation. Therefore, consistent with the original findings, the proposed modifications are consistent with the criterion in LDC Section 2.5.40.04.b.1.

2. **Any proposed variation from a standard within Chapter 2.11 – Floodplain Development Permit, Chapter 4.5 – Floodplain Provisions, Chapter 4.11 – Minimum Assured Development Area (MADA), Chapter 4.12 – Significant Vegetation Protection Provisions, Chapter 4.13 – Riparian Corridor and Wetland Provisions, or Chapter 4.14 – Landslide Hazard and Hillside Development Provisions shall involve an alternative located on the same development site where the specific standard applies.**

A. Original Decision: The City Council's original decision found that this criterion is satisfied.
B. Issues on Remand: This criterion was not cited in the appeal to LUBA.
C. Modification Requires Supplemental Findings? : Yes. For the reasons explained above in the discussion under LDC Section 2.5.40.04.b.1, the applicant's proposed modifications include a reduction in the amount of variation to the MADA order of encroachments standard. The proposed variation, even as modified, constitutes an alternative development plan, where the intention is to provide protections that meet or exceed applicable standards in LDC Chapters 4.5 and 4.13.
D. Conclusion: The City Council's original decision concluded that this criterion is satisfied. The criterion was not specifically addressed in the appeal to LUBA. The proposed modifications reduce the amount of variation to a standard, where City Council originally found that the criterion was satisfied. This criterion under LDC Section 2.5.40.04.b.2 is satisfied.

2.5.50.04 – Review Criteria for Determining Compliance with Conceptual Development Plan
Request for approval of a Detailed Development Plan shall be reviewed to determine whether it is in compliance with the Conceptual Development Plan. The Detailed Development Plan shall be deemed to be in conformance with the Conceptual Development Plan and may be approved provided it is consistent with the review criteria in Section 2.5.40.04 above, provides a clear and objective set of development standards for residential Detailed Development Plans (considering the Detailed Development Plan proposal, required adherence to this Code, and Conditions of Approval), and does not involve any of the factors that constitute a major change in the Planned Development. See Section 2.5.60.02 – Thresholds that Separate a Minor Planned Development Modification from a Major Planned Development Modification.

A. Original Decision: The City Council found that the proposal complies with this criterion.
B. Issues on Remand: This criterion was not subject to the LUBA appeal.
C. Modification Requires Supplemental Findings? : No.
D. Conclusion: The City Council found that the proposed Detailed Development Plan was consistent with proposed Conceptual Development Plan. The Conceptual Development Plan was found to be consistent with the applicable review criteria in LDC Section 2.5.40.04. The plan does not involve residential development. As proposed, and as modified, the proposal is consistent with this criterion.

VII. Conditions of Approval

In the original decision, City Council approved the Creekside Center application, subject to 41 conditions of approval, some of which had sub-conditions. The application requires related modifications to some of these conditions. The applicant proposes language for the modified conditions (**see Exhibit A – page 75**). The table below includes a list of the conditions that are proposed to be altered, as well as new conditions proposed by Staff to address the modifications to the application. Where alterations to conditions are not needed, the original conditions of approval shall continue to apply.

Table 5 - Applicant's Proposed Modified Conditions of Approval

Applicant's Proposed Modified Conditions of Approval for Creekside Center I & II Proposal modifies 8 of the original 41 conditions of approval from Order 2010-077. Plain text is language from the original conditions, strikethrough text is stricken, and underlined text is new.	
1	**Consistency with Plans** - Development shall comply with the narrative and plans identified in **Attachments G and H** of ~~this~~ the original Staff Report, except as modified by the conditions below and by the narrative and plans submitted on remand, or unless a requested modification otherwise meets the criteria for a Minor Planned Development Modification, Conditional Development Modification, and/or a Subdivision Modification, as applicable. Such changes may be processed in accordance with Chapters 2.3, 2.4 & 2.5 of the Land Development Code.
4	**Department of State Lands (DSL) / Army Corps of Engineers (COE) Approvals Required -** The applicant has obtained a DSL fill permit (Permit No. 32863-FP Renewal) that authorizes development on a portion of Tax Lot 500, and has provided a copy of the renewed permit to the City as part of this land use application on remand ~~(See Attachment H - Pages 153-154 and Attachment L)~~. The active DSL fill permit has an expiration date of November 22, ~~2010~~ 2013. City of Corvallis development permits may be issued for that portion of Tax Lot 500 identified within the scope of

	the active DSL fill permit, as long as the applicable City permits are issued prior to expiration of the active DSL fill permit. Areas of the proposed CDP/DDP that fall within the scope of the active DSL fill permit include Phases 1-A (Walgreen's), 1-B (Building A), and 1-C (Building D), and Phase 1 (associated site improvements), as defined by the dashed lines and phasing labels on the Project Phase Plan (Sheet SP1.11). Also refer to the surveyed wetlands overlay (Sheet SP1.3C), <u>and</u> limits of development identified on the "Wetlands Joint Permit Site Plan," dated June 15, 2004 (active DSL fill permit) as defined by upland areas and wetland impact area. Development of the proposed public multi-use path north of Dunawi Creek, the remainder of Phase 1 (Tax Lot 500 - Phases 1-D (Building C) and 1-E (Building B) and related site improvements), and Phase 2 (Tax Lot 600) is either not authorized under the scope of the active DSL fill permit, or relies on MADA credits associated with DSL-approved wetland mitigation that has not yet been authorized. No development permits shall be issued for work beyond the scope of the active DSL fill permit and/or after expiration of the active DSL fill permit, until supplemental documentation, as required in LDC § 4.13.80.01.e has been provided to the City. Permits for development that is reliant upon DSL-approved wetland mitigation associated with MADA credits under LDC § 4.11.50.02.c.2 shall not be authorized until documentation of the approved mitigation has been provided to the City, consistent with § 4.11.50.02.c.2.
10	**<u>Pre-Payment for Public Multi-Use Path Construction (Dunawi Creek)-</u>** The Applicant shall deposit with the appropriate City official an amount of cash equal to the estimated cost of the construction of the Dunawi Creek multi-use path, prior to issuance of site development permits for Phases 1E, 1D, or 2, whichever occurs first. The estimated cost shall be prepared by the Applicant and approved by the City, and shall be based upon a multi-use path located within the multi-use path easement area shown on Sheet SP1.10, that meets applicable City and DSL standards for construction and alignment, and accounts for necessary excavation and fill and any other reasonably related requirements imposed by the City. The City shall place this money in the appropriate account and shall use it only for construction of the path. In the event that the City determines not to build the path, the City shall refund the money to the Applicant within a reasonable time period. With submittal of the construction cost estimate, the Applicant shall include documentation of an approved fill permit, as required for wetland construction and wetland mitigation by the Oregon Department of State Lands ("DSL") and the United States Army Corps of Engineers ("Corps"), which documents final acceptance by these agencies of the multi-use path construction and alignment. The ~~cost of obtaining~~ <u>application fees for</u> any necessary permits from DSL and the Corps shall be paid by the Applicant. With submittal of the construction cost estimate, the

	~~a~~Applicant shall include construction details for the multi-use path that comply with Parks Department trail construction guidelines and DSL requirements, and includes the bench, as identified on Sheet SP1.4, if permitted by DSL. Path construction shall generally follow the "Design and Development Policies" of the adopted Park and Recreation Facilities Plan (Page 5-2), and final path alignment shall occur so as to minimize impacts to the properly functioning condition of the riparian corridor/drainageway. The City shall make the final determination of when the path is to be constructed, based on Project Implementation guidelines established in City Council Policy 99-7.14.
17	**Pedestrian Crossings at Drive Aisles** - As noted in the application narrative, and with submittal of the site development permit applications (including those required by Benton County and ODOT), the applicant shall clearly indicate that all pedestrian crossings at internal streets (private Shopping Street), drive aisles, parking aisles, and commercial driveway approaches, are constructed of paving materials that contrast with the abutting pavement used for vehicular circulation, in conformance with **LDC § 4.10.70.03.a.5.** This includes one driveway entrance on 53rd Street, one driveway entrance on Philomath Blvd. (at private Shopping Street), and two driveways that intersect with the new local street, the drive aisle crossings between Buildings E and F, the Shopping Street crossing between Buildings F and C, the drive aisle crossing between Buildings C and D, ~~and~~ the drive aisle crossing between the Walgreen's building and Building B/pedestrian plaza, and the new pedestrian crossing at the southern end of the SW 53rd Street access driveway.
19	**Building Setbacks and Conformance to Proposed Grading Plans / Detail "DD"** - Any changes to final grading, noted on the Conceptual Grading Plans, will require a Planned Development Modification, as defined in the Planned Development Modification Criteria in LDC § 2.5.60. Since the limits of grading in areas on the south side of Dunawi Creek will generally follow the required drainageway easement line and in some cases be adjacent to the 0.2 floodway line, Building B shall be setback a minimum of 3 feet from this grading limits/easement line as shown in the applicant's revised attachment DD, in order to ensure that all development and associated construction fencing/erosion control fencing is located outside of the 0.2'-Floodway and drainageway easement area.
36-j	**SW 53rd Street Frontage Landscaping** - As noted in the project narrative, the developer intends to provide enhanced landscaping along the site's SW 53rd Street frontage, in order to compensate for the reduced width parkway. With submittal of the landscape construction documents, the applicant shall include additional shrubs and groundcover within the 6-ft. parkway, and additional trees, shrubs, and groundcover within the landscaped area between the row of ~~seven (7)~~ four (4) vehicle parking spaces north of Building A and the sidewalk/multi-use path on SW 53rd Street. Shrubs within the 6-ft. parkway shall be of a species and size that

	is compliant with the vision clearance standards established by the City Engineer and Benton County.
39-d	**<u>Final Plat Tract and Easement (Drainageway and Natural Features Preservation)</u> -** With submittal of the final plat, the property owner shall include in the plat declarations, a dedication for the proposed Drainageway and Natural Features Tracts ("Lot 550" and "Lot 601"). The declaration language shall specify the purpose, ownership, and party responsible for the maintenance of the Tracts. The declarations shall also grant to the City of Corvallis, a public drainageway easement within the Tracts, as specified per **LDC § 4.13.70.02.d.** A minimum drainage way easement of 50-feet shall be provided along the north side of Dunawi Creek. On the south side of Dunawi Creek the easement will need to follow the grading limits line as shown on sheet SP1.5. Since the limits of grading will be the easement line and in some cases the 0.2 floodway line, Building B shall be setback 3 feet from the grading limits/easement line as shown in the applicant's <u>revised</u> attachment DD. A public drainage easement will also be needed under or through the private creek crossing at the east end of the site up to SW 53rd Street. The easement will need to outline the private maintenance responsibilities of the creek crossing associated with the site access.
40	**<u>Additional Floodplain Study and Revisions to Detailed Development Plan</u> -** With submittal of the site excavation and grading permit application, where grading is proposed within the pre-development floodway fringe, the applicant shall provide a revised floodplain study and site grading plans which demonstrates that the post-development floodplain elevation on adjacent properties is no greater than the pre-development condition. The post-development floodplain boundary shall not expand horizontally beyond the limits of the pre-development floodplain boundary as it currently exists on adjacent properties. The applicant may choose to reduce or eliminate building area associated with Phases 1D (Building C), 1E (Building B), and Phase 2, as well as associated vehicle parking, if it is necessary to accommodate flood water volume and meet this condition of approval. The ~~Planning Commission~~ <u>City Council</u> finds that if building area is reduced in order to comply with this condition, the minimum Floor Area Ratio (FAR) requirement of 0.25, as specified in LDC § 3.19.40.03, may be reduced below 0.25. If this occurs, the ~~Planning Commission~~ <u>City Council</u> finds that a compensating benefit has been provided for the variation to FAR in the form of no net impact upon adjacent properties due to development within the floodway fringe.

Table 6 - Staff Recommended Modified and Added Conditions of Approval

Staff Recommended Conditions of Approval Modifies Applicant's proposed change to Condition # 1, and supplements original 41 conditions of approval from Order 2010-077.	
1 *(modifies Condition #1 both as originally proposed, and as proposed to be modified by the applicant as part of this LUBA remand)*	**Consistency with Plans -** Development shall comply with the narrative and plans identified in **Attachments G and H** of ~~this~~ the original Staff Report, except as modified by the conditions below and by the narrative and plans submitted on remand, which are identified as Attachment A to this June 10, 2013, Staff Report to the City Council, and incorporated as a requirement of this condition as if set out completely herein, or unless a future requested modification otherwise meets the criteria for a Minor Planned Development Modification, Conditional Development Modification, and/or a Subdivision Modification, as applicable. Such changes may be processed in accordance with Chapters 2.3, 2.4 & 2.5 of the Land Development Code. Nothing in this condition precludes development from undergoing a future major modification through a future public process.
42 *(added Condition, based on original 41 conditions)*	**Shopping street and the local street intersection design regarding dumpster location and access** - There are three design concerns associated with the dumpster locations at the north end of the shopping street which need to be addressed with the construction plans. The concerns are: gates for enclosures shall not swing out over the sidewalk, the sidewalk will need to be designed to allow garbage truck access, and the skewed concrete sidewalk across the commercial driveway approach shall be parallel to the local street and located within the ROW. Some of these concerns could be addressed by locating the dumpsters in an appropriate on-site location with pick-up access from the private site vs. a public street. Final design of the intersection and any dumpster access from a public street shall be approved by the City Engineer in conjunction with the PIPC permits.

VIII. Conditional Development Permit (Walgreen's Drive-Through Facility)

The Creekside Center I & II proposal requires approval of a Conditional Development Permit, because the MUCS zone specifies that drive-through facilities are conditionally permitted uses per LDC Section 3.19.30.f.13. The original application included a drive-through pharmacy window along the north façade of the Walgreen's building. In its original decision, the City Council found that the proposed drive-through facility is consistent with the applicable criteria for a Conditional Development Permit (**see Exhibit D – pages 70, 73 and 204 through 210**).

LUBA did not remand any of the City's findings for the Conditional Development Permit. Furthermore, the proposed site plan modifications do not impact the drive-through facility. Therefore, the City Council is not required to adopt any additional findings for the Conditional Development Permit.

IX. Tentative Subdivision Plat

The Creekside Center I & II development requires approval of a Tentative Subdivision Plat, because it includes creation of three buildable lots and four tracts set aside for specific purposes. The purposes of the tracts include Natural Features preservation and a private Shopping Street. In its original decision, the City Council found that the applicable criteria for a Tentative Subdivision Plat were satisfied, as conditioned (**see Exhibit D – pages 96, 97, and 211 through 218**).

LUBA did not remand any of the City's findings for the Tentative Subdivision Plat. The proposed site plan modifications impact the tentative subdivision plat. The applicant submitted a revised Tentative Subdivision Plat (**see Exhibit A – page 104**). The changes to the Tentative Subdivision Plat are as follows:

- Local street public right-of-way in middle of Tax Lot 600 and northwest corner of Tax Lot 500 shifted southward, to lessen impacts of development of local street infrastructure on Dunawi Creek Riparian Corridor. This is associated with the applicant's proposed reduction in the area of Building F and its encroachment toward Dunawi Creek.
- Minor changes to the configuration of the proposed property lines shared between the Natural Features tracts for Dunawi Creek and the buildable lots. This is due to the changes related to reduction of the encroachment of development on the south side of Dunawi Creek.

The following land division standards apply to the proposed changes:

<u>Applicable Land Development Code Standards</u>

4.4.20.02 - Blocks

a. General - Length, width, and shape of blocks shall be based on the provision of adequate lot size, street width, and circulation; and on the limitations of topography.

b. Size - Blocks shall be sized in accordance with the Block Perimeter provisions within Section 4.0.60.n of Chapter 4.0 - Improvements Required with Development.

4.4.20.03 - Lot Requirements

a. Size and Shape - Lot size, width, shape, and orientation shall be appropriate for the location of the Subdivision and for the Use Type contemplated. No lot shall be dimensioned to contain part of an existing or proposed street. All lots shall be buildable, and depth shall generally not exceed 2.5 times the average width. Lot sizes shall not be less than required by this Code for the applicable zone. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street parking and service facilities

required by the type of use proposed, unless off-site parking is approved per Chapter 4.1 - Parking, Loading, and Access Requirements.

The local street right-of-way at the northwest corner of the subject site and how it relates to the proposed property lines is subject to the City's Block Perimeter Standards. The relocation of the local street right-of-way, as compared to the original application (**see Exhibit A – page 87**) has the net effect of decreasing the block face along the private Shopping Street, and has no effect on the overall Block Perimeter established in the original application. Therefore, the criterion in LDC Section 4.4.20.02.b is satisfied.

Changes to the Natural Features Tract (Lot "550" - see Exhibit A – pages 87 and 104) boundary does not have any net effect on the commercial subdivision lots to the south, in terms of making them unbuildable, or adversely affect the depth of the lots so that they continue to comply with LDC Section 4.4.20.03.a. Therefore, the revised Tentative Subdivision Plat (**see Exhibit A – page 104**) complies with the applicable Land Division Standards in LDC Chapter 4.4.

X. Council Options and Staff Recommendations

The Council has two options with respect to the Creekside Center I & II application and issues on remand. The Council may:

1) Review the record and, if there is sufficient evidence, make new findings that the modified application complies with all applicable LDC criteria and in addition, specifically addresses the assignments of error sustained by LUBA; or

2) Review the record and, if there is sufficient evidence, deny the application for failure to comply with applicable decision making criteria, and for failing to address the assignments of error sustained by LUBA.

Staff recommend the Council pursue the first option and approve the Creekside Center I & II application, as modified by the applicant, with specific revised and new conditions of approval, as proposed by the applicant, and as revised and recommended by Staff.

The previous City Council decision approved the application based on detailed findings (**Exhibit D**) regarding the proposal's compliance with applicable standards and policies. For the most part, LUBA upheld these findings, and sustained the Council's decisions concerning aspects of the Conceptual and Detailed Development Plan, Conditional Development Permit, and Tentative Subdivision Plat. The previous findings include, but are not limited to, applicable LDC development standards contained in the MUCS zone and Article IV, basic site design, visual compatibility, street alignments and connections, pedestrian and bicycle circulation standards, lot configuration, and other compatibility criteria.

The only exceptions are with respect to Council findings regarding application of MADA credits under LDC Sections 4.11.50.02.c (2) and (4).

By approving the application, as conditioned, the Council is approving all aspects of the proposed Conceptual and Detailed Development Plan, Conditional Development Permit and Tentative Subdivision Plat, including the modified site plans and conditions of approval. Application of these conditions of approval will ensure that development is consistent with all applicable LDC review criteria, and will provide opportunity for public participation in the decision making process, thus resolving the issues raised in the three assignments of error sustained by LUBA.

Recommended Motion

If the City Council concurs with the above recommendations the following motion is suggested:

I move to tentatively approve the Creekside Center I & II Conceptual and Detailed Development Plan, Conditional Development Permit, and Tentative Subdivision Plat (PLD09-00004, CDP09-00003, and SUB09-00002), subject to adoption of Formal Findings for the Issues on Remand, to be prepared by Staff and presented at the next City Council meeting.

Exhibits

A. Remand Submittal (Proposed Modifications to original Conceptual and Detailed Development Plan, Conditional Development Permit, and Tentative Subdivision Plat approval; Supplemental Exhibits and Proposed Modifications to original Conditions of Approval)

B. Correspondence from Oregon Department of State Lands and US Army Corps of Engineers concerning on-site wetland delineations and multi-use path construction proposal

C. LUBA Final Order and Opinion, regarding LUBA case # 2011-002

D. Original City Council Decision (includes Order 2010-077 (City Council decision concerning original application for Creekside Center I & II) and original City Council findings / Planning Commission staff report)

Review and Concur

Jim Patterson, City Manager

Scott Fewel, City Attorney

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April 5, 2013

VIA E-MAIL

Mr. Jason Yaich
Corvallis Community Development Department
Planning Division
501 SW Madison Avenue
Corvallis, OR 97333

Re: Creekside Center I and II
City File Nos. PLD09-00004, CDP09-00003, and SUB09-00002
Request to Proceed on Remand

Dear Mr. Yaich:

This office represents the applicant and developers of the proposed Creekside I and II retail project in the City of Corvallis and the subject of City File Nos. PLD09-00004, CDP09-00003, and SUB09-00002 ("Applications"). Pursuant to ORS 227.181(2)(a), the applicant hereby requests that the City proceed with review of the Applications on remand and make a decision within ninety (90) days after the date of this letter, or no later than July 5, 2013.

We have previously provided argument and evidence in support of approval of the Applications on remand. Please let us know if you have any questions as you review these materials.

Please notify me of the City Council hearing date and provide me with a copy of the notice of hearing. As you know, the public hearing must be limited to the remand issues and issues associated with the related modifications to the site plan. Issues that could have been raised, but were not, or issues that were finally resolved but not appealed in LUBA's decision, may not be raised in this matter.

Please place this letter in the official Community Development Department file and before the City Council at the public hearing. Thank you for your cooperation.

Very truly yours,

Michael C. Robinson

MCR/cfr

Cc: Mr. Bret Fox (via email)
Mr. Mark McKechnie (via email)
Mr. Kevin Young (via email)
Mr. Jim Brewer (via email)

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April 22, 2013

Jason Yaich, Associate Planner
City of Corvallis
501 Madison Street
Corvallis, OR 97330

RE: Remand submittal for PLD09-00004/CDP09-00003/SUB09-00002
Creekside Center I & II

Dear Jason;

Enclosed are 16 copies of the Creekside I and II development proposal architectural sheets, revised to address issues raised by the Land Use Board of Appeals, and resubmitted to the City for review and action on the issues raised in remand. All the sheets originally submitted have been included in this resubmittal, as well as a sheet labeled "Overlay" to aid reviewers and the Council in understanding exactly what has changed, in that so little has actually changed. On the "Overlay" sheet the revised plan is in black and the original plan is in red. It has been inserted in the set behind sheet SP1.2.

Besides the architectural package, four sheets of the Narrative package have been revised and are included separately (pages 36, 48, 52 and Attachment DD). Also enclosed is a copy of a letter from the engineer who conducted the original flood study indicating the changes in plan will have no significant impact on the flood study results.

Completing the remand resubmittal is a Remand Narrative, which you will receive under separate cover.

Following is a compendium of the changes to the architectural and graphic exhibits enclosed. Because so little has changed we offer this list as a means of expediting the review of the minimal modifications that actually occurred:

- Sheet SP0.0 – No changes.
- Sheet SP1.0 – No changes.
- Sheet SP1.1 – No changes.
- Sheet SP1.2 – Buildings "B" and "F" have been reduced in size; the pedestrian access to 53rd Street was relocated to minimize the conflict between pedestrians, cyclists and automobiles at the vehicle site entrance on 53rd Street; the width of the access drive across the creek was reduced; the dumpster enclosures north of Building "C" were relocated; the east-west cross street north of Building "F" moved 50 feet to the south; and the number of parking spaces on both lots was reduced a total of 10 spaces. We also added a note indicating the square footage of the Walgreens drive-thru to aid in calculating the FAR. See "Overlay" sheet to identify the location of these revisions.

- Added new sheet “Overlay” to aid in understanding the details of this submission vis a vis the previously approved Council version.
- Sheet SP1.2A – No changes.
- Sheet SP1.3A – Underlying site plan updated.
- Sheet SP1.3B – Underlying site plan updated.
- Sheet SP1.3C – Underlying site plan updated. Also, since initial Council approval of the project, the wetlands on Lot 600 have been surveyed. The results of that survey have been incorporated into this exhibit. We have also added a hatch pattern to the sheet to make the wetlands more discernible.
- Sheet SP1.4 – Reduced the number of trees along the east side of the shopping street by two and the west side of Building “F” by one.
- Sheet SP1.5 – Relocated the “alternate water quality feature” associated with both the public and private ponds. These features are oversized on the drawing (for illustration purposes) and are subsurface. Their current location will have no impact on the size or function of either pond. The drainage around Building “A” was modified slightly to accommodate the reduced size of the parking area around the building.
- Sheet SP1.6 – Underlying site plan updated.
- Sheet SP1.7 – Underlying site plan updated.
- Sheet SP1.8 – Reduced the overall size of the development by nearly 11,000 sf. The MADA credits no longer include any credit for the area requiring wetland mitigation for the construction of the multi-use path. The multi-use path is now a “zero balance” feature, meaning MADA credits are being taken for the path only to the extent necessary for its construction. The size of area 10 was increased and 1/2 decreased based on discussions with City staff about connectivity. Again, this trade is a “zero balance” feature, in that the amount of credit taken is equal only to the area required to construct the feature. Area 15 was added based on the wetland study performed for Lot 600, which shows wetlands extending into the area proposed for the east/west connector street. Sheets O-2 (MADA Calculations) and O-3 (Area Limits of Disturbance) have also been revised and are located with SP1.-8.
- Sheet SP1.9 – No changes. A letter from the Engineer who performed the original study is included with this sheet. The letter indicates the site plan changes will have no impact on the flood study.
- Sheet SP1.10 – Underlying site plan updated. The length of the shopping street has been reduced and the north/south future public right-of-way has been extended from the shopping street to Lot 400 to allow it to coordinate with the future east/west public-right-of-way. Tract 550 has increased slightly to the south as the size of the center development has been reduced.
- Sheet SP1.11 – Underlying site plan updated.
- Sheet SP2.1 – No changes.
- Sheet SP2.2 – Building elevations East and North for Building “B & C” have been modified to reflect the narrower dimension on the east and the removal of the service doors from the north side.
- Sheet SP2.3 – No changes.
- Sheet SP2.4 – No changes.
- Sheet SP2.5 – The East and West Building elevations of Building “F” have been modified to shorten the building by two bays – the reduction in length from 180 feet to 150 feet.
- Sheet SP2.6 – No changes.
- Sheet SP3.1 – The floor plans for Buildings “B & C” and “F” have been modified to reflect the changes in their size.

The revised Narrative sheets show the overall site is still in compliance for parking and there is still enough parking for a proposed restaurant use for Building “A” (page 36), that the reduced frontage for Building “F” is still in compliance for the provision of weather protection (page 48), and that Building “F” still meets the requirements for percentage of building elevation with vision glazing (page 52).

Detail sheet “Attachment DD” has been revised to show more clearly how the intent of Condition 19 is met. Further, the detail is referenced on sheet SP1.2 to show where the two particular conditions are likely to occur.

We look forward to a final resolution of this Development Application. We believe this development, as it is now represented, successfully balances all the competing interests and concerns expressed by the Planning staff and others, is the best development it can possibly be, and will be a much needed and desired addition to Corvallis.

Warm Regards,

Mark McKechnie, AIA
Architect for the Project

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April 19, 2013

Jason Yaich, Associate Planner
City of Corvallis
501 SW Madison Avenue
Corvallis, OR 97339-1083

VIA: e-mail

RE: Review of Remand submittal for PLD09-00004/CDP09-00003/SUB09-00002
Creekside Center I & II

Dear Jason:

City of Corvallis staff have reviewed the remand submittal documents and provided the Applicant with some comments. The following is our response to those comments and how we have addressed the issues:

1. Please correct or explain the following noted inconsistencies in the submitted items:
   a. Area Calculations for the Walgreens Building: Floor area noted for Walgreens varies between page 9 of the Perkins Coie narrative (16,673 sq. ft. and the architectural site plans and revised narrative from Oregon Architecture (14,820 sq. ft.). This also affects FAR calculations (potentially) on page 15 of the Perkins Coie narrative. Please include discussion of inclusion/exclusion of drive-through lane area calculation as a portion of overall building area calculation, where it is appropriate in the context of floor area and FAR, based on LDC allowances. It is also recommended that FAR calculations be removed from Attachment O-2 (MADA calculations worksheet).

      RESPONSE: The Perkins Coie narrative was revised to note that the floor area for Walgreen's includes 1,853 square feet of unenclosed areas needed for automobile circulation, as allowed by LDC 3.19.40.02. The revisions occur in Footnote 1 on page 9 and Footnote 2 on page 15. Based upon this clarification, the remaining Floor Area Ratio calculations in the Perkins Coie narrative were correct in the original remand submittal and remain unchanged.

      Sheet SP1.2 was revised to show the floor area of the Walgreens drive-thru that is included in the FAR calculations. It should now be possible to independently calculate the FAR from information provided on the architectural sheets. FAR calculations were removed from Attachment O-2.

   b. Multi-Use Path Easement Width: There is a discrepancy between the noted width of the proposed multi-use path easement width on the architectural drawings (45 ft.) and the Perkins Coie narrative (15 ft.)

RESPONSE: The Perkins Coie narrative was revised to note that the 15-foot wide disturbance area for the Path would be located within the 45-foot wide area located on the plans.

c. Vehicle Parking Count Labels: The label west of Building F (Tax Lot 600) on some of the architectural sheets appears to conflict with other sheets. The correct parking count for that row should be 12, not 13.

   RESPONSE: Plan backgrounds on a couple of sheets did not get updated. That has been corrected and all SP sheets have the most recent site plan background, which shows 12 spaces on the west side of Building F.

d. ADA Parking: The revised narrative from Oregon Architecture (Page 36) indicates 7 accessible spaces are provided, based on the revised site plan. However, Sheet SP1.2 appears to show 9 accessible spaces.

   RESPONSE: Sheet SP1.2 (and other sheets) has been revised to correctly show 7 proposed accessible spaces. As we all are aware, the final count will depend on Building Permit review.

2. Remand Narrative Discussion: Staff have concerns about the following portions of the Perkins Coie narrative addressing the specific remand items:
   a. Page 16: In the discussion in the last paragraph at the bottom of the page, it is incorrect to state "…Path qualifies for an increase in the MADA because the Path is required by DSL and/or the USACOE." The applicable MADA credit is associated with wetland mitigation required by DSL, not a path. The path is required by the City.

      RESPONSE: The response to LDC 4.11.50.02.c.2 in the Perkins Coie narrative was revised to clarify that the potential MADA credit is associated with wetland mitigation and that the path is required by the City. The revised language is located at the top of page 17.

   b. Page 21: In the discussion involving the MADA credits for DSL/USACOE wetland mitigation requirements and trails required by the City facilities plans(LDC 4.11.50.02.c.2 and LDC 4.11.50.02.c.4), it is confusing I the same paragraph to state both "…the City Council should not allow any MADA credits under this subsection for the Path" and "…the City Council should find that the Path satisfies LDC 4.11.50.02.c.4… the City Council should allow 10,995 square feet of MADA credits under this subsection. Staff believes the intent of the remand submittal and revisions to MADA calculations and the site plan is to separate the private development MADA credits and the MADA credits attributed to the multi-use path construction, so that the private development is not relying on the Dunawi Creek multi-use path for Natural Resource encroachments permitted by MADA. Staff is recommending that this discussion be clarified as such. It may make sense to attribute the specific MADA credits to specific portions of development (private development vs public multi-use path) to help clarify.

RESPONSE: The response to LDC 4.13.50.b.6 in the Perkins Coie narrative was revised in two ways. First, the paragraph below the block quote on page 21 was revised to better explain how the Project qualifies for MADA credits under LDC 4.11.50.02.c.4 but not under LDC 4.11.50.02.c.2. Second, two paragraphs were added on page 22 to explain that the private development is not relying upon the MADA credits associated with the Path to either expand the overall footprint of the private development or to allow the private development to further encroach within natural resource areas.

3. Site Plan Revisions/Architectural Drawings: Staff have some concerns about the following items, due to inconsistencies with Land Development Code standards and other adopted City standards:
   a. Attachment DD: The exhibit has included a maximum distance between the sidewalk/building and limits of disturbance line. This appears to be potentially in conflict with Condition #19, which requires that the setback between Building B and the limits of disturbance be a MINIMUM distance of 3 feet.

      RESPONSE: I believe the intent of Condition #19 is to limit the encroachment of possible development into the 0.2 floodway, so that the closest the building will get is 3 feet from the floodway. In an attempt to make this condition clearer I fear we have made it more confusing. What we are trying to indicate is that is that IN ADDITION to maintaining a minimum of 3 feet between construction and the floodway, the disturbed area will be constrained to be no more than 3 feet from the building line and most probably much more than 3 feet from the 0.2 floodway limit. Since the limit of construction moved to the south along much of the line of the creek, we thought this revision would clarify actual conditions.

   b. MADA Calculations (Sheet SP1.8, Attachments O-2 and O-3):
      i. Multi-Use Path: There is a discrepancy in the illustrated multi-use path alignment between O-3 and SP1.8 (as well as other architectural plans), which would appear to impact the overall area calculation for the path. The assumption is that Attachment O-3 shows the correct alignment and the area calculations on O-2 are based on that alignment.
      ii.
         RESPONSE: The layout of the multi-use path now coordinates among all the exhibits. It is the alignment shown on O-3.

      iii. Area 8: As discussed on the phone with Oregon Architecture, there appear to be some inconsistencies in plan sheets and the area containing the revisions to the access driveway, as the driveway relates to the MADA credit in 4.11.50.02.c.2.

         RESPONSE: We have re-coordinated Area 8 in sheet SP1.8 with the DSL approval sheet so they now coordinate and area limits describe what has previously been approved by DSL.

      iv. Area 15: As discussed on the phone with Oregon Architecture, this area is a new addition and does not show on SP1.8. Verify against latest

wetland data for Tax Lot 600 and correct illustration on SP1.8 to match area credited.

RESPONSE: The mapped wetlands for Tax Lot 600 have been added to sheet SP1.3C, which has an overlay of the current site plan, and Area 15 has been added to sheet SP1.8. All areas are now graphically represented.

v. Area 10: Shading for this area on SP1.8 matches previous submittal, but area has increased. Should shading be extended? Is shading area consistent with DSL mitigation approval?

RESPONSE: The change for area 10 was in its overlap with Areas 1 and 2 (the multi-use path). Based on joint discussions with DSL and the City, it seems more likely the local north/south street to Lot 400 has a better chance of being constructed first, so MADA credits were added to that area and subtracted from the multi-use path credits. This was a judgment call. The actual awarding of MADA credits has no impact on the private development, as the credits will only cover actual construction on the public infrastructure items.

c. Inclusion of New Wetland Data: Please review all site plans to include the wetland delineation for Tax Lot 600, which has become available after the publication of the original staff reports. Please ensure that the MADA calculation discussion and Sheet SP1.8 and Attachments O-2 and O-3 accurately reflect the new wetland data, as it pertains to associated wetland mitigation credits that you are seeking.

RESPONSE: It seemed the most appropriate location of the new mapped wetland delineation for Lot 600 was on sheet SP1.3C. That ties in directly to sheet SP1.8

d. Trash Enclosures Relocated: The proposed revisions have placed the trash enclosures in locations that will have impacts to routes of travel for pedestrians (conflicts with LDC 4.10.70.05.b.2) and hinder movement into and out of the site at the driveway entrances. Additionally, the driveway west of Building F will be required to have a commercial driveway approach and pedestrian crossing that meets LDC 4.10.70.03.a.5.

RESPONSE: The trash enclosures have been relocated out of future public ROW and behind the public sidewalk going north or west. We added a pedestrian crossing to the driveway on the west side of Building F.

e. SP1.5: The limits of grading depicted on this plan appear to conflict with Attachment O-3 in the area of the “Alternate Location for Water Quality Feature”.

RESPONSE: The Alternate Water Quality Feature is an underground facility, shown larger than actual scale so it can be found on the sheet. We have relocated it to under the edge of the pond and within the calculated area of disturbance. These are relatively small features that will have no impact on the size or functioning of the ponds.

f. SP2.5: It appears that the west elevation of Building F has not been revised to account for the changes to the building architecture.

   RESPONSE: The west elevation of Building F has been revised to match the east elevation of Building F.

4. Conditions of Approval: Staff have concerns about revisions to the following existing conditions of approval:

   a. Condition 17: The previous condition included specific locations that pedestrian crossing standards in LDC 4.10.70.03.a.5 would apply. That language has been removed. Please explain.

      RESPONSE: The language referring to specific locations where the pedestrian crossing standards would apply was inadvertently omitted in the initial remand submittal. The language has been restored at page 28 of the Perkins Coie narrative and page 2 of Exhibit I.

Regards,

Mark McKechnie, AIA

cc: Mike Robinson

Creekside Center I/II

An Application for a Conceptual and Detailed Development Plan, a Conditional Development and a Tentative Subdivision Plat

Submitted to:

The City of Corvallis
501 SW Madison Avenue
Corvallis, OR 97333

CORVALLIS
ENHANCING COMMUNITY LIVABILITY

Submitted by:

ThomasFox Properties, LLC
515 West Pickett Circle, Suite 400
Salt Lake City, Utah 84115

Originally prepared July 9, 2009
FINAL REVISION July 30, 2010
REMAND March 27, 2013

RECEIVED
APR - 3 2013

uses with a larger parking demand ratio (e.g., Medical Services, 1/200sf), the applicant has provided 30 percent more spaces than the minimum number of spaces required for the Walgreens Building and Retail Buildings 'B' through 'F'. A total of 131 vehicular parking spaces are proposed throughout the overall parking area. The applicant notes that a reciprocal access and maintenance agreement will be recorded over portions of Tax Lots 500 and 600 occupied by the parking area. Table 3, below, provides a summary of the minimum number of spaces required and the maximum number of spaces allowed for each building excepting Proposed Building 'A'.

Table 3: MUCS Vehicular Parking Demand Summary

Building	*Gross Floor Area (sf)*	*Parking Demand Ratio*	*Min. Parking Demand*	*Max. Spaces Allowed (130% of Min.)*
Retail Building 'B'	*5,327*	*1/400sf*	*13*	*17*
Retail Building 'C'	*4,201*	*1/400sf*	*11*	*14*
Retail Building 'D'	*3,120*	*1/400sf*	*8*	*10*
Retail Building 'E'	*4,500*	*1/400sf*	*11*	*15*
Retail Building 'F'	*7,500*	*1/400sf*	*19*	*24*
Walgreens Bldg.	*14,820*	*1/400sf*	*37*	*48*
		TOTAL	*99*	*128*

Because the eventual design of the restaurant is not known at this time, it is not possible to determine the number of vehicular parking spaces it will require. However, given that there are 131 parking spaces, including 7 accessible spaces, provided throughout the commercial portion of the project, the dining area of the restaurant could be as large as 1,600 square feet (32 spaces at 1/50sf). In reality, the applicant anticipates that the actual design will result in a dining area square footage and parking demand that is somewhat less this, which will result in a buffer for other commercial uses with a parking demand ratio of greater than 1/400sf. Parking space design is based on standard parking design manuals. A copy of a standard table from the parking design manual is included as Attachment W. It shows a minimum of 60 feet as an acceptable spacing for two stalls and a drive aisle. Even though the manual allows 18-foot stalls and a 24-foot drive aisle (60 feet), parking has been designed to meet the city of Corvallis standard of 18.5 foot stalls and a 26 foot drive aisle (63 feet). The developer proposes to use 24-foot drive aisles within the parking lot where there are no cars backing into aisles.

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
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to place buildings within proximity of the parking spaces in order to decrease the distance customers have to walk to reach the adjacent buildings, which is why parking spaces are placed in front of Retail Buildings 'B' and 'C'.

4.10.70.05 - Standards and Menus for Pedestrian Features and Design Variety

a. Pedestrian Amenities Standards

1. <u>Weather Protection</u> - Where new commercial and civic development is constructed immediately adjacent to (abutting) street sidewalks or pedestrian plazas, a minimum six-ft.-wide, weather-protected area, protected by such elements as awnings or canopies, shall be provided and maintained along at least 60 percent of any building wall immediately adjacent to the sidewalks and/or pedestrian plazas. An additional requirement shall include a minimum eight-ft. vertical clearance between the sidewalk and the lowest portion of the weather protection. This vertical clearance shall be nine ft. for balconies. These requirements are shown below in Figure 4.10-22 - Weather Protection.

As shown on Attachments 'F', S-1' through 'S-6', each of the buildings that is adjacent to a street sidewalk or a pedestrian plaza will have weather protection along at least 60 percent of the corresponding elevation, as summarized, below, in Table 5.

Table 5: Weather Protection Percentage for Buildings Abutting Public Sidewalks or Plazas

Building	*Building Elevation / Length*	*Weather Protection Length*	*Percentage of Building Elevation*
Retail Building 'F'	*East / 150 feet*	*108 feet*	*72 Percent*
Retail Building 'E'	*South / 90 feet*	*73 feet*	*81 Percent*
Retail Building 'E'	*East / 50 feet*	*30 feet*	*60 Percent*
Retail Building 'D'	*South / 35 feet*	*26 feet*	*74 Percent*
Retail Building 'D'	*West / 90 feet*	*64 feet*	*71 Percent*
Retail Building 'C'	*West / 50 feet*	*36 feet*	*72 Percent*
Walgreens Building	*South / 130 feet*	*101 feet*	*78 Percent*
Proposed Building 'A'	*South, Southeast / 32 feet*	*22 feet*	*69 Percent*

2. <u>Pedestrian Amenity Requirements</u> - All new development and substantial improvements shall provide pedestrian amenities as defined by this

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Table 6: Window and Door Percentage for Street-facing Building Facades

Building	*Building Elevation / Length*	*Window / Door Length / %*	*Percentage of Building Elevation*
Retail Building 'F'	*East/150 feet*	*99 feet / 66%*	*48 percent*
Retail Building 'E'	*South / 90 feet*	*55 feet / 61%*	*47 Percent*
	East/ 50 feet	*30 feet / 60%*	*31 percent*
Retail Building 'D'	*South / 35 feet*	*22 feet / 62%*	*41 percent*
	West/ 90 feet	*54 feet / 60%*	*42 percent*
Walgreens Building	*South / 130 feet*	*78 feet / 60%*	*37 Percent*
Retail Building 'C'	*West/ 50 feel*	*31 feet / 62%*	*33 percent*
Proposed Building 'A'	*South / 24 feet*	*15 feet / 63%*	*30 percent*
	East / 60 feet	*36 feet / 60%*	*38 percent*

It needs to be noted staff and the developer have a disagreement on what is to be counted as "window", with staff analysis being the more restrictive. Elevations meet the more restrictive staff evaluation analysis. The figures cited above represent the amount of glazing on each specific façade. We believe the term "Window" as used in the LDC would also include frames and mullions as part of an overall window system.

7. **Design Variety Menu - Each structure shall incorporate a minimum of three of the following five building design features. The applicant shall indicate proposed options on plans submitted for building permits. While not all of the design features are required, the inclusion of as many as possible is strongly encouraged.**

   a) **Building Walls - Building walls in excess of 30 ft. in length shall not exceed a height/width ratio of 1:3 without a change in height of at least four ft., as addressed below in Figures 4.10-25A through C - Building Walls.**

   d) **Base Treatments - A recognizable Base Treatment consisting of at least one of the following:**

      1) **Thicker walls, such as a bulkhead, ledges, or sills as viewed from the exterior of the building;**

      2) **Integrally textured materials such as stone, stucco, or other masonry;**

      3) **Integrally colored and patterned materials such as smooth-**

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BEFORE THE CITY COUNCIL

OF THE CITY OF CORVALLIS, OREGON

In the Matter of Requests for Conceptual and Detailed Development Plan, a Conditional Development Permit for a Drive-Through Facility, a Tentative Subdivision, and Related Variations to Land Development Code Standards to Allow Development of Approximately 43,022 Gross Square Feet of Commercial Floor Area in Creekside Center I and II on Property Located at the Northwest Corner of SW 53rd Street and Philomath Boulevard.	**APPLICANT'S NARRATIVE IN SUPPORT OF THE APPLICATIONS ON REMAND FROM THE LAND USE BOARD OF APPEALS** **CITY FILE NOS. PLD09-00004, CDP09-00003, SUB09-00002**

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (15 of 112)

I. Introduction.

Oregon Architecture ("Applicant") submits this narrative in support of concurrent land use applications for a Conceptual and Detailed Development Plan, a Conditional Development Permit for a drive-through facility, a Tentative Subdivision, and related Variations to Corvallis Land Development Code ("LDC") standards to allow development of approximately 43,022 gross square feet of commercial floor area in Creekside Center I and II ("Project") on property located on approximately 6.64 acres of real property located at the northwest corner of SW 53rd Street and Philomath Boulevard ("Property"). Together, the Conceptual and Detailed Development Plan ("CDP/DDP"), Conditional Development Permit, Tentative Subdivision, and Variation applications shall be referred to herein as the "Applications."

The City Council approved the Applications in a final decision dated December 20, 2010 ("Decision"). After a citizen's group appealed, the State Land Use Board of Appeals ("LUBA") remanded the Decision on June 28, 2011, with direction that the City address specified issues relating only to the CDP/DDP.

The City Council now has jurisdiction over this matter on remand. Applicant has made minor modifications to the CDP/DDP site plan and application to address LUBA's remand. This narrative addresses each of the issues identified by LUBA,

explains how the minor modifications address these issues, and provides additional findings in support of approval of the CDP/DDP and one (1) of the Variations on remand. Applicant requests that the City Council approve the CDP/DDP and this Variation on remand.

II. Summary of Material Facts.

The material facts relating to the Property, the surrounding area, and the nature of the Applications have not generally changed since the earlier proceedings and can be summarized as follows.

The Property is comprised of Tax Lots 500 and 600, which are zoned Mixed Use Community Shopping ("MUCS"). Tax Lot 500 is located at the northwest corner of SW 53rd Street and Philomath Boulevard and Tax Lot 600 is located immediately to the west. A protected wetland, protected riparian corridor, and designated floodplain encompass the northern portions of both Tax Lots 500 and 600.

Applicant filed the Applications requesting approval to develop approximately 43,000 square feet of retail and restaurant uses in seven (7) buildings and related parking, landscaping, a designated Shopping Street, and a twelve (12)-foot wide, public multi-use path ("Path") to be located on the Property.

III. Procedural Status.

The City Council approved the Applications on December 20, 2010. After a citizen's group appealed, LUBA remanded the Decision on June 28, 2011, for adoption of additional findings on the following issues:

- Whether the Path proposed for the project qualifies for an increase in the Minimum Assured Development Area ("MADA") because it is required by the Corvallis Transportation Plan or the City of Corvallis Park and Recreation Facilities Plan, or is necessary to provide public access to or through designated open space areas, as required by LDC 4.11.50.02.c.4;

- Whether the area of wetland mitigation for the Path qualifies for an increase in the MADA because it is required by the Department of State Lands ("DSL") and/or the U.S. Army Corps of Engineers ("COE"), as required by LDC 4.11.50.02.c.2;

- Whether, based upon the above findings, the City has awarded a sufficiently large number of MADA credits to allow development in protected areas as permitted under LDC 4.13.50.b.6 and LDC 4.13.80.01.c.2; and

- Whether, based upon the above findings, it is necessary to allow a stormwater detention facility to encroach within the riparian easement area on Tax Lot 500 in order to allow utilization of the MADA for the project, as required by LDC 4.13.70.02.d.4.

League of Women Voters of Corvallis v. City of Corvallis, 63 Or LUBA 432 (2011). LUBA denied the citizen group's remaining assignments of error, so they are not at issue on remand. A copy of LUBA's opinion is attached as Exhibit A.

This matter is now before the City for consideration of these limited issues on remand. The City is not obligated to address any other aspects of the Applications at this time. Pursuant to LDC 2.0.60, the City Planning Director must present the matter to the City Council to set a hearing date and re-open the public hearing for the limited purpose of addressing the remand issues. The City must provide public notice of the remand hearing consistent with LDC 2.0.50. Upon compliance with these scheduling and notice requirements, the City Council can find that it has complied with the correct procedures.

IV. Modifications to Site Plan

In order to address the issues on remand, Applicant has modified the proposed CDP/DDP site plan and elevations as follows:

- Located the Path north of Dunawi Creek in a fifteen (15)-foot wide disturbance area that will be located within a forty (40)-foot wide area shown on the plans extending from the SW 53rd Street right-of-way west across the Property, with the exact location to be determined by the City in the future

- Eliminated the access sidewalk to the stormwater pond behind Buildings B and C

- Reduced the overall proposed development area by approximately 11,000 square feet

- Reduced Building B to 5,327 square feet from 5,874 square feet and made related modifications to the east elevation to reflect the narrower dimension and to the north elevation to remove service doors

- Reduced Building F to 7,500 square feet from 9,000 square feet and made related modifications to the east and west building elevations to remove two (2) bays

- Eliminated six (6) vehicular parking spaces from Tax Lot 600 and four (4) vehicular parking spaces from Tax Lot 500 and added one (1) vehicular parking space on Tax Lot 600

- Eliminated sidewalk on west side of SW 53rd Street entry driveway, instead, shifting pedestrian traffic via crosswalk across entry driveway to sidewalk on SW 53rd Street

- Relocated the trash enclosures north of Building C out of the public right-of-way

- Shifted the east/west future public right-of-way to the south to increase the distance from Dunawi Creek; also extended this right-of-way 31 feet into Tax Lot 500 to coordinate with the north/south future public right-of-way

- Reduced the number of trees along the east side of the Shopping Street and along the west side of Building F

- Made minor adjustments in the location of the angled parking spaces and crosswalk between Buildings C and F to accommodate the above modifications in the site plan

The modified site plan is included in the remand submittal, together with a rendering comparing the modified and original site plans. The remainder of this narrative explains how the modified site plan satisfies applicable approval criteria and addresses the issues on remand.

V. Findings of Fact and Conclusions of Law.

A. Conceptual and Detailed Development Plan

2.5.40.04 – Review Criteria

Requests for the approval of a Conceptual Development Plan shall be reviewed to ensure consistency with the purposes of this Chapter, policies and density requirements of the Comprehensive Plan, and any other applicable policies and standards adopted by the City Council. The application shall demonstrate compatibility in the areas in "a" below, as applicable, and shall meet the Natural Resource and Natural Hazard criteria in "b" below:

a. Compatibility Factors

1. Compensating benefits for the variations being requested;

RESPONSE: Applicant originally requested, and the City approved, seven (7) Variations to the LDC. The opponents did not appeal this aspect of the Decision to LUBA. However, Applicant's site plan modifications reduce the degree of Variation #1, which requested the following:

- Variation to LDC 4.11.50.04.c (MADA/order of encroachments) to allow encroachments into the 100-foot Highly Protected Riparian Corridor prior to the Locally Protected Wetland and by allowing development to occur within the 50-foot base Riparian Corridor prior to using all allowable encroachments into the Locally Protected Wetland and 100-foot Highly Protected Riparian Corridor.

In the Decision, the City Council found that strict adherence to the prescribed order of Natural Feature encroachments in LDC 4.11.50.04.c. would require Applicant to develop on the north side of Dunawi Creek in the area north of the 100-foot Highly Protected Riparian Corridor setback, within the Locally Protected Wetlands and 100-Year Floodplain before developing in the 100-foot Highly Protected Riparian Corridor setback south of Dunawi Creek. This outcome would have caused extensive impacts to the highly valued forested wetland and riparian corridor north of Dunawi Creek. Thus, the City approved Variation #1 to allow Applicant to concentrate the impacts of development on the south side of Dunawi Creek and to preserve a greater area of the Highly Protected Riparian Corridor, Locally Significant Wetland, and 100-Year Floodplain on the north side of Dunawi Creek.

As modified, the proposed development results in less encroachment within the 100-foot Highly Protected Riparian Corridor setback and the 50-foot base Riparian Corridor because Applicant is proposing to reduce the size of Buildings B and F; and to eliminate the access sidewalk behind Buildings B and C, a net nine (9) fewer vehicular parking spaces, and the sidewalk west of the access driveway connecting to SW 53rd Street. The modified site plan continues to preserve the forested wetland north of Dunawi Creek.

Accordingly, Applicant is requesting a less substantial Variation than requested with the original application without compromising the significant compensating benefits of preserving the resource areas north of the creek. Therefore, the City Council should find that as modified, there are still adequate compensating benefits associated with this Variation request, and it should be approved.

None of the other six (6) Variations were at issue before LUBA. Further, the site plan modifications do not affect the nature, type, and degree of these requests. Accordingly, they are not reviewable by the City Council on remand.

2. Basic site design (the organization of Uses on a site and the Uses' relationship to neighboring properties);

RESPONSE: In the Decision, the City Council found that the CDP/DDP satisfied this factor because the buildings were spread evenly throughout the southern half of the Property, the development provided multiple ways for pedestrians to access the various buildings and public sidewalks, there is adequate buffering from existing and potential residential development, and the proposal satisfied applicable development standards for site design. The opponents did not appeal this aspect of the Decision to LUBA.

Although Applicant has proposed minor modifications to the site plan (summarized above), these modifications do not materially alter the basic site design. For example, these modifications do not alter the type and general location of uses, or the type and general location of access, on-site parking and circulation systems, landscaping, buffering, or setbacks. Although the modifications reduce the total commercial floor area of the development, the proposed commercial floor area of the buildings (including the drive-through facility for Walgreen's) is still approximately 43,022 gross square feet, which exceeds the minimum commercial floor area requirement of 42,090 square feet. Further discussion of the Floor Area Ratio calculations is set forth in response to LDC 3.19.40.03.a. below.

Further, although the modifications remove two (2) on-site pedestrian sidewalks, the City Council should find that one (1) of these sidewalks—the sidewalk behind Buildings B and C connecting to the stormwater retention pond—was not necessary because it did not provide connectivity to any building entrances, parking areas, or public sidewalks. The other sidewalk—on the west side of the SW 53rd Avenue driveway—has been adequately replaced with a crosswalk and direct sidewalk connection to the public sidewalk along SW 53rd Street. The removal of these sidewalks reduces the area of development in the 50-foot base Riparian Corridor and the 100-foot Highly Protected Riparian Corridor setback. Further, even without these sidewalks, the proposed development incorporates adequate pedestrian circulation and connectivity. Therefore, the City Council should find that the modifications to the sidewalks do not adversely affect the basic site design of the Project.

In short, the modified site plan does not alter the organization of uses on the Property or the uses' relationship to neighboring properties. Therefore, the City Council should find that, as modified, the CDP/DDP satisfies this factor.

3. Visual elements (scale, structural design and form, materials, etc.);

RESPONSE: In the Decision, the City Council found that the CDP/DDP satisfied this factor because the Project's architectural elevations comply with the architectural standards of the MUCS zone and the commercial Pedestrian Oriented Design Standards that govern building form, materials, and the relationship to the pedestrian environment. The opponents did not appeal this aspect of the Decision to LUBA. Although the modified site plan reduces the area of two (2) buildings, it does not materially modify or affect the scale, structural design and form or materials for the Project. For example, the general height, shape, and design elements of Building F remain the same even though it is reduced in size, and the same is true for Building B. Therefore, the City Council should find that, as modified, the CDP/DDP satisfies this factor.

4. Noise attenuation;

RESPONSE: In the Decision, the City Council found that the CDP/DDP satisfied this standard because the level of noise impacts associated with the development is not expected to swell above the ambient traffic noise generated on Highway 20/34 and other existing commercial activities in the vicinity of the Property. The opponents did not appeal this aspect of the Decision to LUBA. The modified site plan does not materially affect the noise impacts associated with the development. Accordingly, compliance with this factor is not reviewable by the City Council on remand.

5. Odors and emissions;

RESPONSE: In the Decision, the City Council found that no unusual odors were anticipated from the development. The opponents did not appeal this aspect of the Decision to LUBA. The modified site plan does not modify or affect the type or amount of odors and emissions from the Project. Therefore, compliance with this factor is not reviewable by the City Council on remand.

6. Lighting;

RESPONSE: In the Decision, the City Council found that, subject to a condition of approval, Applicant's proposed Conceptual Lighting Plan and exhibits for light fixtures satisfied this factor. The opponents did not appeal this aspect of the Decision to LUBA. The modified site plan does not modify any aspect of the lighting plan or proposed fixtures. Therefore, compliance with this factor is not reviewable by the City Council on remand.

7. Signage;

RESPONSE: In the Decision, the City Council found that the CDP/DDP satisfied this factor because Applicant's proposed number, size, location, and height of signs

satisfied the applicable requirements of the MUCS zoning district. The opponents did not appeal this aspect of the Decision to LUBA. The modified site plan does not modify any aspect of Applicant's original sign proposal. Therefore, compliance with this factor is not reviewable by the City Council on remand.

8. Landscaping for buffering and screening;

RESPONSE: In the Decision, the City Council found that the Conceptual Landscape Plan for the CDP/DDP satisfied this factor, subject to conditions. The opponents did not appeal this aspect of the Decision to LUBA. The modified site plan does not modify any aspect of Applicant's original Conceptual Landscape Plan. Therefore, compliance with this factor is not reviewable by the City Council on remand.

9. Transportation facilities;

RESPONSE: In the Decision, the City Council found that the CDP/DDP satisfied this factor, subject to conditions. The opponents did not appeal this aspect of the Decision to LUBA. The modified site plan does not modify any of Applicant's commitments to provide the transportation facilities identified in the original application nor does it increase the Project's projected impacts to transportation facilities. Therefore, compliance with this factor is not reviewable by the City Council on remand.

10. Traffic and off-site parking impacts;

RESPONSE: In the Decision, the City Council found that, as conditioned, the Project would properly mitigate all off-site traffic impacts. The opponents did not appeal this aspect of the Decision to LUBA. The modified site plan does not modify any of Applicant's commitments to provide the transportation facilities identified in the original application nor does it increase the Project's projected impacts to transportation facilities. Therefore, compliance with this aspect of this factor is not reviewable by the City Council on remand.

In the Decision, the City Council found that the Project would not cause any off-site parking impacts because the Project was proposing to develop 141 on-site vehicular parking spaces, a figure that exceeded the minimum number of spaces specified in the LDC 4.1.30 (123) but was less than the maximum number of spaces specified in LDC 4.1.20.o (160). The opponents did not appeal this aspect of the Decision to LUBA. However, the parking issue is properly before the City Council because Applicant has modified the site plan on remand to reduce the total square footage of commercial uses and to reduce the number of parking spaces. For the reasons explained below, the City Council should find that the site plan, as modified, satisfies the minimum vehicle parking requirements.

The modified site plan reduces the total square footage of uses on the site to approximately 41,321 square feet of retail uses and approximately 1,782 square feet of restaurant uses (assuming seating area at 40% of total gross floor area), which reduces the range of allowed on-site vehicular parking spaces to between 118 and 153. The following chart further illustrates these parking calculations as apportioned across the Project:

MINIMUM VEHICLE PARKING REQUIREMENTS

Building & Use	Floor Area	Parking Ratio per LDC 4.1.30	Number of Spaces Required	Number of Spaces Provided
Building A (Restaurant)	1,782 sq. ft.	1 per 50 sq. ft. (public seating area at 40% of total gross floor area)	14.28	N/A
Buildings B, C, D, E, and F (Retail Sales)	24,648 sq. ft.	1 per 400 sq. ft.	61.62	N/A
Walgreen's	16,673 sq. ft.[1]	1 per 400 sq. ft.	41.69	N/A
TOTAL	43,103 sq. ft.	N/A	118	131

The modified site plan depicts 131 on-site vehicular parking spaces, within the permitted range of the LDC. Therefore, the City Council should find that the modified site plan provides adequate on-site parking, thus ensuring that the Project will not cause any impacts to off-site parking.

The modified site plan does not affect the number or location of bicycle parking spaces. Accordingly, compliance with this aspect of this factor is not reviewable by the City Council on remand.

For the reasons explained above, the City Council should find that the Project provides more than the minimum number of vehicle parking spaces and thus addresses off-site parking impacts. Compliance with the remainder of this factor is not reviewable by the City Council on remand.

11. Utility infrastructure;

RESPONSE: In the Decision, the City Council found that the CDP/DDP satisfied this factor because there exists, or the Project was conditioned to provide, adequate

[1] The Walgreen's floor area includes 14,820 square feet within the building and, as permitted by LDC 3.19.40.02, an additional 1,853 square feet of unenclosed areas (operational use, queuing, and service areas) needed for automobile circulation.

utility infrastructure available to the Property with adequate capacity to accommodate the Project. The opponents did not appeal this aspect of the Decision to LUBA. The modified site plan does not alter or affect the demand for, or provision of, utility infrastructure or related conditions. Therefore, compliance with this factor is not reviewable by the City Council on remand.

12. Effects on air and water quality (note: a DEQ permit is not sufficient to meet this criterion);

RESPONSE: In the Decision, the City Council found that the CDP/DDP satisfied this factor due to the provision of pedestrian connections consistent with the LDC Pedestrian-Oriented Design ("POD") Standards, the inclusion of permeable paving in the area of the drive-through, the plan's general adherence to the City's water quality standards, and the City's previous balancing of competing objectives of water quality and acceptable levels of urban development. The opponents did not appeal this aspect of the Decision to LUBA. The modified site plan does not affect the Project's effects on air and water quality. Accordingly, compliance with this factor is not reviewable by the City Council on remand.

13. Design equal to or in excess of the types of improvements required by the standards in Chapter 4.10 – Pedestrian Oriented Design Standards; and

RESPONSE: In the Decision, the City Council found that the CDP/DDP satisfied this criterion because Applicant's proposed site design complied with standards for building orientation and on-site pedestrian sidewalk improvements and connectivity to and through the site for pedestrians. Further, the site plan provided pedestrian amenities and was consistent with the architectural elements of the POD Standards. The opponents did not appeal this aspect of the Decision to LUBA.

However, the issue of pedestrian circulation is properly before the City Council because Applicant has modified the site plan on remand to remove two (2) on-site pedestrian sidewalks and create a new crosswalk and connection to the public sidewalk on SW 53rd Street. The City Council should find that the modified site plan satisfies the pedestrian circulation standards of LDC 4.10.70.03 for three (3) reasons.

First, although the modifications remove two (2) on-site pedestrian sidewalks (one from behind Buildings B and C connecting to the stormwater retention pond and the other from the west side of the access driveway connecting to SW 53rd Street), the modified site plan still provides continuous internal sidewalks to all customer entrances and between customer entrances, as required by LDC 4.10.70.03.a.1. The City Council should find that the sidewalk Applicant has

removed behind Buildings B and C was not necessary because it did not provide connectivity to or among any building entrances.

Second, the plan provides sidewalks along the full length of building walls featuring a customer entrance and along all walls parallel to and abutting parking areas larger than eight (8) parking spaces, as required by LDC 4.10.70.03.a.2.

Third, the plan provides connections between on-site sidewalks and sidewalks along public streets, as required by LDC 4.10.70.03.a.3. For example, the plan retains all earlier connections and relocates the connection between the sidewalk west of the SW 53rd Avenue access driveway from north of the driveway to south of the driveway.

Therefore, the City Council should find that, as modified, the CDP/DDP satisfies POD Standards and this factor.

14. Preservation and/or protection of Significant Natural Features, consistent with Chapter 2.11 – Floodplain Development Permit; Chapter 4.2 – Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 – Floodplain Provisions, Chapter 4.11 – Minimum Assured Development Area (MADA), Chapter 4.12 – Significant Vegetation Protection Provisions, Chapter 4.13 – Riparian Corridor and Wetland Provisions, and Chapter 4.14 – Landslide Hazard and Hillside Development Provisions. Streets shall also be designed along contours, and structures shall be designed to fit the topography of the site to ensure compliance with these Code standards.

RESPONSE: This issue is properly before the City Council on remand for two (2) reasons. First, LUBA remanded the Decision for additional findings in response to specific provisions of LDC Chapters 4.11 and 4.13. These provisions are addressed below, and such responses are incorporated herein by reference.

The issue is also properly before the City Council because Applicant has made minor modifications to the site plan. These modifications reduce the degree of Variation #1 to the prescribed order of Natural Feature encroachments in LDC 4.11.50.04.c. For the reasons explained above in response to LDC 2.5.40.04.a.1, the City Council should find that strict adherence to the prescribed order of encroachments would have caused extensive impacts to the highly valued forested wetland and riparian corridor north of Dunawi Creek, while Variation #1 allows Applicant to preserve a greater portion of this area by concentrating development impacts on the south side of the creek.

Further, Applicant is proposing fewer encroachments on the modified site plan. Additionally, Applicant is permitted to encroach within areas of Significant

Natural Features in order to utilize the MADA, consistent with the findings set forth below in response to LDC 4.11 and 4.13.

Additionally, as explained in the attached letter from Marquess & Associates, Inc. dated March 29, 2013, the modifications to the site plan do not require a new floodplain study or change the conclusions set forth in the original floodplain study dated June 3, 2010, which is included in the record of the original proceedings for the Applications.

Finally, the developer has received a renewal of a Fill Permit from DSL (Permit #32863-FP Renewal) for the Property. As renewed, this permit is valid through November 22, 2013. A copy of the permit is attached as Exhibit J.

The CDP/DDP satisfies this factor.

b. Natural Resources and Natural Hazards Factors –

1. Any proposed variation from a standard within Chapter 2.11 – Floodplain Development Permit, Chapter 4.5 – Floodplain Provisions, Chapter 4.11 – Minimum Assured Development Area (MADA), Chapter 4.12 – Significant Vegetation Protection Provisions, Chapter 4.13 – Riparian Corridor and Wetland Provisions, or Chapter 4.14 – Landslide Hazard and Hillside Development Provisions shall provide protections equal to or better than the specific standard requested for variation; and

RESPONSE: As explained above, in the Decision, the City Council approved a Variation to LDC 4.11.50.04.c to allow encroachments into the 100-foot Highly Protected Riparian Corridor prior to the Locally Protected Wetland and by allowing development to occur within the 50-foot base Riparian Corridor prior to using all allowable encroachments into the Locally Protected Wetland and 100-foot Highly Protected Riparian Corridor. The opponents did not appeal this aspect of the Decision to LUBA. However, this issue is properly before the City Council on remand because Applicant has modified the site plan to reduce the degree of the Variation.

The City Council should find that the CDP/DDP satisfies this factor because the proposed Variation provides protections equal to or better than LDC 4.11.50.04.c. Strict adherence to the prescribed order of Natural Feature encroachments in LDC 4.11.50.04.c. would require Applicant to develop on the north side of Dunawi Creek in the area north of the 100-foot Highly Protected Riparian Corridor setback, within the Locally Protected Wetlands and 100-Year Floodplain before developing in the 100-foot Highly Protected Riparian Corridor setback south of Dunawi Creek. This outcome would cause extensive impacts to the highly valued forested wetland and riparian corridor north of Dunawi Creek.

By contrast, the Variation allows Applicant to concentrate the impacts of development on the south side of Dunawi Creek, which is already impacted by development, and to preserve a greater area of the Highly Protected Riparian Corridor, Locally Significant Wetland, and 100-Year Floodplain on the north side of Dunawi Creek. Preservation of this large area north of the creek without any development provides more benefits to the environment than preserving two separate, smaller areas on either side of the creek, as strict adherence to Chapter 4.11 would have required.

2. Any proposed variation from a standard within Chapter 2.11 – Floodplain Development Permit, Chapter 4.5 – Floodplain Provisions, Chapter 4.11 – Minimum Assured Development Area (MADA), Chapter 4.12 – Significant Vegetation Protection Provisions, Chapter 4.13 – Riparian Corridor and Wetland Provisions, or Chapter 4.14 – Landslide Hazard and Hillside Development Provisions shall involve an alternative located on the same development site where the specific standard applies.

RESPONSE: For the reasons explained above, Applicant's proposed Variation #1—even as modified—involves an alternative on the Property. The City Council should find that the CDP/DDP satisfies this standard.

2.5.50.04 – Review Criteria for Determining Compliance with Conceptual Development Plan

Request for approval of a Detailed Development Plan shall be reviewed to determine whether it is in compliance with the Conceptual Development Plan. The Detailed Development Plan shall be deemed to be in conformance with the Conceptual Development Plan and may be approved provided it is consistent with the review criteria in Section 2.5.40.04 above, provides a clear and objective set of development standards for residential Detailed Development Plans (considering the Detailed Development Plan proposal, required adherence to this Code, and Conditions of Approval), and does not involve any of the factors that constitute a major change in the Planned Development. See Section 2.5.60.02 – Thresholds that Separate a Minor Planned Development Modification from a Major Planned Development Modification.

RESPONSE: In the Decision, the City Council found that the DDP satisfied this criterion. The opponents did not appeal this aspect of the Decision to LUBA. However, this issue is properly before the City Council on remand because Applicant has modified the CDP/DDP site plan as discussed above. The City Council should find that the DDP satisfies this criterion for three (3) reasons. First, because the CDP and DDP are one (1) in the same, the findings above

demonstrating that the CDP complies with LDC 2.5.40.04 apply equally to the DDP. Second, for the same reason, the DDP, by definition, cannot constitute a major change from the CDP or a major change in the Planned Development. Finally, the City Council can find that the DDP does not need to provide clear and objective development standards because it is not a residential DDP.

3.19.40.03 – Commercial Floor Area Ratio

Minimum commercial Floor Area Ratios (FARs) are required for all property with a Mixed Use Community Shopping designation. This requirement ensures that commercial land is preserved for primarily commercial purposes. For an explanation of how to apply/calculate FARs, see the definition of Floor Area Ratio in Chapter 1.6 - Definitions.

All commercial and mixed use developments shall comply with the following standards for commercial floor area:

a. For Commercial Use Types, the minimum FAR shall be 0.25 and the maximum FAR shall be 1.0. When a project is composed of two or more phases, development in each phase shall fall within the minimum and maximum FAR requirements or an alternative FAR requirement proposed and approved through a Planned Development Review process.

RESPONSE: Addressing this provision requires reference to the LDC definitions for "Area, Net" and "Floor Area Ratio (FAR)" set forth in LDC Chapter 1.6. These definitions provide as follows:

Area, Net - Total area of a parcel or site, usually expressed in acres and excluding existing public street rights-of-way and, if a developer desires, excluding public parks, Significant Natural Feature areas dedicated to the public, and/or other areas permanently precluded from development due to development constraints or conservation easements. Planned streets shall not be excluded from the net area.

Floor Area Ratio (FAR) - Gross floor area of all buildings on a lot or development site divided by the net area of a lot or development site on which the buildings are located. See Area, Net. In cases where outdoor areas are directly related to the subject land use(s) (e.g., outdoor storage areas; planting areas for nurseries, tree farms, and agricultural businesses; portions of parking lots used for storage and circulation of moving vans associated with moving businesses; etc.), these outdoor areas may be included in the Floor Area Ratio square footage calculation. However, unless specified otherwise, in no case shall standard parking

and circulation areas, landscaping, etc., be included in the Floor Area Ratio square footage calculation.

RESPONSE: For purposes of calculating the Floor Area Ratio, Applicant has elected to exclude the Natural Features from the Net Area. The Project satisfies the Floor Area Ratio requirements for the Property and for each tax lot, as illustrated in the following table:

Area	Site Sq. Ft.	Min. Sq. Ft. (0.25 FAR)	Max. Sq. Ft. (1.0 FAR)	Proposed Sq. Ft.[2]
Total	**289,082**	**72,721**	**289,082**	
Net	**168,360**	**42,090**	**168,360**	**43,022**
Tax Lot 500	**121,051**	**30,262.75**	**121,051**	**31,022**
Tax Lot 600	**47,309**	**11,827.25**	**47,309**	**12,000**

The City Council can find that the Project satisfies this criterion.

4.11.50.02 – Calculation of the Base Minimum Assured Development Area (MADA)

*** * * ***

b. Nonresidential Sites – The base Minimum Assured Development Area of a nonresidential site shall be calculated by multiplying the acreage of the site by the Minimum Assured Development Area per acre, as shown in Table 4.11-2 – Determining Minimum Assured Development Area (MADA) for Nonresidential Zones, below. Acreage calculations shall be rounded to two decimal points. If a site contains multiple zones, the base Minimum Assured Development Area for each zone shall be determined. The total base Minimum Assured Development Area shall be the sum of the base Minimum Assured Development Areas of all the zones.

Table 4.11-2
Determining Minimum Assured Development Area (MADA)
for Nonresidential Zones

Zone	Base MADA/Acre	Area Credits (4.11.50.02.c)	Total MADA
Mixed Use Community Shopping	**19,600 sq. ft.**		

[2] The proposed square footage for the Project includes the gross floor area of Buildings A, B, C, D, E, F, and the Walgreen's (including the unenclosed areas needed for automobile circulation for the drive-through).

RESPONSE: In the Decision, the City Council found that the base MADA for the Property, which is located in the MUCS zoning designation, was as follows:

Tax Lot 500 4.6412 acres x 19,600 square feet/acre = 90,968 square feet

Tax Lot 600 1.9953 acres x 19,600 square feet/acre = 39,108 square feet

The opponents did not appeal the City's base MADA determination to LUBA (only the City's calculation of MADA credits above the base amount). The modifications to the site plan do not affect the calculation of the base MADA. Therefore, this issue is not reviewable by the City Council on remand.

c. Additional Allowances for Determining the Minimum Assured Development Area of Residential and Nonresidential Sites – The Minimum Assured Development Area calculated in Section 4.11.50.02.a and Section 4.11.50.02.b may be increased above the base MADA by adding the areas determined by the provisions below:

1. The area of public right-of-way dedications resulting from a required width in excess of the width needed for a local street, provided the required street is identified in the Corvallis Transportation Plan;

RESPONSE: In the Decision, the City allowed MADA credits to the Project under this subsection for the following right-of-way dedications:

- 1,517 square feet for a five (5)-foot wide dedication for 53rd Street on Tax Lot 500 (Area 3 on SP1.8)
- 5,416 square feet for a twelve (12)-foot wide dedication for Highway 20/34 on Tax Lot 500 (Area 6)
- 2,470 square feet for a seventeen (17)-foot wide dedication for Highway 20/34 on Tax Lot 600 (Area 11)

The opponents did not appeal this aspect of the Decision to LUBA. On remand, Applicant does not modify the size or location of the dedications or the related MADA credits. Therefore, the issue of credits under this subsection is not reviewable by the City Council on remand.

2. The area of Wetland mitigation that is required by the Department of State Lands and/or the U.S. Army Corps of Engineers when infrastructure must be extended through a Wetland. The area credited shall be based upon the written requirements of the associated permit approval of the Department of State Lands and/or the U.S. Army Corps of Engineers, whichever is greater;

RESPONSE: LUBA remanded the Decision to approve the Applications because, although the Decision allowed MADA credits to the Project under this criterion, the City's findings did not adequately address whether the area of wetland mitigation for the Path qualifies for an increase in the MADA because that mitigation is required by DSL and/or the USACOE. On remand, Applicant is not requesting any MADA credits for the area of wetland mitigation that is required by DSL or the USACOE when the Path must be extended through a wetland. Therefore, the City Council should find that the area of wetland mitigation for the Path does not qualify for any MADA credits under this subsection.

Although the Decision also allowed MADA credits to the Project under this criterion for other identified areas—including Area 4 (mitigation for right-of-way through the wetlands), Area 8 (mitigation for the access drive), Area 10 (mitigation for required local street), and Area 15 (mitigation for required local street)—the opponents did not challenge, and LUBA did not remand, these aspects of the Decision. Therefore, they are not at issue before the City Council.

The City Council should find that these findings address LUBA's remand under this subsection.

3. Above-ground stormwater detention facilities designed and constructed consistent with the Corvallis Design Criteria Manual; and

RESPONSE: In the Decision, the City allowed MADA credits to the Project under this subsection for the following above-ground stormwater detention facilities designed and constructed consistent with the Corvallis Design Criteria Manual:

- 2,730 square feet for a detention pond on Tax Lot 500 (Area 9)
- 2,007 square feet for a detention pond on Tax Lot 600 (Area 12)

The opponents did not appeal this aspect of the Decision to LUBA. The modifications to the site plan do not alter the size or location of the proposed stormwater ponds or their compliance with the Corvallis Design Criteria Manual. Therefore, the existence or basis for the MADA credit for above-ground stormwater detention facilities is not reviewable by the City on remand.

4. Trails required by the Corvallis Transportation Plan or the City of Corvallis Park and Recreation Facilities Plan, or necessary to provide public access to or through designated open space areas.

RESPONSE: In the Decision, the City allowed MADA credits under this subsection in the amount of 12,388 square feet for the Path for its entire distance across the Property. LUBA remanded the Decision on this issue because the findings in the

Decision "do not contain any adequate explanation by the city why the path qualifies for MADA credit" under this subsection. *League of Women Voters*, 63 Or LUBA at __ (slip op. at 6).

On remand, Applicant is proposing to dedicate a fifteen (15)-foot wide right-of-way for the Path across the Property (although the Path itself will only be twelve (12) feet in width). The Path will be located within a forty (40)-foot wide area shown on the plans. The total dedication is 8,281 square feet across Tax Lot 500 and 2,714 square feet across Tax Lot 600, for a total of 10,995 square feet. The City Council should allow MADA credits under this subsection in the amount of 10,995 square feet for three (3) reasons.

1. Corvallis Transportation Plan ("CTP")

First, the CTP requires the Path. The City Council should reach this conclusion for two (2) reasons. First, the CTP incorporates the City's Trails Master Plan, which itself requires the Path. At page 6-1, the CTP incorporates the City's Trails Master Plan ("TMP") by reference and explains that the facilities identified in the TMP are needed:

> "The Trails Master Plan, adopted by the City Council as an element of the Comprehensive Plan on November 19, 1990, identifies existing and needed pedestrian and multi-use trails within Corvallis and is incorporated with this Transportation Plan by reference."

A copy of CTP page 6-1 is attached as Exhibit B. In turn, the TMP at page A-4 includes a map identifying existing and future trails in the City. A copy of this map is attached as Exhibit C. This map depicts a "Future Trail" crossing the Property in the approximate location where the Path is shown on the modified site plan. The TMP map, as included in the CTP, is not labeled "conceptual" or "draft." Therefore, to the extent the City's earlier findings found that the TMP map was "conceptual," it is not as set forth in the CTP. Further, the "Future Trail" designation of the Path is contrasted with another, more conceptual designation on the map—"Potential Trail Corridors." In this way, the TMP, as incorporated within the CTP, requires the Path to serve pedestrian and multi-use needs in the City. Additional support for this conclusion is provided in the City of Corvallis Park and Recreation Facility Plan, which states that the CTP has "adopted" the Path.

Second, the CTP also requires the Path at pages 6-5 and 6-6 under Section 6.40 "Future Conditions." In this section, the CTP requires safe, convenient pedestrian facilities connecting developments and activity centers consistent with the LDC. Then, the CTP explains that developing trails, including the Path, consistent with the TMP will fulfill this requirement:

> "Implementation of the trails plan through construction of trails along drainageway dedications and other identified trail corridors (see Figure A-4) will also contribute to this system."

A copy of CTP pages 6-5 and 6-6 is attached as Exhibit D. For these reasons, the City Council should find that the CTP requires construction of the Path.

2. City of Corvallis Park and Recreation Facilities Plan ("PRFP")

Second, the City's PRFP requires the Path because it is identified as an adopted facility necessary to serve the City's recreation needs. The Path is identified in the list of projects needed to complete the 20-Year Plan for parks and recreation facilities. *See* Table 17, a copy of which is attached as Exhibit E (Path labeled as "T-13 Squaw Creek Trail (S)"). Additionally, the PRFP Trails Plan Map, a copy of which is attached as Exhibit F, depicts the Path as a proposed facility.

Moreover, the PRFP Trail Comparison Map, a copy of which is attached as Exhibit G, identifies the Path as an "Adopted Trail/Multi-Use Path." According to the legend for this map, the City applied this designation to "[t]hose [trails] that are shown and have been adopted in the Transportation Plan but are not yet built." Trails with this designation are contrasted with facilities designated on this map as "Proposed Trail" and "Potential Trail Corridor," which are more conceptual designations. Further, although the map is labeled as "Conceptual," the City Council should find that this label refers to the routes identified in the map. It does not mean that the need or necessity of the facilities is conceptual in nature. In fact, the PRFP states as much:

> "This is a conceptual plan intended to guide development. The map is not intended to identify specific affected properties, rather, it represents the needs, standards, and/or aspirations of the community."

PRFP Trails Comparison Map (emphasis added). For these reasons, the City Council should find that the PRFP requires the Path.

3. Necessary to Provide Public Access To or Through Designated Open Space Areas

Third, the Path is necessary to provide public access to or through designated open space areas. The portion of the Property along both sides of Dunawi Creek—where Applicant proposes to site the Path—is designated "Open Space –

Conservation" on the City's Comprehensive Plan Map, a copy of which is attached as Exhibit H.

The Path is necessary to provide public access through the designated "Open Space-Conservation" area for three (3) reasons. First, it is necessary in order to satisfy the pedestrian connection and block perimeter standards in the LDC. For example, LDC 4.0.60.n requires Applicant to install a pedestrian-through connection for each block face greater than 400 feet. The block face commencing at the SW 53rd access driveway and running north is greater than 400 feet; therefore, Applicant is required to develop an east-west pedestrian-through connection. In light of the extensive natural resource areas north of the creek, the Path must be located in open space areas in order to satisfy the spacing standards.

Second, the City Council should find that the Path is necessary to implement the "Open Space – Conservation" designation of the Comprehensive Plan. According to Section 40.4.3 of the City's Comprehensive Plan, a developer impacting Open Space-Conservation lands must provide access across the designated open space for public infrastructure:

> "Under the Open Space – Conservation designation, limited development may be permitted on private lands, provided that the development provides access to and through the OS-C areas for public infrastructure * * *."

Comprehensive Plan at 213. Therefore, the City Council should find that, in order for Applicant to comply with the Comprehensive Plan, it is necessary for Applicant to provide the Path to or through the designated Open Space – Conservation area on the Property.

Third, as the City Council found in the Decision at pages 13-14, locating and constructing the Path within Highly Protected Riparian Corridors and Riparian-related Areas is necessary to maintain a functional path system. LUBA affirmed the City Council's conclusion and findings on this issue. The City Council may rely upon these findings as additional support for its conclusion that the Path is necessary to provide public access to or through designated open space areas.

Based upon this evidence and argument, the City Council should: (1) find that the Applications satisfy this subsection; and (2) allow 10,995 square feet of MADA credits for the Path to Applicant. Further, the City Council should find that this addresses LUBA's remand under this subsection.

4.13.50 – USE LIMITATIONS AND EXCEPTIONS WITHIN HIGHLY PROTECTED RIPARIAN CORRIDORS AND RIPARIAN-RELATED AREAS

*** * * ***

b. Building, Paving, and Grading Activities – The placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, are prohibited. Exceptions to the drainageway restrictions may be made for the purposes identified in items 1-7 of this Section, provided they are designed and constructed to minimize adverse impacts to Riparian Corridors and Riparian-related Areas.

*** * * ***

6. Development associated with the Minimum Assured Development Area that would be allowed in accordance with Chapter 4.11 – Minimum Assured Development Area (MADA); and

RESPONSE: In the Decision, the City Council found that Applicant was permitted to develop in Highly Protected Riparian Corridors and Riparian-related Areas on the Property because the development was associated with MADA and MADA credits allowed by the City for the Project. As explained above, LUBA remanded the Decision for additional findings regarding the City's allowance of MADA credits for the Path under LDC 4.11.50.02.c.2. and .4. LUBA reasoned that until the City properly justified its calculation of MADA credits, the City could not allow development in protected areas under the exception offered by this subsection:

> "* * *[W]ithout findings justifying the award of MADA credit under LDC 4.11.50.02(c), the city may not * * * allow development in the protected areas."

League of Women Voters, 63 Or LUBA at __ (slip op. at 13).

Based upon the findings set forth above in response to LDC 4.11.50.02, the City Council should find that, on remand, Applicant has not requested and thus does not qualify for MADA credits for the Path under LDC 4.11.50.02.c.2. However, Applicant has demonstrated with evidence and argument that the Path qualifies for 10,995 square feet of MADA credits under LDC 4.11.50.02.c.4. Accordingly, the City Council should allow 10,995 square feet of MADA credits under LDC 4.11.50.02.c.

The base MADA for Tax Lot 500 is 90,968 square feet. Including the MADA credits for the Path, there are 30,130 square feet of MADA credits on Tax Lot 500, for a total MADA (base plus credits) of 121,098 square feet. Only 77,745 square feet of Tax Lot 500 is unencumbered (outside of proximal wetlands or Riparian Corridor). Therefore, there is a minimum of 43,353 square feet of development that

must encroach into constrained areas on Tax Lot 500 to allow for utilization of the MADA.

The base MADA for Tax Lot 600 is 39,108 square feet. Including the MADA credits for the Path, there are 8,433 MADA credits on Tax Lot 600 for a total MADA (base plus credits) of 47,541 square feet. Only 44,318 square feet of Tax Lot 600 is unencumbered (outside of proximal wetlands or Riparian Corridor). Therefore, there is a minimum of 3,223 square feet of development that must encroach into constrained areas on Tax Lot 600 to allow for utilization of the MADA. In total, a minimum of 46,576 square feet of development must encroach into constrained areas to allow for utilization of the MADA. These calculations are detailed in the two (2)-page document labeled Attachment O-2, a revised version of which is included with Applicant's remand submittal.

Finally, it should be noted that, although the Project qualifies for 10,995 square feet in MADA credits for developing the Path, the Project also counts the Path as part of the gross development area in a total amount of 10,995 square feet. In effect, development of the Path cancels out the MADA benefit of the Path. As such, developing the Path has a net zero effect on MADA availability for the development of private improvements on the Property. In other words, from a MADA standpoint, the private portion of the development and the degree to which that private development encroaches on natural resources is permitted at the same size regardless of whether the Path is developed.

The calculations on Attachment O-2 illustrate these points. For example, if the Path is not developed on Tax Lot 500, it lowers MADA credits by the Path disturbance area of 8,281 square feet so the adjusted MADA total for Tax Lot 500 is 112,817 square feet. However, not developing the Path also reduces the gross proposed development area by that same 8,281 square feet to 112,770 square feet, less than the adjusted total MADA. Likewise, if the Path is not developed on Tax Lot 600, it lowers MADA credits by the Path disturbance area of 2,714 square feet so the adjusted MADA total for Tax Lot 600 is 44,827 square feet. However, not developing the Path also reduces the gross proposed development area by that same 2,714 square feet to 44,595 square feet, less than the adjusted total MADA.

Based upon the above-referenced findings and the figures summarized above, the City Council should find that encroachment into the Highly Protected Riparian Corridors and Riparian-related Areas by structures and/or impervious surfaces is necessary for purposes of this subsection. LUBA's remand did not require the City to reconsider whether development in the areas of encroachment was designed and constructed to minimize adverse impacts to Riparian Corridors and Riparian-related Areas. Accordingly, the City Council should find that this standard is satisfied. Further, the City Council should conclude that this addresses LUBA's remand under this subsection.

4.13.70.02 – Easements, Easement Restrictions, Dedications, and Easement Widths

*** * * ***

d. Easement Widths – When an easement is required, the appropriate width shall be as described in "1," through "5," below. However, in no case shall riparian easements include areas containing existing buildings that are intended to remain, nor shall easements include development area assured under "4," below.

For areas with Riparian Corridors, as designated on the City's Riparian Corridors and Wetlands Map, the associated easement width and requirements shall be as follows:

*** * * ***

4. If, through the provisions of Chapter 4.11 – Minimum Assured Development Area (MADA), it is determined that encroachment into a Riparian Corridor area is necessary to allow for utilization of the Minimum Assured Development Area, any associated easement requirement shall be relaxed to the extent necessary to allow for the minimum necessary encroachment into the resource area.

RESPONSE: In the Decision, the City Council allowed development of the stormwater detention pond within the riparian easement area on Tax Lot 500 under LDC 4.13.70.02.d.4. LUBA remanded the Decision for additional findings on this issue, concluding that the City Council erred in allowing development within the easement area where the total MADA has not yet been determined. As explained above, LUBA remanded the Decision for additional findings regarding the City's allowance of MADA credits for the Path under LDC 4.11.50.02.c.2. and .4. LUBA reasoned that "without knowing the MADA for the development, the city could not determine under LDC 4.13.70.02.d.2 whether 'encroachment into a Riparian Corridor area is necessary to allow for utilization of' MADA." *League of Women Voters*, 63 Or LUBA at __ (slip op. at 16-17).

Based upon the findings set forth above in response to LDC 4.11.50.02, the City Council should find that, on remand, the MADA, including credits, exceeds the unencumbered areas of the Property. Therefore, it is necessary for the Project to encroach into a Riparian Corridor area to allow for utilization of the MADA.

The findings supporting the MADA calculations can be summarized as follows:

Applicant is not requesting MADA credits for the Path under LDC 4.11.50.02.c.2. Accordingly, the City Council should not allow any MADA credits under this subsection. Further, based upon the above-referenced findings, the City Council should find that Applicant has demonstrated with evidence and argument that the Path satisfies LDC 4.11.50.02.c.4. Accordingly, the City Council should allow 10,995 square feet of MADA credits under this subsection.

The base MADA for Tax Lot 500 is 90,968 square feet. Including the MADA credits for the Path, there are 30,130 square feet of MADA credits on Tax Lot 500, for a total MADA (base plus credits) of 121,098 square feet. Only 77,745 square feet of Tax Lot 500 is unencumbered (outside of proximal wetlands or Riparian Corridor). Therefore, there is a minimum of 43,353 square feet of development that must encroach into constrained areas on Tax Lot 500 to allow for utilization of the MADA.

The base MADA for Tax Lot 600 is 39,108 square feet. Including the MADA credits for the Path, there are 8,433 MADA credits on Tax Lot 600 for a total MADA (base plus credits) of 47,541 square feet. Only 44,318 square feet of Tax Lot 600 is unencumbered (outside of proximal wetlands or Riparian Corridor). Therefore, there is a minimum of 3,223 square feet of development that must encroach into constrained areas on Tax Lot 600 to allow for utilization of the MADA. In total, a minimum of 46,576 square feet of development that must encroach into constrained areas to allow for utilization of the MADA. These calculations are detailed in the two (2)-page document labeled Attachment O-2, a revised version of which is included with Applicant's remand submittal.

Based upon the above-referenced findings and the figures summarized above, the City Council should find that encroachment into a Riparian Corridor area is necessary to allow for utilization of the MADA. Accordingly, under this subsection, any associated easement requirement for the stormwater pond on Tax Lot 500 is relaxed to the extent necessary to allow for the minimum necessary encroachment into the resource area. The City Council should find that this standard is satisfied. Further, the City Council should conclude that this addresses LUBA's remand under this subsection.

4.13.80.01 – Use Limitations and Exceptions Within Locally Protected Wetlands

*** * * ***

c. Building, Paving, and Grading Activities – Within LPW areas, the placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, is prohibited, except as outlined

below. Exceptions to the LPW restrictions may be made for the purposes identified in "1" and "2," below, provided they are designed and constructed to minimize adverse impacts to Wetland Functions.

*** * * ***

2. Activities outlined in sections 4.13.50.b.2, 4.13.50.b.5, and 4.13.50.b.6.

RESPONSE: In the Decision, the City Council allowed building, paving, and grading activities within Locally Protected Wetlands under this exception based upon the City Council's determination that development would be allowed in conjunction with Applicant's usage of MADA under LDC 4.13.50.b.6. Because LUBA remanded the Decision with direction that the City make new findings in response to LDC 4.13.50.b.6, LUBA effectively remanded the City's justification for allowing development under LDC 4.13.80.01.c.2.

Based upon the findings in response to LDC 4.13.50.b.6 set forth above, the City Council should find that the base MADA plus credits will exceed the unencumbered area of the Property, thus necessitating development in riparian areas under LDC 4.13.50.b.6, and by reference, LDC 4.13.80.01.c.2. Further, the City Council should conclude that this addresses LUBA's remand under this subsection.

B. Conditional Development Permit

LUBA did not remand any of the City's findings for the Conditional Development Permit. Furthermore, none of the modifications to the site plan affect the Conditional Development Permit. Therefore, the City Council is not required to adopt any additional findings for the Conditional Development Permit.

C. Tentative Subdivision Plat

LUBA did not remand any of the City's findings for the Tentative Subdivision Plat. Furthermore, none of the modifications to the site plan affect the Tentative Subdivision Plat. Therefore, the City Council is not required to adopt any additional findings for the Tentative Subdivision Plat.

D. Conditions of Approval

In the Decision, the City Council approved the Applications, subject to 41 conditions of approval, some of which had sub-conditions. The modifications to the site plan require related modifications to a few of these conditions. In the space below, Applicant proposes language for the modified conditions. Plain text is language from the original conditions, strikethrough text is stricken, and

underlined text is new. A clean version of the modified conditions is set forth in Exhibit I.

1. Consistency with Plans - Development shall comply with the narrative and plans identified in **Attachments G and H** of ~~this~~ the original Staff Report, except as modified by the conditions below and by the narrative and plans submitted on remand, or unless a requested modification otherwise meets the criteria for a Minor Planned Development Modification, Conditional Development Modification, and/or a Subdivision Modification, as applicable. Such changes may be processed in accordance with Chapters 2.3, 2.4 & 2.5 of the Land Development Code.

2. Adherence to Land Development Code standards - No change.

3. Construction Phasing - No change.

4. Department of State Lands (DSL)/Army Corps of Engineers (COE) Approvals Required - The applicant has obtained a DSL fill permit (Permit No. 32863-FP Renewal) that authorizes development on a portion of Tax Lot 500, and has provided a copy of the renewed permit to the City as part of this land use application on remand ~~(See Attachment H - Pages 153-154 and Attachment L)~~. The active DSL fill permit has an expiration date of November 22, ~~2010~~ 2013. City of Corvallis development permits may be issued for that portion of Tax Lot 500 identified within the scope of the active DSL fill permit, as long as the applicable City permits are issued prior to expiration of the active DSL fill permit. Areas of the proposed CDP/DDP that fall within the scope of the active DSL fill permit include Phases 1-A (Walgreen's), 1-B (Building A), and 1-C (Building D), and Phase 1 (associated site improvements), as defined by the dashed lines and phasing labels on the Project Phase Plan (Sheet SP1.11). Also refer to the surveyed wetlands overlay (Sheet SP1.3C), and limits of development identified on the "Wetlands Joint Permit Site Plan," dated June 15, 2004 (active DSL fill permit) as defined by upland areas and wetland impact area.

Development of the proposed public multi-use path north of Dunawi Creek, the remainder of Phase 1 (Tax Lot 500 - Phases 1-D (Building C) and 1-E (Building B) and related site improvements), and Phase 2 (Tax Lot 600) is either not authorized under the scope of the active DSL fill permit, or relies on MADA credits associated with DSL-approved wetland mitigation that has not yet been authorized. No development permits shall be issued for work beyond the scope of the active DSL fill permit and/or after expiration of the active DSL fill permit, until supplemental documentation, as required in LDC § 4.13.80.01.e has been provided to the City. Permits for development that is reliant upon DSL-approved wetland mitigation associated with MADA credits under LDC § 4.11.50.02.c.2 shall not be authorized until documentation of the approved mitigation has been provided to the City, consistent with § 4.11.50.02.c.2.

5. **Archaeological Resources** - No change.

6. **Vehicle Parking - MADA Calculations** - No change.

7. **MADA Calculations** - No change.

8. **Natural Features Protection Fencing** - No change.

9. **Barricades** - No change.

10. **Pre-Payment for Public Multi-Use Path Construction (Dunawi Creek)** - The Applicant shall deposit with the appropriate City official an amount of cash equal to the estimated cost of the construction of the Dunawi Creek multi-use path, prior to issuance of site development permits for Phases 1E, 1D, or 2, whichever occurs first. The estimated cost shall be prepared by the Applicant and approved by the City, and shall be based upon a multi-use path located within the multi-use path easement area shown on Sheet SP1.10, that meets applicable City and DSL standards for construction and alignment, and accounts for necessary excavation and fill and any other reasonably related requirements imposed by the City. The City shall place this money in the appropriate account and shall use it only for construction of the path. In the event that the City determines not to build the path, the City shall refund the money to the Applicant within a reasonable time period.

With submittal of the construction cost estimate, the Applicant shall include documentation of an approved fill permit, as required for wetland construction and wetland mitigation by the Oregon Department of State Lands ("DSL") and the United States Army Corps of Engineers ("Corps"), which documents final acceptance by these agencies of the multi-use path construction and alignment. The ~~cost of obtaining~~ application fees for any necessary permits from DSL and the Corps shall be paid by the Applicant. With submittal of the construction cost estimate, the ~~a~~Applicant shall include construction details for the multi-use path that comply with Parks Department trail construction guidelines and DSL requirements, and includes the bench, as identified on Sheet SP1.4, if permitted by DSL. Path construction shall generally follow the "Design and Development Policies" of the adopted Park and Recreation Facilities Plan (Page 5-2), and final path alignment shall occur so as to minimize impacts to the properly functioning condition of the riparian corridor/drainageway. The City shall make the final determination of when the path is to be constructed, based on Project Implementation guidelines established in City Council Policy 99-7.14.

11. **Weather Protection** - No change.

12. Fire Code – Addressing - No change.

13. Fire Code -- Water Supply and Construction Timing - No change.

14. Wheelstops for Parking Abutting Landscape Buffers - No change.

15. Exterior Lighting - No change.

16. Commercial Driveway Approaches Required - No change.

17. Pedestrian Crossings at Drive Aisles - As noted in the application narrative, and with submittal of the site development permit applications (including those required by Benton County and ODOT), the applicant shall clearly indicate that all pedestrian crossings at internal streets (private Shopping Street), drive aisles, parking aisles, and commercial driveway approaches, are constructed of paving materials that contrast with the abutting pavement used for vehicular circulation, in conformance with **LDC § 4.10.70.03.a.5.** This includes one driveway entrance on 53rd Street, one driveway entrance on Philomath Blvd. (at private Shopping Street), and two driveways that intersect with the new local street, the drive aisle crossings between Buildings E and F, the Shopping Street crossing between Buildings F and C, the drive aisle crossing between Buildings C and D, ~~and~~ the drive aisle crossing between the Walgreen's building and Building B/pedestrian plaza, and the new pedestrian crossing at the southern end of the SW 53rd Street access driveway.

18. Bicycle Parking - No change.

19. Building Setback and Conformance to Proposed Grading Plans/Detail DD - Any changes to final grading, noted on the Conceptual Grading Plans, will require a Planned Development Modification, as defined in the Planned Development Modification Criteria in LDC § 2.5.60. Since the limits of grading in areas on the south side of Dunawi Creek will generally follow the required drainageway easement line and in some cases be adjacent to the 0.2 floodway line, Building B shall be setback a minimum of 3 feet from this grading limits/easement line as shown in the applicant's revised attachment DD, in order to ensure that all development and associated construction fencing/erosion control fencing is located outside of the 0.2'-Floodway and drainageway easement area.

20. SW 53rd Street Improvements - No change.

21. County Permits - No change.

22. Hwy. 20/34 Improvements - No change.

23. <u>ODOT Permits</u> - No change.

24. <u>Local street improvements across lot 600</u> - No change.

25. <u>Public improvements</u> - No change.

26. <u>Multi-Use Path and Driveway Access to SW 53rd Street</u> - No change.

27. <u>Water Line</u> - No change.

28. <u>Sewer Services</u> - No change.

29. <u>Private Storm Drainage</u> - No change.

30. <u>Private Water Quality Facility Design</u> - No change.

31. <u>Private Stormwater Detention</u> - No change.

32. <u>Public Water Quality Facility Design</u> - No change.

33. <u>Public Stormwater Detention</u> - No change.

34. <u>Floodplain Permits</u> - No change.

35. <u>Franchise Utilities</u> - No change.

36-a. <u>Landscaping Construction and Maintenance</u> - <u>Landscape Construction Documents</u> - No change.

36-b. <u>Significant Vegetation Preservation Plan</u> - No change.

36-c. <u>Special Soil Preparation - Planting Techniques</u> - No change.

36-d. <u>Re-vegetation of Streambanks</u> - No change.

36-e. <u>Residential Landscape Screen along West Property Line</u> - No change.

36-f. <u>Parking Landscape Buffers</u> - No change.

36-g. <u>Planters Along Building Walls</u> - No change.

36-h. <u>Pedestrian Amenities</u> - No change.

36-i. <u>SW Philomath Blvd Frontage Landscaping</u> - No change.

36-j. <u>SW 53rd Street Frontage Landscaping</u> - As noted in the project narrative, the developer intends to provide enhanced landscaping along the site's SW 53rd Street frontage, in order to compensate for the reduced width parkway. With submittal of the landscape construction documents, the applicant shall include additional shrubs and groundcover within the 6-ft. parkway, and additional trees, shrubs, and groundcover within the landscaped area between the row of ~~seven (7)~~ <u>four (4)</u> vehicle parking spaces north of Building A and the sidewalk/multi-use path on SW 53rd Street. Shrubs within the 6-ft. parkway shall be of a species and size that is compliant with the vision clearance standards established by the City Engineer and Benton County.

36-k. <u>Detention Facility Landscaping</u> - No change.

36-l. <u>Inspections and Three Year Maintenance Guarantee</u> - No change.

36-m. <u>Vision Clearance Areas and Plantings</u> - No change.

36-n. <u>Tree Spacing</u> - No change.

36-o. <u>Three-Year Maintenance Guarantee Release</u> - No change.

37. <u>Signs</u> - No change.

38. <u>Vision Clearance</u> - No change.

39-a. <u>Final Plat - ROW Dedication/Easements/Reservation</u> - No change.

39-b. <u>Final Plat Easements - Public Pedestrian and Bicycle Access</u> - No change.

39-c. <u>Final Plat Tract and Easement (Shopping Street)</u> - No change.

39-d. <u>Final Plat Tract and Easement (Drainageway and Natural Features Preservation)</u> - With submittal of the final plat, the property owner shall include in the plat declarations, a dedication for the proposed Drainageway and Natural Features Tracts ("Lot 550" and "Lot 601"). The declaration language shall specify the purpose, ownership, and party responsible for the maintenance of the Tracts. The declarations shall also grant to the City of Corvallis, a public drainageway easement within the Tracts, as specified per **LDC § 4.13.70.02.d.**

A minimum drainage way easement of 50-feet shall be provided along the north side of Dunawi Creek. On the south side of Dunawi Creek the easement will need to follow the grading limits line as shown on sheet SP1.5. Since the limits of grading

will be the easement line and in some cases the 0.2 floodway line, Building B shall be setback 3 feet from the grading limits/easement line as shown in the applicant's revised attachment DD. A public drainage easement will also be needed under or through the private creek crossing at the east end of the site up to SW 53rd Street. The easement will need to outline the private maintenance responsibilities of the creek crossing associated with the site access.

39-e. Final Plat - Franchise Utility Easements - No change.

39-f. Final Plat Reciprocal Access Easement - No change.

39-g. Final Plat - Public Sewer Easement - No change.

39-h. Final Plat - Easements - No change.

39-i. Final Plat - Easement for Public Wet Pond - No change.

39-j. Final Plat - Common Landscape Maintenance Easement - No change.

39-k. Final Plat Submittal Required - No change.

39-l. Final Plat - Electronic Version of Final Plat - No change.

40. Additional Floodplain Study and Revisions to Detailed Development Plan - With submittal of the site excavation and grading permit application, where grading is proposed within the pre-development floodway fringe, the applicant shall provide a revised floodplain study and site grading plans which demonstrates that the post-development floodplain elevation on adjacent properties is no greater than the pre-development condition. The post-development floodplain boundary shall not expand horizontally beyond the limits of the pre-development floodplain boundary as it currently exists on adjacent properties. The applicant may choose to reduce or eliminate building area associated with Phases 1D (Building C), 1E (Building B), and Phase 2, as well as associated vehicle parking, if it is necessary to accommodate flood water volume and meet this condition of approval. The ~~Planning Commission~~ City Council finds that if building area is reduced in order to comply with this condition, the minimum Floor Area Ratio (FAR) requirement of 0.25, as specified in LDC § 3.19.40.03, may be reduced below 0.25. If this occurs, the ~~Planning Commission~~ City Council finds that a compensating benefit has been provided for the variation to FAR in the form of no net impact upon adjacent properties due to development within the floodway fringe.

41. Floodplain Impacts Indemnification - No change to version of this condition modified by City Council in the Decision.

VI. Conclusion.

Subject to adoption of findings consistent with this supplemental narrative, the City Council should approve the CDP/DDP and Variation #1 on remand and determine that no further action is necessary to address the remaining Variations, the Conditional Development Permit, and the Tentative Subdivision Plat.

BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

LEAGUE OF WOMEN VOTERS OF CORVALLIS
and ELIZABETH FRENKEL,
Petitioners,

vs.

CITY OF CORVALLIS,
Respondent,

and

BRET FOX and THOMAS FOX
PROPERTIES, LLC,
Intervenors-Respondents.

LUBA No. 2011-002

FINAL OPINION
AND ORDER

Appeal from City of Corvallis.

Corinne C. Sherton, Salem, filed the petition for review and argued on behalf of petitioners. With her on the brief was Corinne C. Sherton PC.

David E. Coulombe, Corvallis, filed a response brief and James Brewer, Corvallis, argued on behalf of respondent. With him on the brief was Fewel, Brewer & Coulombe.

Michael C. Robinson, Portland, filed a response brief and Seth J. King argued on behalf of intervenors-respondents. With him on the brief was Perkins Coie LLP.

RYAN, Board Chair; BASSHAM, Board Member; HOLSTUN, Board Member, participated in the decision.

REMANDED 06/28/2011

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (47 of 112)

EXHIBIT A

Opinion by Ryan.

NATURE OF THE DECISION

Petitioners appeal a decision by the city approving a commercial planned development.

REPLY BRIEF

Petitioners move for permission to file a reply brief to respond to new matters raised in the city's response brief. The reply brief is allowed.

FACTS

The subject property is comprised of three tax lots, 400, 500, and 600, that are zoned Mixed Use Community Shopping (MUCS). Tax lot 400 lies immediately to the north of tax lot 500 and to the east of tax lot 600. All of tax lot 400, and approximately the northern half of tax lots 500 and 600 are designated as a protected wetland, protected riparian corridor, and/or a protected floodplain on the city's comprehensive plan maps. Dunawi Creek runs east to west along the northern part of tax lot 600 and along approximately the middle of tax lot 500.

Intervenor applied to develop approximately 179,319 square feet on the 6.64 acres comprising tax lots 500 and 600, including 43,000 square feet of retail and restaurant uses in seven buildings to be located on tax lot 500, and other transportation and stormwater infrastructure to be located on portions of tax lots 500 and 600. As part of the development intervenor also proposed to construct a 12-foot wide path within a 45-foot wide easement running east and west across tax lots 500 and 600, to the north of Dunawi Creek, within the protected wetland/riparian corridor/floodplain. The planning commission approved the applications, and petitioners appealed that decision to the city council. The city council approved the applications, and this appeal followed.

FIRST ASSIGNMENT OF ERROR

For nonresidential properties that are designated as protected wetlands, riparian corridors, or floodplains, Corvallis Land Development Code (LDC) 4.11.50.02.b provides a Minimum Assured Development Area (MADA) that is calculated by multiplying the acreage of the site by the MADA per acre that is shown in LDC 4.11.50.02 Table 4.11-2 – "Determining Minimum Assured Development Area (MADA) for Nonresidential Zones." Under LDC 4.11.50.02.b. and Table 4.11-2, the MADA for the site equaled 90,968 square feet. In addition, LDC 4.11.50.02.c allows the MADA to be increased (MADA credits) in certain circumstances beyond what is calculated according to LDC 4.11.50.02.b, including as relevant here:

> "c. **Additional Allowances for Determining the Minimum Assured Development Area of Residential and Nonresidential Sites** - The Minimum Assured Development Area calculated in Section 4.11.50.02.a and Section 4.11.50.02.b may be increased above the base MADA by adding the areas determined by the provisions below:
>
> " * * * * *
>
> "2. The area of Wetland mitigation that is required by the Department of State Lands and/or the U.S. Army Corps of Engineers when infrastructure must be extended through a Wetland. The area credited shall be based upon the written requirements of the associated permit approval of the Department of State Lands and/or the U.S. Army Corps of Engineers, whichever is greater;
>
> " * * * * *
>
> "4. Trails required by the Corvallis Transportation Plan or the City of Corvallis Park and Recreation Facilities Plan, or necessary to provide public access to or through designated open space areas." (Bold in original.)

The city allowed MADA credits for the development so that the total of developable area (MADA plus MADA credits) of the site equaled 180,728 square feet. The city adopted findings that determined that the proposed path running from east to west along tax lots 500 and 600 was eligible for MADA credits totaling 24,776 square feet: 12,388 square feet for

the path itself, and 12,388 square feet for the area of wetland and riparian area mitigation that the city concluded would be required to offset the effects of the path on the wetlands and riparian areas.[1]

In their first subassignment of error under the first assignment of error, petitioners argue that the city's findings are inadequate to explain why the city determined that the path qualifies for MADA credit under LDC 4.11.50.02.c.4, *i.e.*, either that the path is "required by" the city's transportation plan or Park and Recreation Facilities Plan (PRFP), or that it is "necessary to provide public access to or through designated open space areas." In their second subassignment of error, petitioners argue that the city's findings are inadequate to explain why the city awarded 12,388 square feet of MADA credit under LDC 4.11.50.02.c.2 for a mitigation area for constructing the path.

The city responds initially that petitioners failed to raise the issues presented in the first assignment of error, and under ORS 197.763(1) and ORS 197.835(3) are precluded from raising the issues for the first time at LUBA. In response to petitioners' first assignment of error, the city maintains that no participant below ever raised an issue regarding whether the path met the requirements for an award of MADA credits under LDC 4.11.50.02.c.4 and .2.

---

[1] The city adopted the following findings:

> "[A party] contended that the number and extent of MADA credits associated with the development was 'especially troubling' and not consistent with the intent of the LDC. The Council finds that [intervenor] presented substantial evidence in the Application that the Project qualified for MADA credits. The Council further finds that City staff properly applied the provisions of the LDC in calculating credits. * * *
>
> " * * * * *
>
> "[A]s part of the complete land use applications filed, the applicant has provided calculations which indicate that the base MADA permitted in the underlying * * * zone, as well as the additional MADA credits warranted under LDC 4.11.50.02.c, contribute to a total MADA allowance of 180,728 square feet, and that the proposed development plan impacts approximately 179,319 square feet of the development site. The Council finds that the proposed development area falls within the MADA allowance for the site." Record 80-81, 84.

In their reply brief, petitioners respond that the issue of compliance with LDC 4.11.50.02.c.4 and .2 was raised at Record 270, where a participant stated that MADA credits should not be awarded for the path under "LDC 4.11.50.02.c." In *Lucier v. City of Medford*, 26 Or LUBA 213, 216 (1993), we held that in order to challenge the adequacy of adopted findings, a petitioner must challenge the proposal's compliance with a relevant criterion during the local proceedings. We explained:

> "The references in ORS 197.763(1) and 197.835[3] to 'issues' are references to issues concerning the substantive and procedural requirements that must be satisfied in rendering the challenged decision. Therefore, if a petitioner wishes to argue that a particular approval criterion or procedural requirement is not satisfied by a proposed land use action, the petitioner must raise the 'issue' of compliance with that criterion below. However, contrary to respondent's suggestion, a petitioner is *not* required to anticipate the actual findings a local government ultimately adopts in support of its final decision or question the adequacy of the evidence accepted into the record to support such findings.
>
> "In order to preserve the right to challenge at LUBA the adequacy of the adopted findings to address a relevant criterion or the evidentiary support for such findings, a petitioner must challenge the proposal's compliance with that criterion during the local proceedings. Once that is done, the petitioner may challenge the adequacy of the findings and the supporting evidence to demonstrate the proposal complies with the criterion. The particular findings ultimately adopted or evidence ultimately relied on by the decision maker need not be anticipated and specifically challenged during the local proceedings." (Emphasis in original.)

We agree with petitioners that the issue of whether the path qualifies for an award of MADA credits under LDC 4.11.02.50.c.4 and .2 was raised at Record 270 with sufficient specificity to allow petitioners to argue that the city's findings regarding the proposal's compliance with LDC 4.11.50.02.c.4 and .2 are inadequate. *See also Columbia Riverkeeper v. Clatsop County*, 58 Or LUBA 190, 213 (2009) (where issues regarding compliance with approval criteria were raised below, petitioners may challenge the adequacy of findings adopted regarding those approval criteria).

The city and intervenor next respond by pointing to findings that the city adopted that the path should be allowed to be developed in riparian and wetland areas under LDC

4.13.50.b.2 and LDC 4.13.80.01.c.2, and in order to comply with LDC block perimeter and pedestrian connection standards, and argues that those findings suffice to explain the path qualifies for MADA credits under LDC 4.11.50.02.c.4. Record 72-73. However, LDC 4.11.50.02.c.4 requires the city to address whether MADA credits for the path and for mitigation for the path are justified because the path is "required by" the city's PRFP or transportation plan or "necessary to provide public access to or through dedicated open space," and LDC 4.11.50.02.c.2 requires the city to address whether MADA credits for mitigation for allowing the path are justified because the mitigation area is required by the Department of State Lands (DSL) or Army Corps of Engineers (ACOE). Those criteria involve different considerations than the considerations that are required in order for the city to determine whether the path should be allowed in a riparian and wetland area under LDC 4.13.50.b.2 and LDC 4.13.80.01.c.2, criteria which we discuss below in our resolution of the second assignment of error. The findings at Record 72-73 do not contain any adequate explanation by the city for why the path qualifies for MADA credit under LDC 4.11.50.02.c.

The first assignment of error is sustained.

SECOND ASSIGNMENT OF ERROR

A. Introduction

As noted above, the path crosses both a wetland and a riparian corridor. LDC Chapter 4.13 contains provisions that are intended to preserve and protect riparian corridors and wetlands. LDC 4.13.10. To that end, LDC 4.13.50.b prohibits building, paving, and grading in riparian corridors and riparian-related areas, except for certain specified purposes and only if the building, paving or grading is designed and constructed to minimize adverse impacts to the riparian area:

> "**Building, Paving, and Grading Activities** - The placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, are prohibited. Exceptions to the drainageway restrictions may be made for the purposes identified in items 1-7 of this Section, provided they are

designed and constructed to minimize adverse impacts to Riparian Corridors and Riparian-related Areas.

" * * * * *

"2. The location and construction of streets, utilities, bridges, bicycle, and pedestrian facilities within Highly Protected Riparian Corridors and Riparian related Areas must be deemed *necessary to maintain a functional system* by the City Engineer. This Code, City Transportation and Utility Master Plans, and other adopted City plans shall guide this determination. The design standards of Chapter 4.0 - Improvements Required with Development shall be applied to minimize the impact to the subject area[.]" (Bold in original, italics added.)

A similar provision, LDC 4.13.80.01.c prohibits building, grading, and paving activities in wetlands except for specified purposes and only if the building paving or grading is designed and constructed to minimize adverse impacts to the wetlands:

"**Building, Paving, and Grading Activities** - Within LPW areas, the placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, is prohibited, except as outlined below. Exceptions to the LPW restrictions may be made for the purposes identified in * * * '2,' below, provided they are designed and constructed to minimize adverse impacts to Wetland Functions.

" * * * * *

"2. Activities outlined in sections 4.13.50.b.2, 4.13.50.b.5, and 4.13.50.b.6." (Bold in original.)

B. Minimize Adverse Impacts

The decision approved construction of a "multi-use path" within the 45-foot wide easement area shown on SP1.10, the plan sheet that was included in intervenor's application, which shows a 12-foot wide path that meanders its location within a 45-foot wide easement that runs east to west across the property. Supplemental Record 1379.[2] The decision also imposed a condition of approval, Condition 10, which in part requires the path to be

[2] The PRFP defines "multi-use path" as a "paved path entirely separated from the roadway and used by pedestrians, roller bladers, joggers and cyclists." PRFP Glossary 2.

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constructed in accordance with the city Parks and Recreation Facilities Plan (PRFP) Design and Development Policies:

> "With submittal of the construction cost estimate, the Applicant shall include documentation of an approved fill permit, as required for wetland construction and wetland mitigation by [DSL] and [ACOE], which documents final acceptance by these agencies of the multi-use path construction and alignment. * * *
>
> "With submittal of the construction cost estimate, the applicant shall include construction details for the multi-use path that comply with Parks Department trail construction guidelines and DSL requirements, and includes the bench, as identified on Sheet SP1.4, if permitted by DSL. Path construction shall generally follow the 'Design and Development Policies' of the adopted [PRFP] (Page 5-2), and final path alignment shall occur so as to minimize removal of significant riparian area and to minimize impacts to the properly functioning condition of the riparian corridor/drainageway. * * *" Record 15.

In the first subassignment of error and in a portion of their second subassignment of error, we understand petitioners to argue that the city erred in approving the path to be located in riparian and wetland areas because there is not substantial evidence in the record to support a determination that the path will be "designed and constructed to minimize adverse impacts" to the riparian areas and wetlands. According to petitioners, the city could not determine that adverse impacts are minimized without knowing what the use of the path will be, its exact location, and its exact design, and according to petitioners those features are not known. In support of their argument, petitioners point out that the development plan that was approved by the final decision contains a notation that the "Exact Path Location TBD." Supplemental Record 1365. Petitioners also point to findings adopted by the city that specifically conclude that the city's decision to approve the proposed planned development that includes the path does not approve the precise design and construction materials for the path. Record 74. Petitioners also argue that in imposing Condition 10, the city improperly deferred finding compliance with LDC 4.13.50.b and 4.13.80.01.c to a later proceeding that does not require notice and an opportunity for hearing.

Respondents respond, and we agree, that there is substantial evidence in the record to support the city's conclusion that as conditioned the path will minimize adverse impacts to the riparian areas and wetlands under LDC 4.13.50.b and 4.13.80.1.c. First, the city approved a planned development that proposes locating a "multi-use path," a term that is defined in the PRFP, within the 45-foot wide easement area shown at Supplemental Record 1379, and required that path to be designed and constructed in conformance with the PRFP design guidelines for multi-use paths. Although petitioners quote some of the guidelines and policies, petitioners do not explain why a multi-use path located within the easement area that is designed and constructed in accordance with those policies will have more than a minimal adverse impact on the protected areas.

We also agree with respondents that in imposing condition 10 the city did not defer making a determination of compliance with LDC 4.13.50.b and 4.13.80.1.c to a future proceeding. Rather, in imposing condition 10, the city approved the path in a location within the 45-foot easement area, but allowed intervenor the flexibility to construct the path in the location within that easement area that minimizes adverse impacts to the protected area.

C. Necessary To Maintain a Functional System

1. Motion to Strike/Motion to Take Official Notice

As explained above, one of the exceptions to the prohibition on development in riparian and wetlands areas is for "[t]he location and construction of * * * bicycle, and pedestrian facilities within Highly Protected Riparian Corridors and Riparian-related Areas" that are "deemed necessary to maintain a functional system by the City Engineer." LDC 4.13.50.1.b.2. The city adopted findings that the path is "necessary to maintain a functional system:"

> "[League of Women Voters of Corvallis] LWVC conceded that both the City's Trails Master Plan and [PRFP] depict a trail in this general location; however, LWVC contends that this trail is conceptual only and was adopted prior to adoption of the [Natural Features Inventory] NFI. As such, LWVC contends that the trail designation did not take into account the wetlands

identified on the Property in the NFI. City staff responded by testifying that another adopted plan, the West Corvallis/North Philomath Plan ('WCNPP') identifies the Trail location inside of the natural features, thus showing a clear intent to route the Trial there notwithstanding the existence of the resources. Further City staff cited to specific WCNPP policies that support the Trail location in stream corridors as follows:

"OS-I-1:

"Work with private landowners to obtain dedications of open space lands for trails and preservation of natural systems.

"OS-I-7

"Where feasible, incorporate trails as part of stream corridors *as identified on the Circulation Plan, Figure VI-1.*

"OS-I-9

"Locate Trails at the edge of riparian buffer zones to minimize impacts on the natural functioning of the stream corridor and to preserve stream capacity.

"The Council concurs with the LWVC that standing alone, the conceptual trails depicted in the Trails Master Plan and the [PRFP] may not justify this location for the trail. However, the Council finds that there is additional substantial evidence in the record that supports the proposed Trail location as set forth in the WCNPP.

"The Council concurs with City staff findings that the Trail is 'necessary' in this location to 'maintain a functional trail system' as depicted in the adopted WCNPP and as further conceptually depicted in the Trails Master Plan and the [PRFP]. The Council further finds that each of the cited plans was approved by the Council through a public process." Record 72-73 (Emphasis added.)

Petitioners attach to the petition for review a copy of Figure VI-1 from the Circulation Plan that is part of the West Corvallis/North Philomath Plan (WCNPP) and that is referenced in the findings quoted above. Petition for Review App. 90. Figure VI-1 is not part of the record. In its response brief, intervenor moves to strike App. 90 and the portions of the petition for review at pages 16-17 that discuss Figure VI-1 and other provisions of the WCNPP that are not a part of the record. After the response brief was filed, petitioners filed a motion for LUBA to take official notice under Oregon Evidence Code (OEC) 202(7) of

1 excerpts from the WCNPP that are attached to petitioners' motion, including Figure VI.[3]
2 Intervenor objects to the motion to take official notice to the extent that petitioners
3 improperly seek to use the attached excerpted provisions of the WCNPP to provide evidence
4 that rebuts the city engineer's conclusion that the path is "necessary to maintain a functional
5 system" under LDC 4.13.50.b.2.[4]

6 Petitioners respond, and we agree, that the WCNPP is a part of the Corvallis
7 Comprehensive Plan (CCP) and under OEC 202(7) is subject to official notice. We disagree
8 with intervenor that petitioners seek to use Figure VI-1 to provide evidence to rebut the city's
9 determination about the necessity of the path to maintain a functional system. As discussed
10 below, petitioners' argument based on Figure VI-1 is essentially a legal argument: in
11 determining whether a path must be located in a riparian corridor in order to maintain a
12 functional trail system, as "guided by" city plans presumably including the WCNPP, what
13 legal significance should be attached to the fact that the relevant plans depict a path in the
14 riparian corridor but describe the depicted path or its location as "conceptual." The answer
15 to that question depends on the city's interpretation of various provisions of the LDC and the
16 CCP, including the WCNPP. The WCNPP has been adopted as part of the CCP and we may
17 take official notice of it. Accordingly, petitioners' motion to take official notice is granted
18 and intervenor's motion to strike portions of the petition for review is denied.

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[3] OEC 202(7) provides that LUBA may take official notice of "[a]n ordinance, comprehensive plan or enactment of any county or incorporated city in this state[.]"

[4] LUBA's review is limited by ORS 197.835(2)(a) to the record of the proceeding below, except in instances where an evidentiary hearing is authorized by ORS 197.835(2)(b). Thus LUBA may not take official notice of facts within documents that are subject to official notice under OEC 202, if notice of those facts is requested for an adjudicative purpose (i.e., to provide evidentiary support or countervailing evidence with respect to an applicable approval criterion that is at issue in the challenged decision). *Friends of Deschutes County v. Deschutes County*, 49 Or LUBA 100, 103-04 (2005); *Tualatin Riverkeepers v. ODEQ*, 55 Or LUBA 688, 692 (2007).

1 **2. Necessary to Maintain a Functional System**

2 As explained above, the city found that the exception to the general prohibition on
3 development in protected areas was allowed because the path is "necessary to maintain a
4 functional system" under LDC4.13.50.b.2 and LDC 4.13.80.01.c.2. In a portion of their
5 second subassignment of error, we understand petitioners to argue that the city misconstrued
6 applicable law in relying on portions of the WCNPP to conclude that the path is "necessary
7 to maintain a functional system."[5] According to petitioners, Figure VI from the circulation
8 plan that is a part of Chapter 6 of the WCNPP states that the trail locations are "conceptual
9 and may vary as more detailed plans are drafted," suggesting that it may not be necessary to
10 locate the trail within the riparian area at all, and therefore it was error for the city to rely in
11 part on those conceptual trail locations to conclude that locating the path in the riparian area
12 is "necessary to maintain a functional system[.]"

13 Intervenor responds that the city's interpretation of its land use regulations, including
14 LDC 4.13.50.b.2 and the WCNPP is required to be affirmed under ORS 197.829(1) because
15 the city's interpretation of the relevant provisions is plausible. *Siporen v. City of Medford*,
16 349 Or 247, 259, 243 P3d 776 (2010). It is not entirely clear to us what the city council
17 understood the label "conceptual" to mean, but it apparently disagreed with petitioners that
18 the "conceptual" label means that the plan maps have no bearing on whether the plan
19 anticipates that the path will be located in the riparian area in order to provide a functional
20 trail system. The city clearly believes that plan maps depicting a path within the area of a
21 riparian corridor support a conclusion that a path must be located somewhere in the corridor
22 in order to provide a functional trail system. We cannot say that view is implausible or
23 inconsistent with any relevant plan or code text. The label "conceptual" could plausibly

[5] The WCNPP has been adopted as a part of the city's comprehensive plan.

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mean that the exact location *within* the riparian corridor has yet to be determined, not that the plans are indifferent as to whether the path is located inside or outside the riparian corridor.

D. Development Associated with MADA

LDC 4.13.50.b.6 provides that one of the seven enumerated purposes that the city may rely on to allow development in a protected area is for "[d]evelopment associated with [MADA] that would be allowed in accordance with [LDC Chapter 4.11] * * *." In a subassignment of error petitioners argue that the city erred in approving MADA credits for the path and for that reason, LDC 4.13.50.b.6 cannot provide a basis for allowing development in protected areas.

It is unclear from the city's decision whether the city relied on LDC 4.13.50.b.6 to allow development in the protected areas, but one of the incorporated findings at Record 756 suggest that the city relied at least in part on that subsection. If that is the case, then we agree with petitioners that without findings justifying the award of MADA credit under LDC 4.11.50.02(c), the city may not rely on LDC 4.13.80.02.b.6 to allow development in the protected areas.

The second assignment of error is sustained, in part.

THIRD ASSIGNMENT OF ERROR

LDC 4.13.80.01.e provides:

> "**Department of State Lands and US Army Corps of Engineers Notification Required** - In addition to the restrictions and requirements of this Section, all proposed development activities within any Wetland are also subject to Oregon Department of State Lands (DSL) and US Army Corps of Engineers standards and approval. Where there is a difference, the more restrictive regulation shall apply. In accordance with ORS 227.350, as amended, the applicant shall be responsible for notifying DSL and the Corps of Engineers whenever any portion of any Wetland is proposed for development.
>
> "No application for development will be accepted as complete until documentation of such notification is provided. Additionally, no site development permits, such as Grading and Excavation Permits, Public Improvements by Private Contract Permits (PIPC), and Building Permits,

shall be issued until the City has received verification of DSL and Corps of Engineers approval for development on the subject site." (Bold in original).

In their third assignment of error, petitioners point to the current DSL fill and removal permit for tax lot 500, which contains the following condition (condition 8):

"**Deed Restriction Recording.** Before disturbance of any wetland areas, deed restrictions, for the avoided wetlands on tax lot 400 in its entirety * * * and the proposed avoided PFO wetlands on tax lot 500 (202,653 square feet) as shown on Sheet 1 of 1 dated November 16, 2004 shall be recorded with the County Assessor's office." Record 350-51 (bold in original.)

According to petitioners, LDC 4.13.80.01.e prohibits the city from approving MADA credits for the path and prohibits the city from approving the path until condition 8 has been satisfied.

Respondents respond, and we agree, that LDC 4.13.80.01.e merely requires intervenor to notify DSL of the development application in order for the city to deem the planned development application complete, but it does not prohibit the city from approving the application for a planned development on tax lot 500 or the location of the path within the wetlands prior to DSL approval of a new fill and removal permit that approves the path, as long as that approval is conditioned on receiving DSL permits prior to the issuance of any site development permits. Here, the city imposed a condition of approval requiring DSL approval of development activities on tax lot 500 prior to the issuance of site development permits.[6] That condition prevents the city from issuing site development permits for the

[6] Condition 4 provides in relevant part:

"Development of the proposed public multi-use path north of Dunawi Creek, the remainder of Phase I * * * and Phase 2 * * * is either not authorized under the scope of the active DSL fill permit or relies on MADA credits associated with DSL approved wetland mitigation that has not yet been authorized. No development permits shall be issued for work beyond the scope of the active DSL fill permit and/or after expiration of the active DSL fill permit, until supplemental documentation, as required in LDC 4.13.80.1.e has been provided to the City. Permits for development that is reliant on DSL-approved wetland mitigation associated with MADA credits under LDC 4.11.50.02.c.2 shall not be authorized until documentation of the approved mitigation has been provided to the City, consistent with LDC 4.11.50.02.c.2." Record 13.

path until DSL has issued a new wetland fill and removal permit for the area of the path and until DSL has approved the mitigation area, if any, that will be required for the path. Petitioners do not challenge condition 4 or otherwise explain why condition 4 is inadequate to ensure that no site development of the path will occur until DSL has approved the development.

The third assignment of error is denied.

FOURTH ASSIGNMENT OF ERROR

Intervenor proposes to locate above-ground stormwater detention facilities on a portion of tax lot 600 that is currently within the 100-year floodplain, and on a portion of tax lot 500 within the riparian easement area.[7] Supplemental Record 1378.

A. 10-Year Floodplain

LDC 4.0.130.b.1 requires in relevant part that stormwater "[d]etention or retention facilities shall be located outside the 10-year Floodplain or the riparian easement area, whichever is greater." In their fourth assignment of error, petitioners argue that the city's findings fail to address petitioners' argument below that the 10-year floodplain has not been mapped, and without that mapping, the city could not determine whether the facilities will be located outside of the 10-year floodplain boundary.

Respondents point to the city's findings that "[t]he Application includes substantial evidence explaining how the proposed stormwater facilities are consistent with applicable provisions of the LDC, including LDC 4.0.130." Record 75. Respondents explain that the application includes an illustration showing that after development, the stormwater detention facility on tax lot 600 will be located outside the boundaries of the 100-year floodplain, and explain that the 100-year floodplain includes the 10-year floodplain. Supplemental Record

[7] LDC 4.13.70.02.d.2 Table 4.13-2 provides that the riparian easement area is 50 feet from the top of the bank of Dunawi Creek.

1378.[8] We agree with respondents that the city's findings are adequate to explain why the city concluded that the stormwater facilities comply with LDC 4.0.130 and that the evidence in the record supports that conclusion. Supplemental Record 1378 shows that the storm water facility to be located on tax lot 600 is entirely outside of the post-development 100-year floodplain, and is therefore necessarily outside of the 10-year floodplain.[9]

B. Riparian Easement Area Encroachment

LDC 4.13.70.02.d.2 Table 4.13-2 provides that the riparian easement area is 50 feet from the top of the bank of Dunawi Creek. LDC 4.13.70.02.d.4 provides:

> "If, through the provisions of Chapter 4.11 - Minimum Assured Development Area (MADA), it is determined that encroachment into a Riparian Corridor area is necessary to allow for utilization of the Minimum Assured Development Area, any associated easement requirement shall be relaxed to the extent necessary to allow for the minimum necessary encroachment into the resource area."

Thus LDC 4.13.70.02.d.4 allows encroachment of development into the 50-foot riparian easement area in order for development to meet allowed MADA.

Some of the incorporated findings suggest that the city may have allowed development of the stormwater detention facility within the riparian easement area on tax lot 500 under LDC 4.13.70.02.d.4. Record 680. In a portion of their fourth assignment of error, we understand petitioners to contend that if their first assignment of error is sustained, the city also erred in relying on LDC 4.13.70.02.d.4 to allow development within the riparian easement area where the total MADA has not yet been determined. We agree with petitioners that without knowing the MADA for the development, the city could not

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[8] According to the plan at Supplemental Record 1378, the detention pond on tax lot 600 will be located outside of the *post-development* 100-year floodplain, which is north of the pre-development 100-year floodplain due to construction of a new culvert.

[9] As the city explains "[a] 100-year Flood Plain indicates the maximum level of flooding expected to occur every hundred years; in other words, there is a 1% chance of maximum level flooding each year. In a 10-year Flood Plain there is a 10% chance every year of maximum level flooding." Response Brief of City 28, n 9.

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1 determine under LDC 4.13.70.02.d.2 whether "encroachment into a Riparian Corridor area is
2 necessary to allow for utilization of" MADA.
3 The fourth assignment of error is sustained, in part.
4 The city's decision is remanded.

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CHAPTER 6.0 PEDESTRIANS

6.10 INTRODUCTION

Corvallis recognizes the value of pedestrian facilities in a successful transportation system. In Corvallis, this is accomplished through a system of public sidewalks, some dating to the early 1900s; maintenance of walkways along improved streets and between neighborhoods; and well-planned trails. Pedestrian signal facilities are installed with new traffic signals at intersections. The quality of this system is made apparent by the 1990 census data showing Corvallis with the fourth highest percentage (13%) of people walking to work among Oregon cities, behind Monmouth, Lincoln City, and Ashland.

Policies supporting safe and convenient pedestrian facilities have been a part of the Comprehensive Plan since its adoption in 1980. The Land Development Code implements these policies through **Section 4.0.40 - Pedestrian Requirements** (included as Appendix A of this section of the Transportation Plan) and others. The **Trails Master Plan**, adopted by the City Council as an element of the Comprehensive Plan on November 19, 1990, identifies existing and needed pedestrian and multi-use trails within Corvallis and is incorporated with this Transportation Plan by reference.

6.20 VISION

The vision for the pedestrian network in Corvallis is to provide safe, convenient access to all parts of the city by foot. The pedestrian network should enable people to get to locations of business, work, or play by a reasonably direct route or to take less direct but more scenic routes if that is their desire.

Achieving this vision will result in reduced reliance on the automobile, ensure neighborhood livability, and preserve the environment by providing open space and reducing air pollution. Encouraging development of a pedestrian-friendly, attractive community will also promote economic vitality.

6.30 EXISTING CONDITIONS

Corvallis' existing pedestrian system comprises 258 miles of sidewalks, with a present dollar value of approximately $34 million, and six miles of developed pedestrian trails. Pedestrians frequently share use of off-street bike paths also. Figure A-4 Trails Master Plan in Appendix A identifies the locations of existing as well as future trails in Corvallis and surrounding areas. Standards for pedestrian and multi-use trails are discussed in detail in the adopted **Trails Master Plan**. The 1990 census showed Corvallis to have the fourth highest rate of commuters who walk to work in Oregon.

Many areas in Corvallis are highly attractive to pedestrians. Many of these areas have a mix of uses that allows pedestrians to accomplish several tasks within a short enough distance that walking is

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FIGURE A - 4

TRAILS MASTER PLAN

CITY OF CORVALLIS
COMMUNITY DEVELOPMENT DEPARTMENT
ENGINEERING DIVISION - MAPPING/GIS SERVICES

DATE 9/1/96
DRAWN BY K. LOSO
FIG. A - 4

TRAILS MASTER PLAN

City of Corvallis

EXHIBIT C

south of Alexander Avenue, and 9th Street between Garfield Avenue and Circle Boulevard are examples. Strategically placed pedestrian-activated signals and/or pedestrian refuge islands may be appropriate remedies in some locations. Multiple auto accesses to parking lots and businesses in such high use areas can cause conflicts for pedestrians, and the large parking lot expanses can also discourage walking.

Discontinuous sidewalks also exist, even in some locations developed to City standards. These are generally not along collector or arterial streets, but in subdivisions where all lots have not been developed. Sidewalks are installed following house construction to avoid damage from heavy construction equipment and the resulting need for replacement.

Other impediments to walking include areas, primarily in subdivisions built in the 1960s and 1970s, where out-of-direction travel is required to get to neighborhood activity centers and shopping centers where little concern was given to pedestrian-friendly design concepts. The Land Development Code provides for walkways connecting cul-de-sacs to other streets or bisecting particularly long blocks, but the process for identifying where they are required is discretionary.

Lack of park strips along some streets can also discourage walking. Park strips provide separation from automobiles that is particularly important along arterials such as 9th Street and Circle Boulevard. Since park strips allow driveway cuts to occur between the roadway and the sidewalk, maintaining a consistent grade and surface for the sidewalk, leaving park strips out of any development can be problematic for elderly or handicapped persons.

Although not a facility need, **land use** can play an important role in the pedestrian system. As indicated above, areas of mixed-use can be very attractive to pedestrians. Existing such areas were generally developed before World War II when the automobile played less of a role in society. These areas frequently have a gridded street network, buildings oriented so that pedestrian access from streets is convenient, and smaller parking areas. Except in areas already nearly fully developed, Corvallis has no zoning designations that allow a mixture of uses, and has no code provisions requiring buildings to be oriented to the street for ease of pedestrian access. Pedestrian facilities and connections are required to be installed, but frequently they must traverse extensive automobile parking areas. An important need is to develop a mixed-use zoning designation that can be applied to undeveloped areas in the City and within the UGB.

6.40 FUTURE CONDITIONS

With the July, 1993 adoption of the Land Development Code, which implements pedestrian requirements of the State Transportation Planning Rule, the pedestrian network in Corvallis should show continued improvement. As development occurs, safe, convenient pedestrian facilities providing connectedness between developments and activity centers throughout the city are required by the code. Examples include sidewalks on arterial, collector, and local streets, and in other locations where direct, convenient access can be provided. Implementation of the trails plan through construction of trails along drainageway dedications and other identified trail corridors (see Figure

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A-4) will also contribute to this system. Reconstruction of substandard arterial and collector streets also requires installation of pedestrian facilities.

An issue that has raised some concern in the community is the timing of sidewalk installation in new developments. The Land Development Code ties their installation to parcel development, generally the issuance of a building permit. This has led to locations where sidewalks are discontinuous, creating problems and sometimes hazards for pedestrians. This issue can be addressed in a number of ways.

First, Corvallis Municipal Code, Section 2.04 - Sidewalk Maintenance, Repair, and Liability requires the City Manager to report to City Council no less than once each year "concerning sidewalks construction, repair, and alteration required within the City for the public convenience and safety." Enforcement, however, is through formation of Local Improvement Districts, with a potential for Bancroft Bonding to spread costs over time. This may no longer be the reasonable means of enforcement, given Measure 5 constraints. Some other mechanism of enforcement may be needed for this section of the Municipal Code to be used successfully to ensure continuity of sidewalks in built areas.

A second method of addressing this issue relates to developing areas. Sidewalks could be considered a part of the public improvements that are required to be installed or secured for acceptance of a final plat. If secured, final installation of all sidewalks could be tied to a time line (two to five years) or completion of a percentage of the subdivision.

The City should consider solidifying its processes for ensuring pedestrian facility installation in a timely manner in new development and in built areas.

As modifications to transportation facilities are made, especially auto and transit facilities, impacts on and the opportunities for coordination with the pedestrian system should receive high scrutiny. Intersection widening beyond four lanes should be evaluated for opportunities to install refuge islands or curb extensions to reduce the distance pedestrians must travel and allow them to judge conflicts separately. Transit pull-outs and/or shelters should also be constructed at appropriate locations when roadway improvements are made.

6.50 SYSTEM ISSUES

6.50.10 STATE TRANSPORTATION PLANNING RULE

The State Transportation Planning Rule, requiring safe, convenient pedestrian facilities within and between new developments, has been implemented to a large extent through the recent adoption of the Land Development Code (July 19, 1993) and through the adopted Trails Master Plan. In addition to these efforts, the City needs to identify opportunities in developed areas to provide more direct, convenient and safer pedestrian access within and between residential areas and neighborhood

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6.6 PROJECT IMPLEMENTATION

Table 17
All Projects to Complete 20 Year Plan
Park and Recreation Facilities Plan

	Facility	Planning	Acquisition	Development	Major Upgrade	Minor Improve.	No Action
	Mini Parks						
M-10	Wildcat Park						X
M-12	Seavey Meadow Area (P)	X		X			
M-28	Franklin Square					X	
M-35	Peanut Park					X	
M-46	Lilly Park					X	
M-47	Tunison Park					X	
M-50	Bell Area (P)	X	X	X			
M-52	Clearwater Park (P)	X	X	X			
	Neighborhood Parks						
N-1	Jackson Area (P)	X	X	X			
N-2	Lewisburg Road Area (P)	X	X	X			
N-4	Mountain View School/Area (P)	X	X	X			
N-5	Harman Area (P)	X	X	X			
N-6	Timberhill School/Area (P)	X	X	X			
N-8	CV Ridge Area (P)	X	X	X			
N-9	Satinwood Area (P)	X	X	X			
N-16	Garfield Park					X	
N-18	Witham Hill Area (P)	X	X	X			
N-20	Cloverland Park					X	
N-21	Porter Park			X		X	
N-22	Oak Park (P)	X	X	X			
N-25	Arnold Park					X	
N-26	Chintimini Park					X	
N-29	Washington Park					X	
N-31	Central Park					X	
N-32	Grand Oaks Area (P)	X	X	X			
N-33	Skyview Area (P)	X	X	X			
N-34	Squaw Creek Area (P)	X	X	X			
N-41	Winding Way Area (P)	X	X	X			
N-45	Brooklane Area (P)	X	X	X			
N-51	Rivergreen Estates Park (P)			X			
N-53	Kiger Area (P)	X	X	X			
N-54	Booneville Area (P)	X	X	X			
N-55	Weltzin Area (P)	X	X	X			

(P) = Proposed

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (68 of 112)

City of Corvallis

EXHIBIT E

Table 17 (Continued)

	Facility	Planning	Acquisition	Development	Major Upgrade	Minor Improve.	No Action
	Community Parks						
C-3	Highland Area (P)	X	X	X			
C-11	Village Green Park					X	X
C-17	Walnut Park					X	
C-23	Fairgrounds Area (P)	X	X	X			
C-27	Taylor Area (P)	X					
C-42	Sunset Park		X		X		
	Large Urban Parks						
LU-36	Alan B. Berg Park			X			
LU-40	Avery Park				X		
LU-49	Willamette Park				X		
	Special Use Areas						
SU-7	**Timberhill Park**						X
SU-14	Osborn Aquatic Center						X
SU-15	Highland Mid. School Courts					X	
SU-19	Woodland Meadows Park					X	
SU-37	Morse Bros. Gravel Lake Area (P)	X	X	X			
SU-24	Benton County Fairgrounds						X
SU-39	Pioneer Park					X	
SU-38	Pioneer Boat Basin Park					X	
SU-43	Bruce Starker Arts Park					X	
SU-44	Western Middle School Courts					X	
SU-48	Lincoln Elem. School Courts					X	
SU-56	Rock Creek Park					X	
	Linear Parks						
L-30	**Riverfront Commemorative Park**			X			

(P) = Proposed

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
EXHIBIT A (69 of 112)
COPY SOURCE LDA ALEMANDHERRING

City of Corvallis

Table 17 (Continued)

	Facility	Planning	Acquisition	Development	Major Upgrade	Minor Improve.	No Action
	Open Space Areas/Greenways						
OS-1	Locke Cemetery Hill (P)	X	X				
OS-2	Frazier Cr. Greenway(P)	X	X				
OS-3	Jackson Cr. Greenway(P)	X	X				
OS-4	McDonald Forest						X
OS-5	Dimple Hill(P)	X	X				
OS-6	Chip Ross Park				X		
OS-7	Owens Farm(P)	X	X				
OS-8	Jackson Frazier Wetlands						X
OS-9	Stewart Slough(P)	X	X				
OS-11	Sequoia Creek(P)	X	X				
OS-12	Crescent Valley Ridge(P)	X	X				
OS-13	Timberhill Ridge(P)	X	X				
OS-14	Timberhill Connector(P)	X	X				
OS-15	Deer Run Ridge(P)	X	X				
OS-16	Butterfly Meadow(P)	X	X				
OS-17	View Ridge Connector(P)	X	X				
OS-18	Oak Hill(P)	X	X				
OS-19	Walnut Creek(P)	X	X				
OS-20	Witham Hill(P)	X	X				
OS-21	Forest Hill Acres(P)	X	X				
OS-22	Dixon Creek (P)	X	X				
OS-23	Willamette River Greenway (N) (P)	X	X				
OS-24	Mulkey Creek(P)	X	X				
OS-25	Bald Hill Park					X	
OS-26	Oak Creek (P)	X	X				
OS-27	MLK Park			X			
OS-28	Squaw Creek (N. Fork) (P)	X	X				
OS-29	West Corvallis-Skyline Hill(P)	X	X				
OS-30	Double Hill(P)	X	X				
OS-31	Newton Cr. Wetlands(P)	X	X				
OS-32	Philomath Corvallis Hill(P)	X	X				
OS-33	Squaw Creek (S. Fork) (P)	X	X				
OS-34	Philomath-Skyline Hill(P)	X	X				
OS-35	Mary's River/Bald Hill Connector(P)	X	X				
OS-36	Country Club Hill(P)	X	X				
OS-37	Millrace(P)	X	X				
OS-38	Ryan Creek (P)	X	X				
OS-39	Marys River Natural Area(P)					X	

(P) = Proposed

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (70 of 112)

Table 17 (Continued)

	Facility	Planning	Acquisition	Development	Major Upgrade	Minor Improve.	No Action
OS-40	Goodnight Creek(P)	X	X				
OS-41	Willamette River Greenway (South) (P)	X	X				
OS-42	Mary's River(P)	X	X				
OS-43	Mary's River /Willamette River Connector(P)	X	X				
OS-44	Booneville Channel & Slough (P)	X	X				
OS-45	Dry Creek(P)	X	X				
	Pathways/Trails						
T-1	Jackson Creek Trail (P)	X	X	X			
T-2	Frazier Creek Trail (P)	X	X	X			
T-3	CV Ridge Trail (P)	X	X	X			
T-4	Sequoia Creek Trail (P)	X	X	X			
T-5	Walnut Park Trail (P)	X	X	X			
T-6	Dixon Creek Trail (P)	X	X	X			
T-7	Highway 99 Trail					X	
T-8	West Corvallis Trail (P)	X	X	X			
T-9	Walnut Boulevard Trail					X	
T-10	Oak Creek Trail (P)	X	X	X			
T-11	OSU Trail/Midge Kramer Trail					X	
T-12	Squaw Creek Trail (N) (P)	X	X	X			
T-13	Squaw Creek Trail (S) (P)	X	X	X			
T-14	Philomath-Corvallils Bike Path						
T-15	Country Club Hill Trail (P)	X	X	X			
T-16	Millrace Trail (P)	X	X	X			
T-17	Ryan Creek Trail (P)	X	X	X			
T-18	Marys River Trail (P)	X	X	X			
T-19	Willamette Trail (W) (P)	X	X	X			
T-20	Willamette Trail (E) (P)	X	X	X			
T-21	Goodnight Creek Trail (P)	X	X	X			
T-22	South Corvallis Trail (P)	X	X	X			
T-23	Airport Trail (P)	X	X	X			

(P) = Proposed

City of Corvallis

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LOCAL APPEAL HEARING
EXHIBIT A (71 of 112)

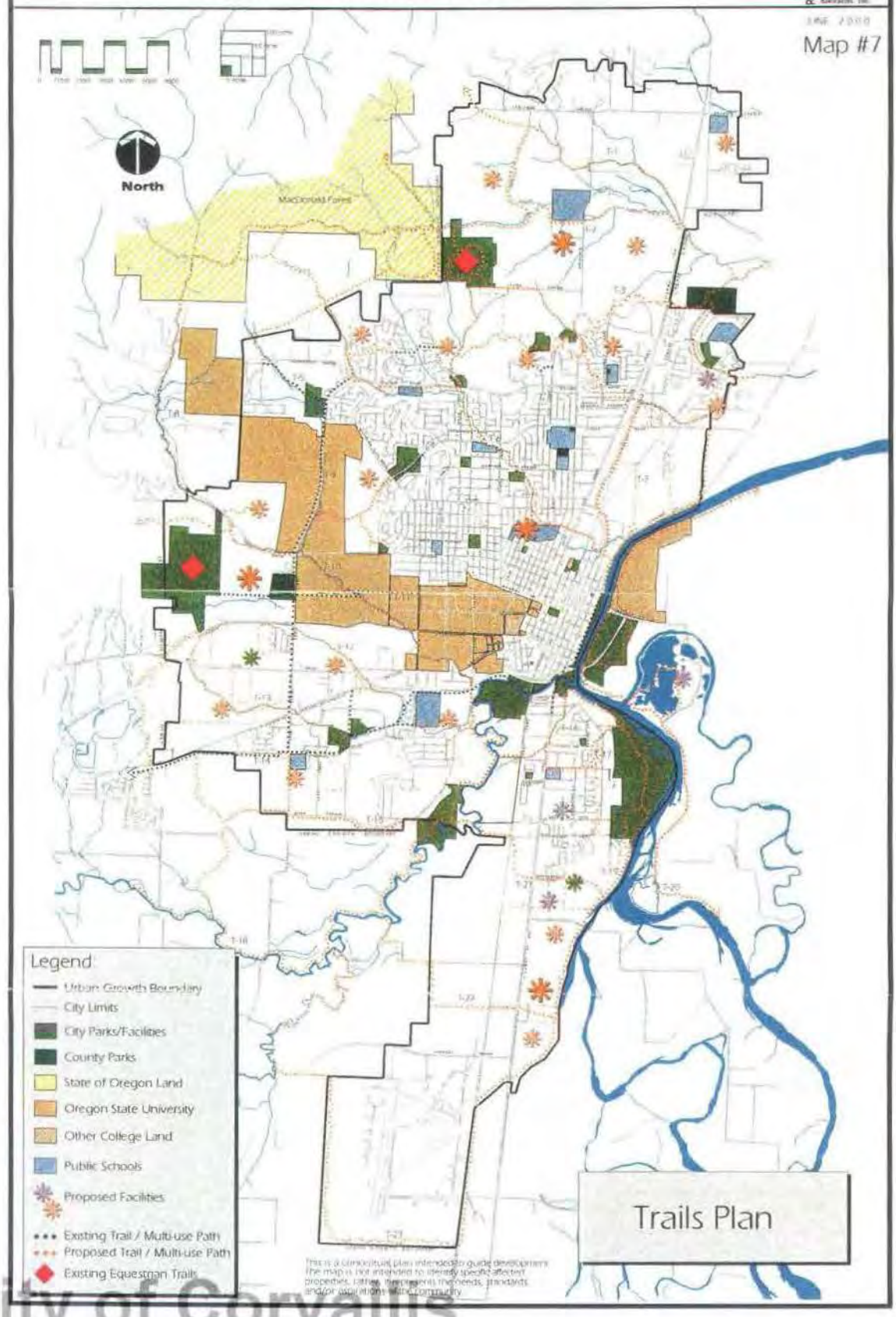
CONCEPTUAL

PARK AND RECREATION FACILITIES PLAN

CITY OF CORVALLIS, OREGON

JC DRAGOO & Associates, Inc.

Map #7



This is a conceptual plan intended to guide development. The map is not intended to identify specific affected properties, zoning, development requirements, standards and/or applications within community.

City of Corvallis

EXHIBIT F

CONCEPTUAL

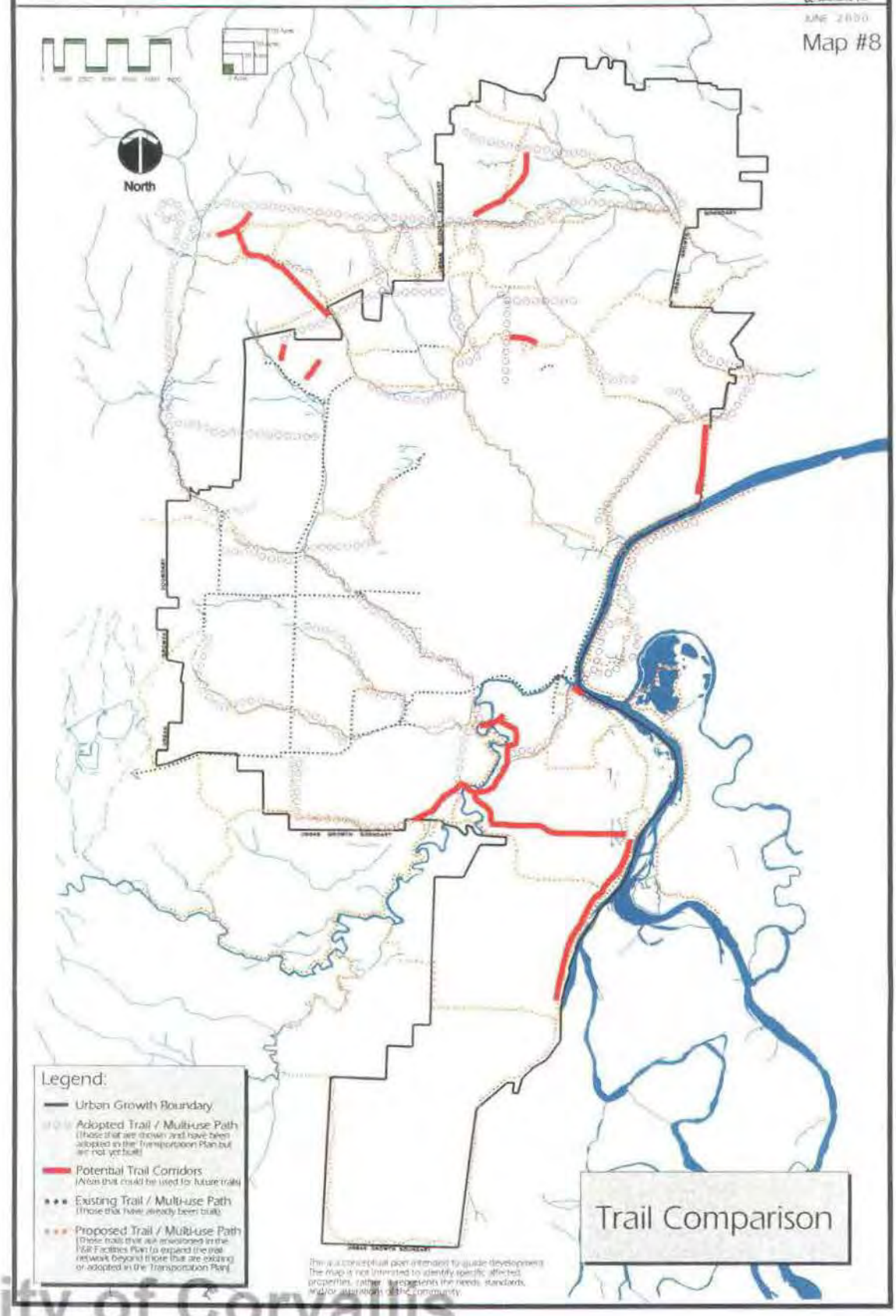
PARK AND RECREATION FACILITIES PLAN

CITY OF CORVALLIS, OREGON

JC D RAGGOO & Associates, Inc.

JUNE 2000

Map #8



This is a conceptual plan intended to guide development. The map is not intended to identify specific affected properties, rather it represents the needs, standards, and/or aspirations of the community.

City of Corvallis

EXHIBIT G

COMPREHENSIVE PLAN

CORVALLIS, OREGON

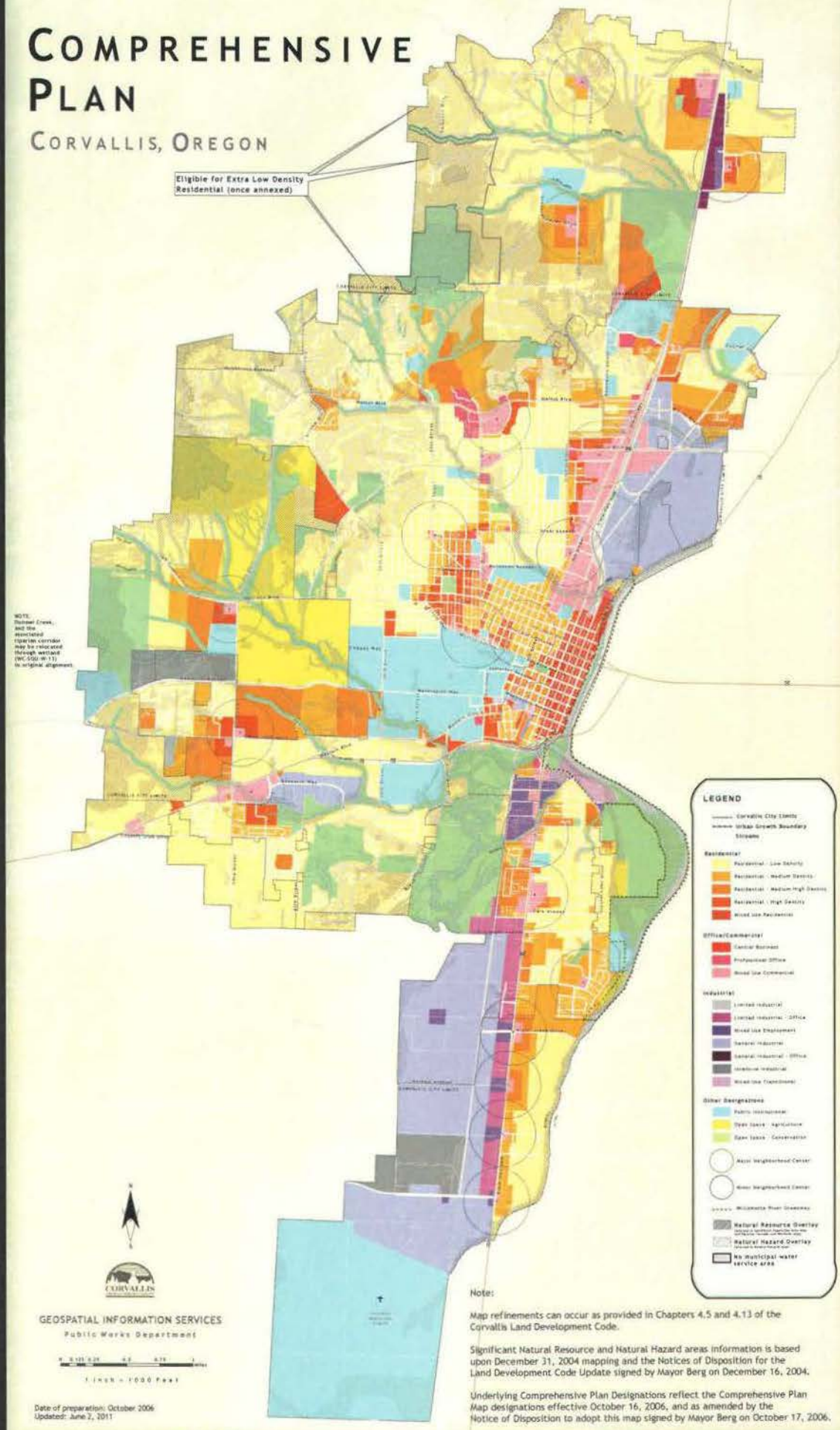


EXHIBIT I

EXHIBIT I: MODIFIED CONDITIONS OF APPROVAL

1. <u>Consistency with Plans</u> - Development shall comply with the narrative and plans identified in **Attachments G and H** of the original Staff Report, except as modified by the conditions below and by the narrative and plans submitted on remand, or unless a requested modification otherwise meets the criteria for a Minor Planned Development Modification, Conditional Development Modification, and/or a Subdivision Modification, as applicable. Such changes may be processed in accordance with Chapters 2.3, 2.4 & 2.5 of the Land Development Code.

4. <u>Department of State Lands (DSL)/Army Corps of Engineers (COE) Approvals Required</u> - The applicant has obtained a DSL fill permit (Permit No. 32863-FP Renewal) that authorizes development on a portion of Tax Lot 500, and has provided a copy of the renewed permit to the City as part of this land use application on remand. The active DSL fill permit has an expiration date of November 22, 2013. City of Corvallis development permits may be issued for that portion of Tax Lot 500 identified within the scope of the active DSL fill permit, as long as the applicable City permits are issued prior to expiration of the active DSL fill permit. Areas of the proposed CDP/DDP that fall within the scope of the active DSL fill permit include Phases 1-A (Walgreen's), 1-B (Building A), and 1-C (Building D), and Phase 1 (associated site improvements), as defined by the dashed lines and phasing labels on the Project Phase Plan (Sheet SP1.11). Also refer to the surveyed wetlands overlay (Sheet SP1.3C), <u>and</u> limits of development identified on the "Wetlands Joint Permit Site Plan," dated June 15, 2004 (active DSL fill permit) as defined by upland areas and wetland impact area.

Development of the proposed public multi-use path north of Dunawi Creek, the remainder of Phase 1 (Tax Lot 500 - Phases 1-D (Building C) and 1-E (Building B) and related site improvements), and Phase 2 (Tax Lot 600) is either not authorized under the scope of the active DSL fill permit, or relies on MADA credits associated with DSL-approved wetland mitigation that has not yet been authorized. No development permits shall be issued for work beyond the scope of the active DSL fill permit and/or after expiration of the active DSL fill permit, until supplemental documentation, as required in LDC § 4.13.80.01.e has been provided to the City. Permits for development that is reliant upon DSL-approved wetland mitigation associated with MADA credits under LDC § 4.11.50.02.c.2 shall not be authorized until documentation of the approved mitigation has been provided to the City, consistent with § 4.11.50.02.c.2.

10. <u>Pre-Payment for Public Multi-Use Path Construction (Dunawi Creek)</u> - The Applicant shall deposit with the appropriate City official an amount of cash equal to the estimated cost of the construction of the Dunawi Creek multi-use path, prior to issuance of site development permits for Phases 1E, 1D, or 2, whichever occurs first. The estimated cost shall be prepared by the Applicant and approved by

the City, and shall be based upon a multi-use path located within the multi-use path easement area shown on Sheet SP1.10, that meets applicable City and DSL standards for construction and alignment, and accounts for necessary excavation and fill and any other reasonably related requirements imposed by the City. The City shall place this money in the appropriate account and shall use it only for construction of the path. In the event that the City determines not to build the path, the City shall refund the money to the Applicant within a reasonable time period.

With submittal of the construction cost estimate, the Applicant shall include documentation of an approved fill permit, as required for wetland construction and wetland mitigation by the Oregon Department of State Lands ("DSL") and the United States Army Corps of Engineers ("Corps"), which documents final acceptance by these agencies of the multi-use path construction and alignment. The application fees for any necessary permits from DSL and the Corps shall be paid by the Applicant. With submittal of the construction cost estimate, the Applicant shall include construction details for the multi-use path that comply with Parks Department trail construction guidelines and DSL requirements, and includes the bench, as identified on Sheet SP1.4, if permitted by DSL. Path construction shall generally follow the "Design and Development Policies" of the adopted Park and Recreation Facilities Plan (Page 5-2), and final path alignment shall occur so as to minimize impacts to the properly functioning condition of the riparian corridor/drainageway. The City shall make the final determination of when the path is to be constructed, based on Project Implementation guidelines established in City Council Policy 99-7.14.

17. <u>Pedestrian Crossings at Drive Aisles</u> - As noted in the application narrative, and with submittal of the site development permit applications (including those required by Benton County and ODOT), the applicant shall clearly indicate that all pedestrian crossings at internal streets (private Shopping Street), drive aisles, parking aisles, and commercial driveway approaches, are constructed of paving materials that contrast with the abutting pavement used for vehicular circulation, in conformance with **LDC § 4.10.70.03.a.5.** This includes one driveway entrance on 53rd Street, one driveway entrance on Philomath Blvd. (at private Shopping Street), and two driveways that intersect with the new local street, the drive aisle crossings between Buildings E and F, the Shopping Street crossing between Buildings F and C, the drive aisle crossing between Buildings C and D, the drive aisle crossing between the Walgreen's building and Building B/pedestrian plaza, and the new pedestrian crossing at the southern end of the SW 53rd Street access driveway.

19. <u>Building Setback and Conformance to Proposed Grading Plans/Detail DD</u> - Any changes to final grading, noted on the Conceptual Grading Plans, will require a Planned Development Modification, as defined in the Planned

Development Modification Criteria in LDC § 2.5.60. Since the limits of grading in areas on the south side of Dunawi Creek will generally follow the required drainageway easement line and in some cases be adjacent to the 0.2 floodway line, Building B shall be setback a minimum of 3 feet from this grading limits/easement line as shown in the applicant's revised attachment DD, in order to ensure that all development and associated construction fencing/erosion control fencing is located outside of the 0.2'-Floodway and drainageway easement area.

36-j. SW 53rd Street Frontage Landscaping - As noted in the project narrative, the developer intends to provide enhanced landscaping along the site's SW 53rd Street frontage, in order to compensate for the reduced width parkway. With submittal of the landscape construction documents, the applicant shall include additional shrubs and groundcover within the 6-ft. parkway, and additional trees, shrubs, and groundcover within the landscaped area between the row of four (4) vehicle parking spaces north of Building A and the sidewalk/multi-use path on SW 53rd Street. Shrubs within the 6-ft. parkway shall be of a species and size that is compliant with the vision clearance standards established by the City Engineer and Benton County.

39-d. Final Plat Tract and Easement (Drainageway and Natural Features Preservation) - With submittal of the final plat, the property owner shall include in the plat declarations, a dedication for the proposed Drainageway and Natural Features Tracts ("Lot 550" and "Lot 601"). The declaration language shall specify the purpose, ownership, and party responsible for the maintenance of the Tracts. The declarations shall also grant to the City of Corvallis, a public drainageway easement within the Tracts, as specified per **LDC § 4.13.70.02.d.**

A minimum drainage way easement of 50-feet shall be provided along the north side of Dunawi Creek. On the south side of Dunawi Creek the easement will need to follow the grading limits line as shown on sheet SP1.5. Since the limits of grading will be the easement line and in some cases the 0.2 floodway line, Building B shall be setback 3 feet from the grading limits/easement line as shown in the applicant's revised attachment DD. A public drainage easement will also be needed under or through the private creek crossing at the east end of the site up to SW 53rd Street. The easement will need to outline the private maintenance responsibilities of the creek crossing associated with the site access.

40. Additional Floodplain Study and Revisions to Detailed Development Plan - With submittal of the site excavation and grading permit application, where grading is proposed within the pre-development floodway fringe, the applicant shall provide a revised floodplain study and site grading plans which demonstrates that the post-development floodplain elevation on adjacent properties is no greater than the pre-development condition. The post-development floodplain boundary shall not expand horizontally beyond the limits of the pre-development floodplain boundary

as it currently exists on adjacent properties. The applicant may choose to reduce or eliminate building area associated with Phases 1D (Building C), 1E (Building B), and Phase 2, as well as associated vehicle parking, if it is necessary to accommodate flood water volume and meet this condition of approval. The City Council finds that if building area is reduced in order to comply with this condition, the minimum Floor Area Ratio (FAR) requirement of 0.25, as specified in LDC § 3.19.40.03, may be reduced below 0.25. If this occurs, the City Council finds that a compensating benefit has been provided for the variation to FAR in the form of no net impact upon adjacent properties due to development within the floodway fringe.

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
☎ 503-986-5200

Permit No.:	**32863-FP Renewal**
Permit Type:	**Fill**
Waterway:	**Wetland/Squaw Creek**
County:	**Benton**
Expiration Date:	**November 22, 2013**

JOHN BATZER

IS AUTHORIZED IN ACCORDANCE WITH ORS 196.800 TO 196.990 TO PERFORM THE OPERATIONS DESCRIBED IN THE ATTACHED COPY OF THE APPLICATION, SUBJECT TO THE SPECIAL CONDITIONS LISTED ON ATTACHMENT A AND TO THE FOLLOWING GENERAL CONDITIONS:

1. This permit does not authorize trespass on the lands of others. The permit holder shall obtain all necessary access permits or rights-of-way before entering lands owned by another.
2. This permit does not authorize any work that is not in compliance with local zoning or other local, state, or federal regulation pertaining to the operations authorized by this permit. The permit holder is responsible for obtaining the necessary approvals and permits before proceeding under this permit.
3. All work done under this permit must comply with Oregon Administrative Rules, Chapter 340; Standards of Quality for Public Waters of Oregon. Specific water quality provisions for this project are set forth on Attachment A.
4. Violations of the terms and conditions of this permit are subject to administrative and/or legal action, which may result in revocation of the permit or damages. The permit holder is responsible for the activities of all contractors or other operators involved in work done at the site or under this permit.
5. Employees of the Department of State Lands and all duly authorized representatives of the Director shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this permit.
6. Any permit holder who objects to the conditions of this permit may request a hearing from the Director, in writing, within twenty-one (21) calendar days of the date this permit was issued.
7. In issuing this permit, the Department of State Lands makes no representation regarding the quality or adequacy of the permitted project design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196, 390, and related administrative rules.
8. Permittee shall defend and hold harmless the State of Oregon, and its officers, agents, and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.
9. Authorization from the U.S. Army Corps of Engineers may also be required.

NOTICE: If removal is from state-owned submerged and submersible land, the applicant must comply with leasing and royalty provisions of ORS 274.530. If the project involves creation of new lands by filling on state-owned submerged or submersible lands, you must comply with ORS 274.905 to 274.940. This permit does not relieve the permittee of an obligation to secure appropriate leases from the Department of State Lands, to conduct activities on state-owned submerged or submersible lands. Failure to comply with these requirements may result in civil or criminal liability. For more information about these requirements, please contact the Department of State Lands, 503-986-5200.

Eric Metz, Southern Region Manager
Wetlands & Waterways Conservation Div
Oregon Department of State Lands

Authorized Signature

October 12, 2012
Date Issued

EXHIBIT J

ATTACHMENT A

Permittee: John Batzer

Special Conditions for Fill Permit 32863-FP

PLEASE READ AND BECOME FAMILIAR WITH CONDITIONS OF YOUR PERMIT. This project may be site inspected by the Department of State Lands as part of our monitoring program. The Department has the right to stop or modify the project at any time if you are not in compliance with these conditions. A copy of this permit shall be available at the work site whenever authorized operations are being conducted.

1. **Responsible Party:** By proceeding under this permit, John Batzer agrees to comply with and fulfill all terms and conditions of this permit. John Batzer is responsible for carrying out the terms and conditions of this permit unless the permit is officially transferred to another party as approved by DSL.

2. **Authorization to Conduct Removal and/or Fill:** This permit authorizes the placement of up to 3,000 cubic yards of gravel in 0.766 acres of wetlands, located at T12S, R5W, SE ¼ of Section 04 & 05, Tax Lot 400 & 500, Corvallis, Benton County, as outlined in the permit application, map and drawings, received October 15, 2009.

3. **Changes to the Project or Inconsistent Requirements from Other Permits:** It is the permit holder's responsibility to ensure that all state, federal and local permits are consistent and compatible with the final approved project plans and the project as executed. Any changes made in project design, implementation and/or operating conditions to comply with conditions imposed by other permits must be approved by DSL prior to implementation.

4. **DSL May Halt or Modify:** The Department of State Lands retains the authority to temporarily halt or modify the project in case of unforeseen damage to natural resources.

5. **DSL May Modify Conditions Upon Permit Renewal:** DSL retains the authority to modify conditions upon renewal, as appropriate, pursuant to the applicable rules in effect at the time of the request for renewal or to protect waters of this state.

Pre-Construction

6. **Local Government Approval Required Before Beginning Work:** Issuance of this permit is contingent upon acquisition of the required permits and approvals, including the Development Permit and Consistency with Natural Features Inventory, from the City of Corvallis.

7. **Pre-construction Resource Area Flagging:** Before any site grading, the surveyed boundaries of the avoided wetlands adjacent to development area on tax lot 400 & 500 shall be surrounded by bright orange construction fencing, which shall be maintained during construction of the project. There shall be no heavy equipment within fenced areas.

8. **Deed Restriction Recording**: Before disturbance of any wetland areas, deed restrictions, for the avoided wetlands on tax lot 400 in its entirety (84894 square feet) and the proposed avoided PFO wetlands on tax lot 500 (202,653 square feet) as shown on Sheet 1 of 1 dated November 16, 2004

shall be recorded with the County Assessor's office. A copy of the recorded deed restrictions for each tax lot shall be sent to DSL within 90 days of recording

9. **Water Quality Certification:** The Department of Environmental Quality (DEQ) may evaluate this project for a Clean Water Act Section 401 Water Quality Certification (WQC). If the evaluation results in issuance of a Section 401 WQC, that turbidity condition will govern any allowable turbidity exceedance and monitoring requirements.

10. **Erosion Control Methods:** The following erosion control measures (and others as appropriate) shall be installed prior to construction and maintained during and after construction as appropriate, to prevent erosion and minimize movement of soil into waters of this state.
    a. All exposed soils shall be stabilized during and after construction in order to prevent erosion and sedimentation.
    b. Filter bags, sediment fences, sediment traps or catch basins, leave strips or berms, or other measures shall be used to prevent movement of soil into waterways and wetlands.
    c. To prevent erosion, use of compost berms, impervious materials or other equally effective methods, shall be used to protect soil stockpiled during rain events or when the stockpile site is not moved or reshaped for more than 48 hours.
    d. Unless part of the authorized permanent fill, all construction access points through, and staging areas in, riparian and wetland areas shall use removable pads or mats to prevent soil compaction. However, in some wetland areas under dry summer conditions, this requirement may be waived upon approval by DSL. At project completion, disturbed areas with soil exposed by construction activities shall be stabilized by mulching and native vegetative plantings/seeding. Sterile grass may be used instead of native vegetation for temporary sediment control. If soils are to remain exposed more than seven days after completion of the permitted work, they shall be covered with erosion control pads, mats or similar erosion control devices until vegetative stabilization is installed.
    e. Where vegetation is used for erosion control on slopes steeper than 2:1, a tackified seed mulch shall be used so the seed does not wash away before germination and rooting.
    f. Dredged or other excavated material shall be placed on upland areas having stable slopes and shall be prevented from eroding back into waterways and wetlands.
    g. Erosion control measures shall be inspected and maintained as necessary to ensure their continued effectiveness until soils become stabilized.
    h. All erosion control structures shall be removed when the project is complete and soils are stabilized and vegetated.

11. **Hazardous, Toxic, and Waste Material Handling:** Petroleum products, chemicals, fresh cement, sandblasted material and chipped paint, wood treated with leachable preservatives or other deleterious waste materials shall not be allowed to enter waters of this state. Machinery refueling is to occur at least 150 feet from waters of this state and confined in a designated area to prevent spillage into waters of this state. Barges shall have containment system to effectively prevent petroleum products or other deleterious material from entering waters of this state. Project-related spills into waters of this state or onto land with a potential to enter waters of this state shall be reported to the Oregon Emergency Response System (OERS) at 1-800-452-0311.

12. **Federally Listed Endangered or Threatened Species:** When listed species are present, the authorization holder must comply with the Federal Endangered Species Act. If previously unknown listed species are encountered during construction, all construction activity shall immediately cease and the permit holder must contact DSL.

13. **Archaeological Resources**: If any archaeological resources and/or artifacts are encountered during construction, all construction activity shall immediately cease. The State Historic Preservation Office shall be contacted (phone: 503-986-0674).

14. **Hazards to Recreation, Navigation or Fishing:** The activity shall be timed so as not to interfere with or create a hazard to recreational or commercial navigation or fishing.

15. **Construction Corridor:** There shall be no removal of vegetation or heavy equipment operating or traversing outside the designated construction corridor or footprint (Sheet 1 of 1 dated November 16, 2004).

16. **Work Area Isolation:** The work area shall be isolated from the water during construction according to the Work Area Isolation Plan contained in the application. All structures and materials used to isolate the work area shall be removed immediately following construction.

17. **Stream Diversion Prohibited:** The stream shall not be diverted from the natural bed.

18. **Operation of Equipment in the Water Prohibited:** There shall be no operation of equipment in the water. Work in the waterway shall be conducted from top of the bank.

19. **Fish Passage Required:** The project shall meet Oregon Department of Fish and Wildlife requirements for fish passage for the driveway from 53rd crossing Squaw Creek to access retail development as shown on Sheet 1 of 1 dated November 16, 2004.

Compensatory Wetland Mitigation

20. Wetland mitigation for the unavoidable loss of 0.556 acres of palustrine emergent/flats wetland and 0.21 acres of PFO has been accomplished via purchase of 0.766 credits from the Frazier Creek Wetland Mitigation Bank, per the proof of purchase dated November 16, 2004; preservation of approximately 2 acres (84894 sq ft) of PFO wetlands on Tax lot 400 in its entirety; and preservation of approximately 4.65 acres (202,653 sq ft) of PFO wetlands on Tax lot 500 as shown on Sheet 1 of 1 dated November 16, 2004.

Renewal Issued: October 12, 2012

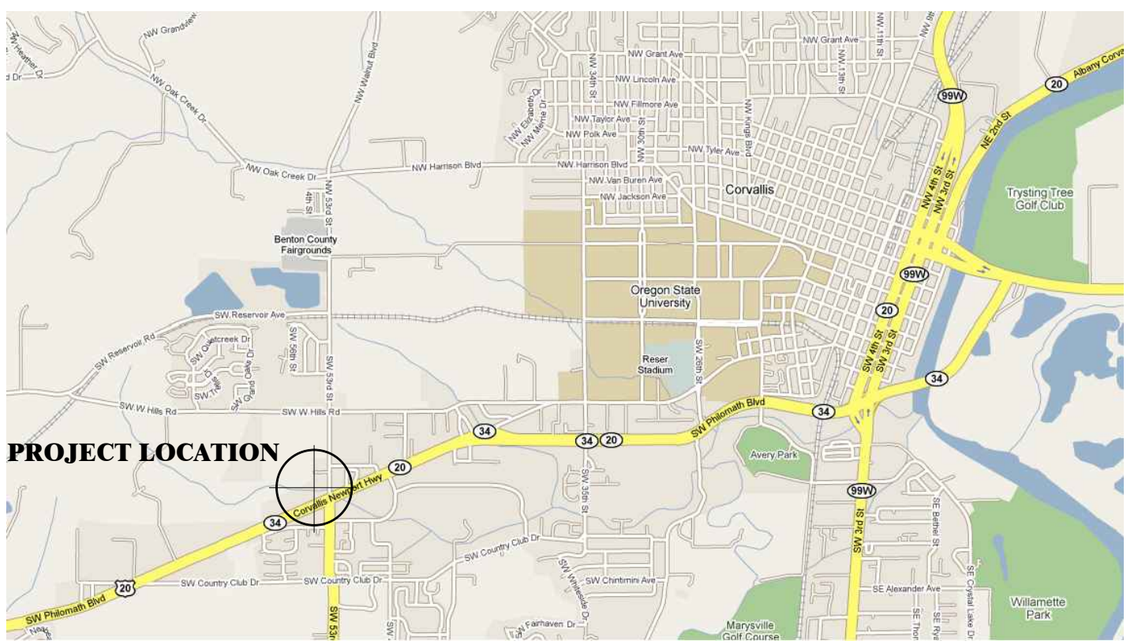
CREEKSIDE CENTER I & II

AN APPLICATION FOR A CONCEPTUAL AND DETAILED DEVELOPMENT PLAN AND A CONDITIONAL DEVELOPMENT

SUBMITTED TO :

THE CITY OF CORVALLIS

CORVALLIS
ENHANCING COMMUNITY LIVABILITY



SUBMITTED BY

OWNER

THOMASFOX PROPERTIES, LLC

Contact: Bret Fox
515 West Pickett Circle - Suite 400
Saltlake City, Utah 84115
Phone: 801-596-7711

ARCHITECT

OREGON ARCHITECTURE INC

Contact: Mark McKechnie, A.I.A.
221 West Tenth Street
Medford, Oregon 97501
Phone: 541-772-4372

Consulting Engineer
(Floodplain Study):

MARQUESS & ASSOCIATES INC

Contact: Robert Gunter, P.E.
1120 East Jackson
Medford, Oregon 97501
Phone: 541-772-7715

Consulting Engineer
(Property Survey):

NEIL HIBBS LAND SURVEYING, INC.

Contact: Neil Hibbs
4739 Lookingglass Road
Roseburg, Oregon 97470
Phone: 541-957-9303

TO VERIFY SCALES 0" 1" ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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221 West Tenth Street
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Phone: 541.772.4372 Fax: 541.499.6329

THOMASFOX PROPERTIES, LLC
515 WEST PICKETT CIRCLE - SUITE 400
SALTLAKE CITY, UTAH 84115
PHONE: 801-596-7711 FAX: 801-596-7161

CREEKSIDE CENTER
CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY
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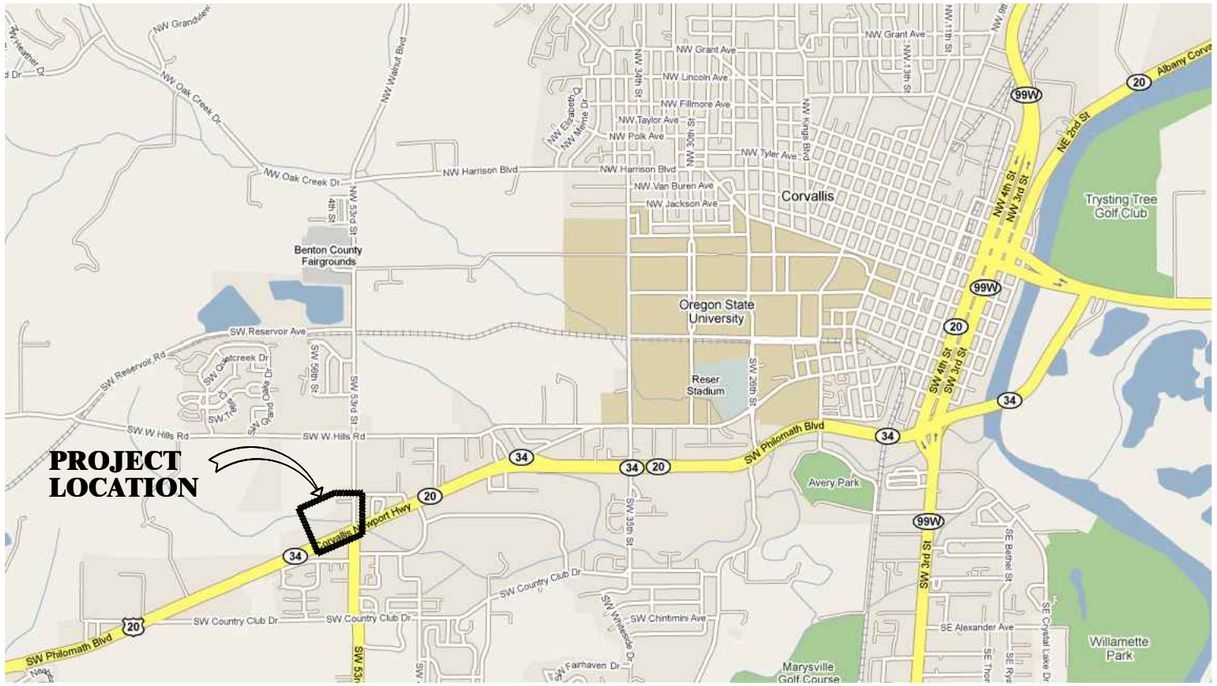
PLOT DATE: 4/15/2013
ISSUE DATE: .
DRAWN BY: T.WHITNEY
JOB NO.: -- .
SHEET
SP0.0
DEVELOPMENT SUBMITTAL
COVER SHEET

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (83 of 112)



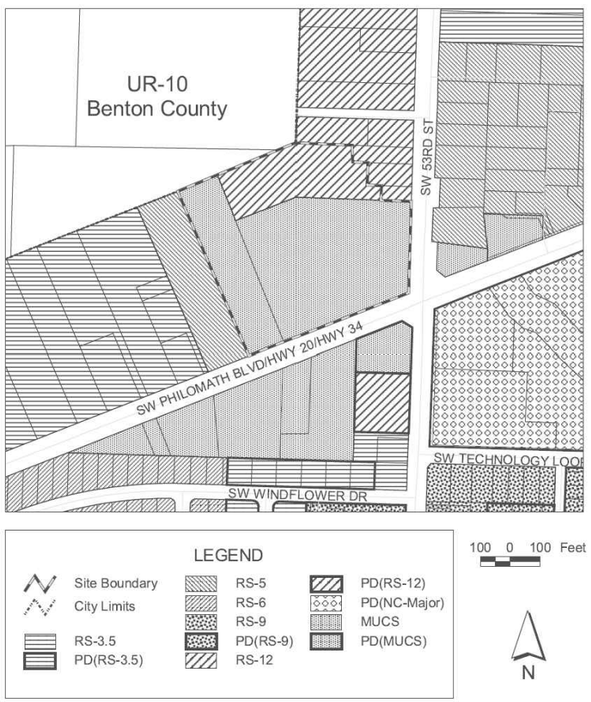
A-1 VICINITY MAP

SCALE: N.T.S.

A-2 SITE AERIAL

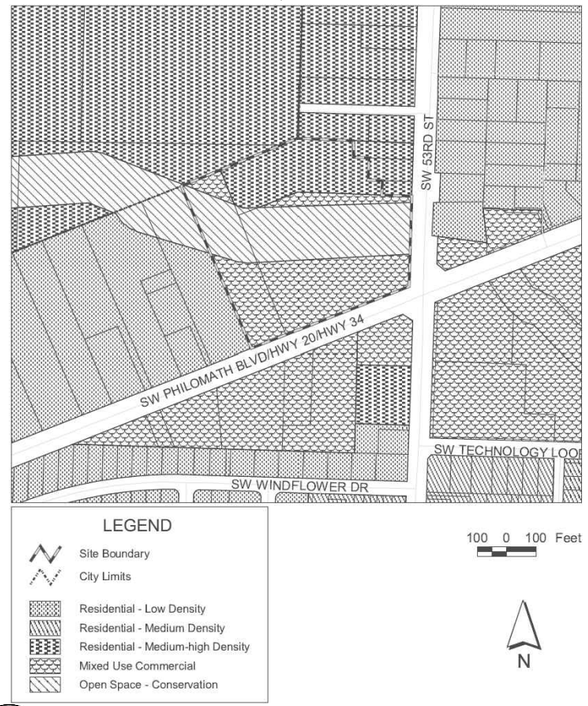
MAP: 12505DD

SCALE: N.T.S.



D EXISTING ZONING DESIGNATIONS

SCALE: N.T.S.



C COMPREHENSIVE PLAN DESIGNATIONS

SCALE: N.T.S.

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CREEKSIDE CENTER CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY
.	.
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PLOT DATE: 4/15/2013
ISSUE DATE:
DRAWN BY: T.WHITNEY
JOB NO.: . .
SHEET
SP1.0
DEVELOPMENT SUBMITTAL
EXHIBITS - A,B,C,&D

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (84 of 112)

WEST CORVALLIS ACCESS STRATEGY OVERLAY

09/96 PLAN PROPOSED ALIGNMENT

PROPOSED RIGHT OF WAY

ACTUAL RIGHT OF WAY

E **1000' VICINITY PROPERTIES/ SURROUNDING USES**

SCALE: 1" = 150'-0"

0 75' 150' 300'

SCALE: 1" = 150'-0"

PROPERTIES/ FEATURES SHOWN HERE WERE TAKEN FROM BENTON COUNTY'S GIS SYSTEM, AND ARE LIMITED THE ACCURACY CONTAINED THEREIN.

FOR FUTHER INFORMATION ON PARTICULAR SURROUNDING PROPERTIES. VISIT BENTON COUNTY'S WEBSITE AT WWW.CO.BENTON.OR.US

TO VERIFY SCALES 0" 1" ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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CREEKSIDE CENTER
CORVALLIS

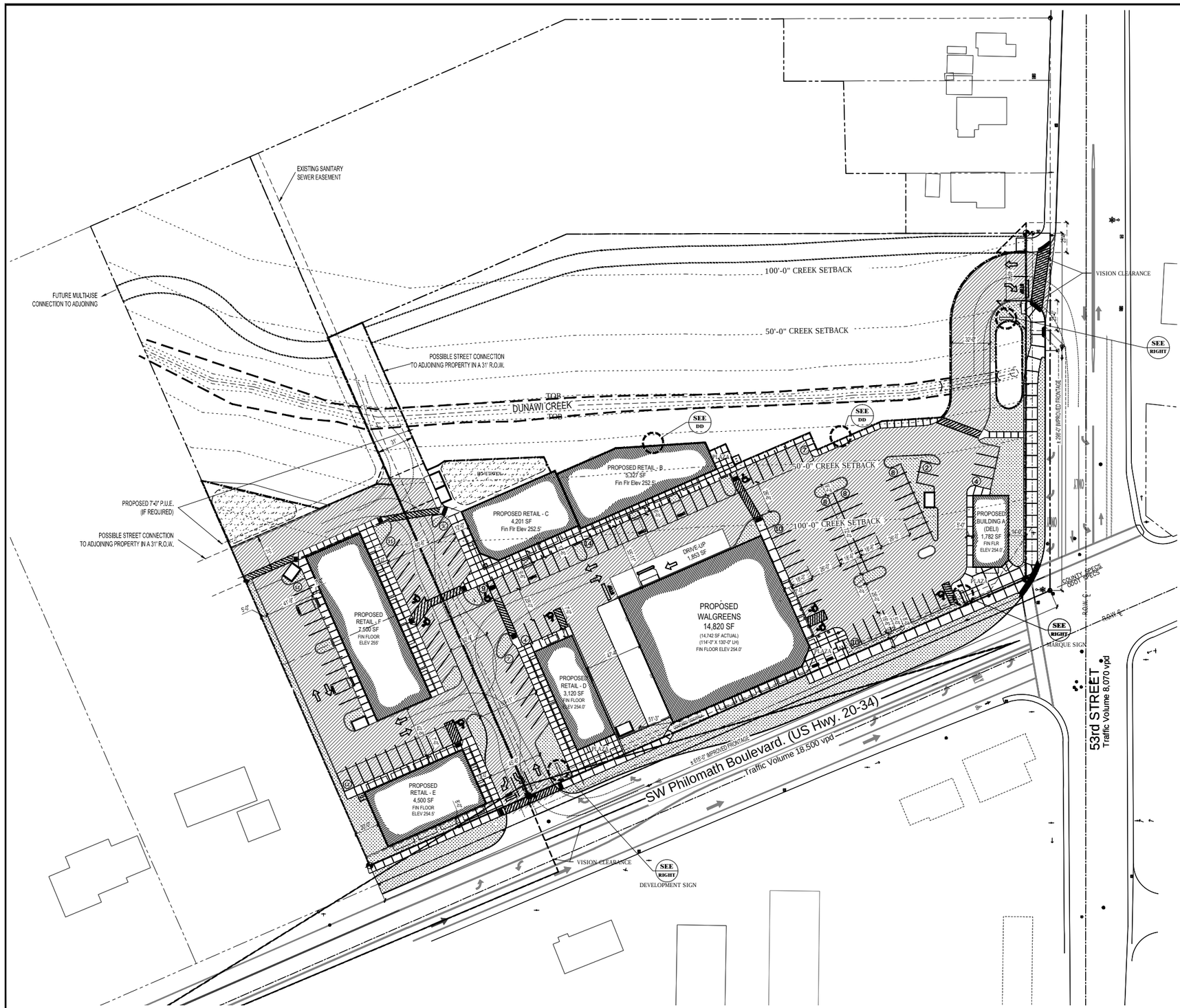
Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY

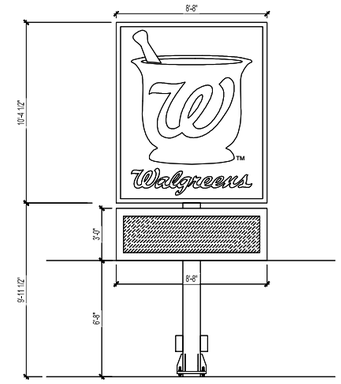
PLOT DATE: 4/15/2013
ISSUE DATE: .
DRAWN BY: T.WHITNEY
JOB NO.: -- .
SHEET
SP1.1
SURROUNDING PROPERTIES 1000' VICINITY

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (85 of 112)



PATTERN LEGEND

- NEW LANDSCAPE/ LAWN AREAS
- NEW ASPHALT PAVING
- AREA OF MINIMAL DISTURBANCE/ RESTORED NATURAL LANDSCAPE

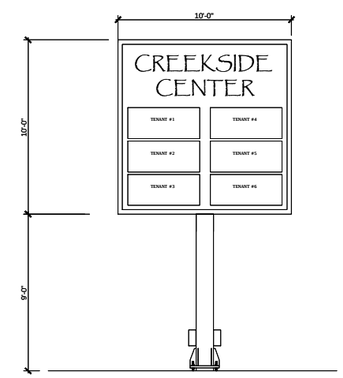


PYLON SIGN ELEVATION

SCALE: 1/4" = 1'-0"

0 2' 4' 8'

SCALE: 1/4" = 1'-0"



DEVELOPMENT SIGN ELEVATION

SCALE: 1/4" = 1'-0"

0 2' 4' 8'

SCALE: 1/4" = 1'-0"

F DEVELOPMENT PLAN - PHASES 1 & 2

SCALE: 1" = 40'-0"

0 20' 40' 80'

SCALE: 1" = 40'-0"

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CREEKSIDE CENTER
CORVALLIS

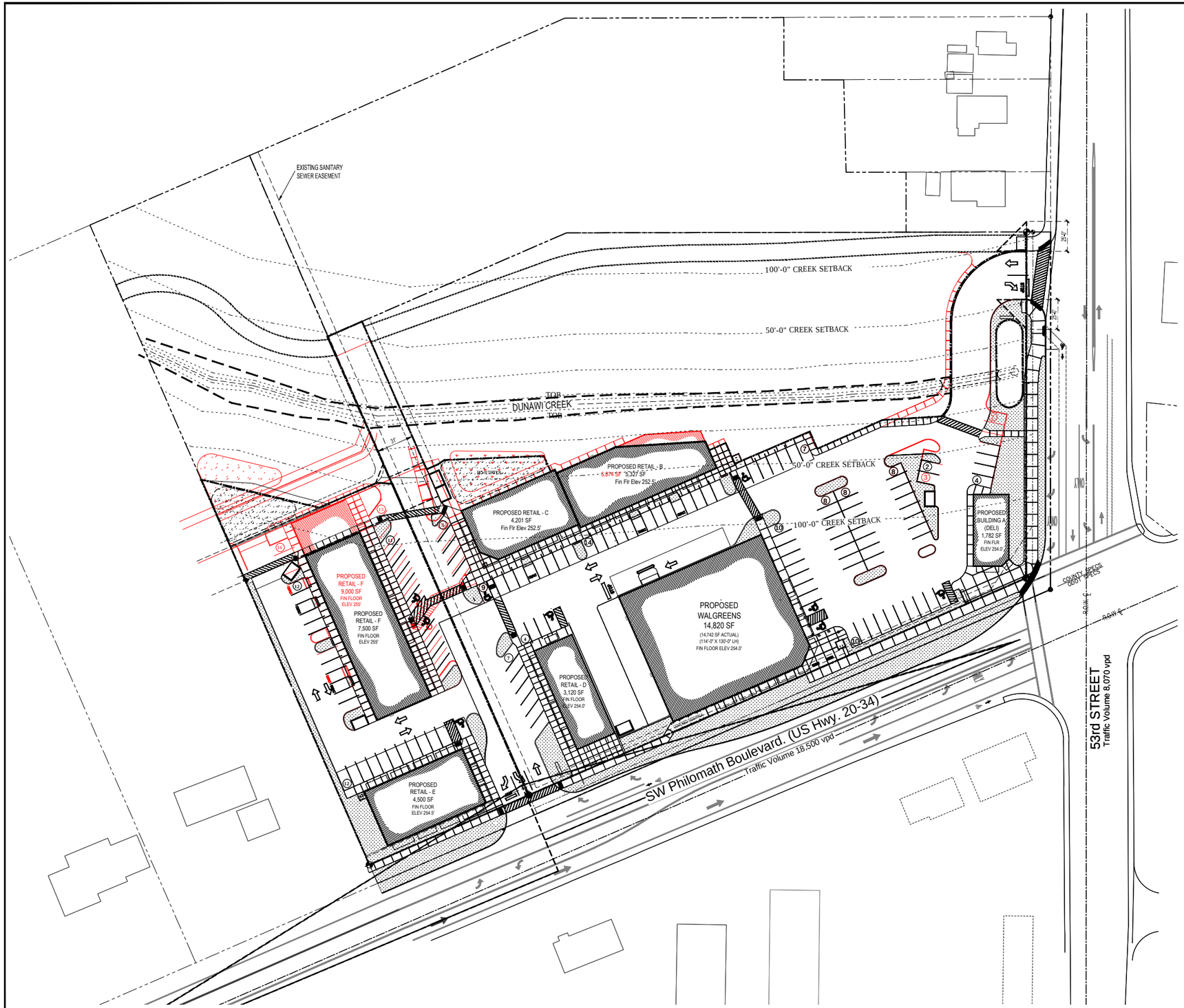
Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY

PLOT DATE: 4/15/2013
ISSUE DATE: .
DRAWN BY: T.WHITNEY
JOB NO.: --
SHEET
SP1.2

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (86 of 112)



PATTERN LEGEND

PLAN DATED 8-2-2010

PLAN DATED 4-15-2013

SITE COMPARISON

SCALE: 1" = 40'-0"

0 20' 40' 80'

SCALE: 1" = 40'-0"

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CREEKSIDE CENTER CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY
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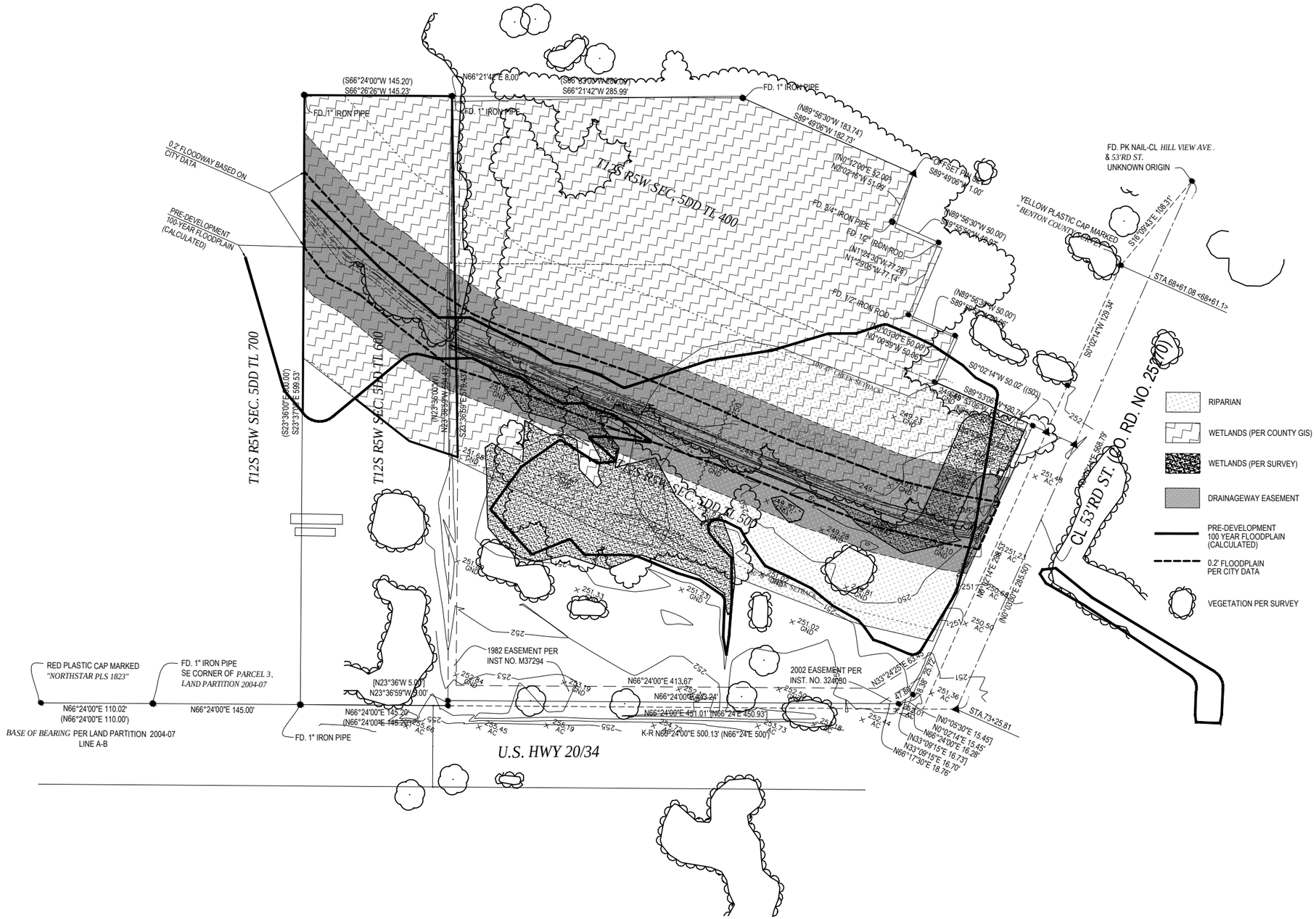
PLOT DATE: 5/8/2013
ISSUE DATE: .
DRAWN BY: T.WHITNEY
JOB NO.: --

SHEET
OVERLAY

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (87 of 112)



G **PROPERTY SURVEY W/ TOPO AND FLOODPLAIN OVERLAY**

SCALE: 1" = 50'-0"

0 25' 50' 100'

SCALE: 1" = 50'-0"

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CREEKSIDE CENTER
CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY
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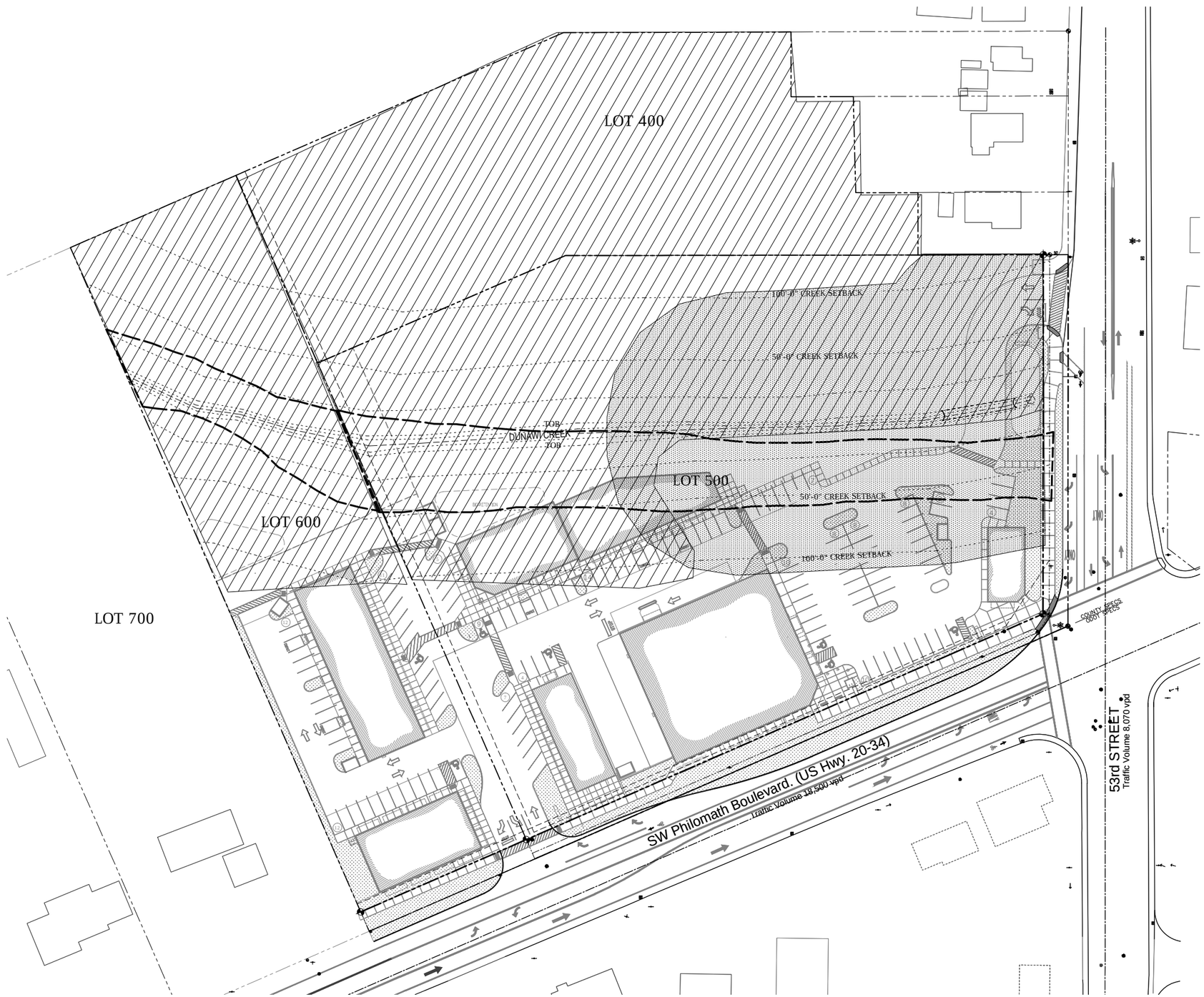
PLOT DATE: 4/15/2013
ISSUE DATE: .
DRAWN BY: T.WHITNEY
JOB NO.: -- .

SHEET
SP1.2A
SURVEY

4 OF 22

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (88 of 112)



PATTERN LEGEND

- RIPARIAN AREA (CORVALLIS GIS OVERLAY)
- PROXIMATE WETLANDS AREA (CORVALLIS GIS OVERLAY)
- TWO TENTHS FLOOD PLANE (CORVALLIS GIS OVERLAY)

H **MAPPED WETLANDS/ HAZARDS OVERLAY**

SCALE: 1" = 40'-0"

0 20' 40' 80'

SCALE: 1" = 40'-0"

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CREEKSIDE CENTER
CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY
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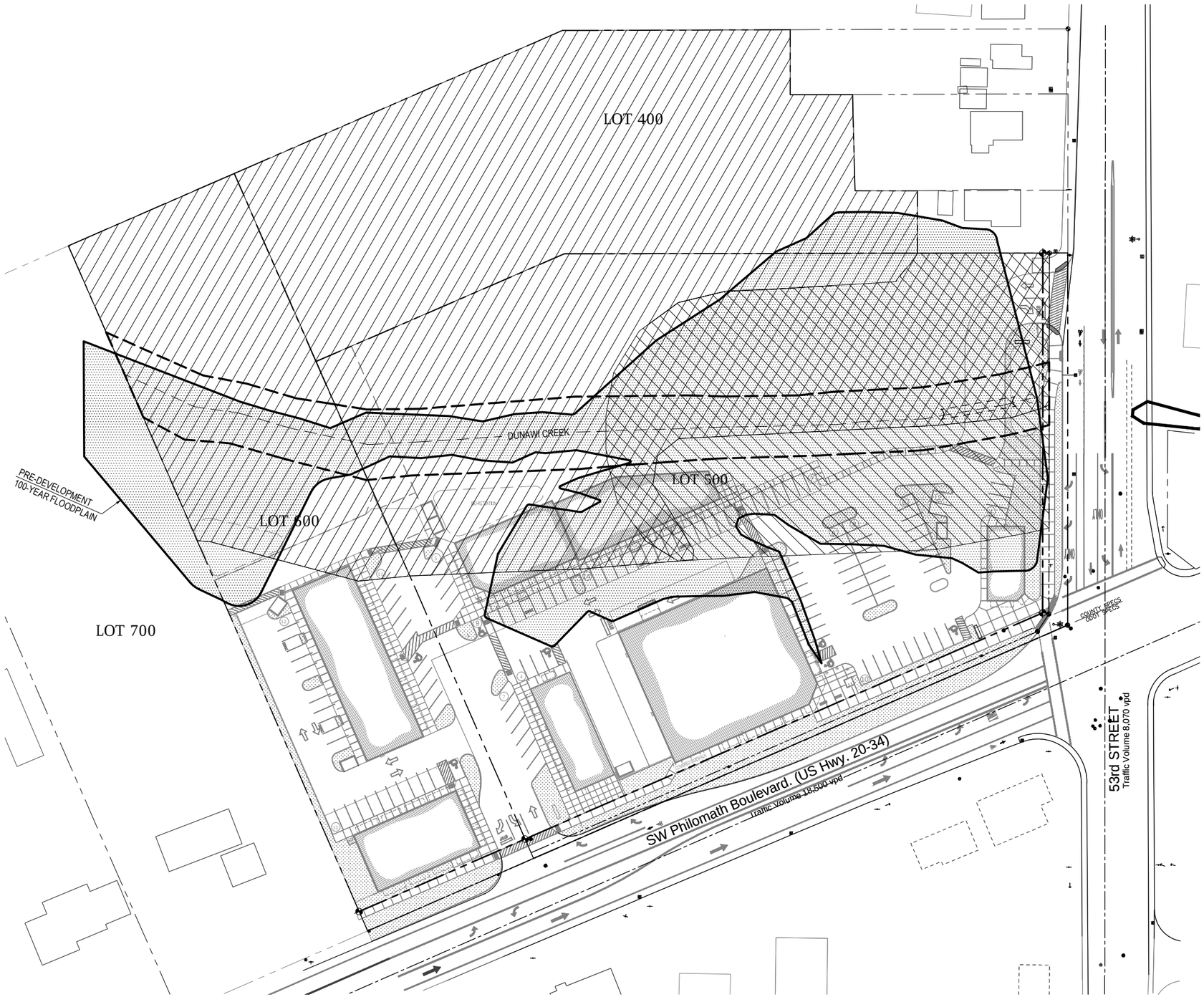
PLOT DATE: 4/15/2013
ISSUE DATE: .
DRAWN BY: **T.WHITNEY**
JOB NO.: **06-29-09**
SHEET
SP1.3A
MAPPED WETLANDS/ HAZARDS OVERLAY

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (89 of 112)



PATTERN LEGEND

- RIPARIAN AREA (COORDINATED)
- PROXIMATE WETLANDS AREA (COORDINATED)
- TWO TENTHS FLOOD PLANE (COORDINATED)
- PRE- DEVELOPMENT 100 YR FLOOD PLANE

I COORDINATED WETLANDS/ HAZARDS OVERLAY

SCALE: 1" = 40'-0"

0 20' 40' 80'
SCALE: 1" = 40'-0"

TO VERIFY SCALES 0" 1" ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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CREEKSIDE CENTER CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY
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PLOT DATE: 4/15/2013
ISSUE DATE: .
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09

SHEET
SP1.3B
ADJUSTED WETLANDS OVERLAY

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (90 of 112)

PATTERN LEGEND

- PROXIMATE WETLANDS AREA (SURVEYED)
- EXISTING TREES
- VEGETATION

J SURVEYED WETLANDS OVERLAY + EXISTING TREES

SCALE: 1" = 40'-0"

0 20' 40' 80'

SCALE: 1" = 40'-0"

TO VERIFY SCALES 0" 1" ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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CREEKSIDE CENTER CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

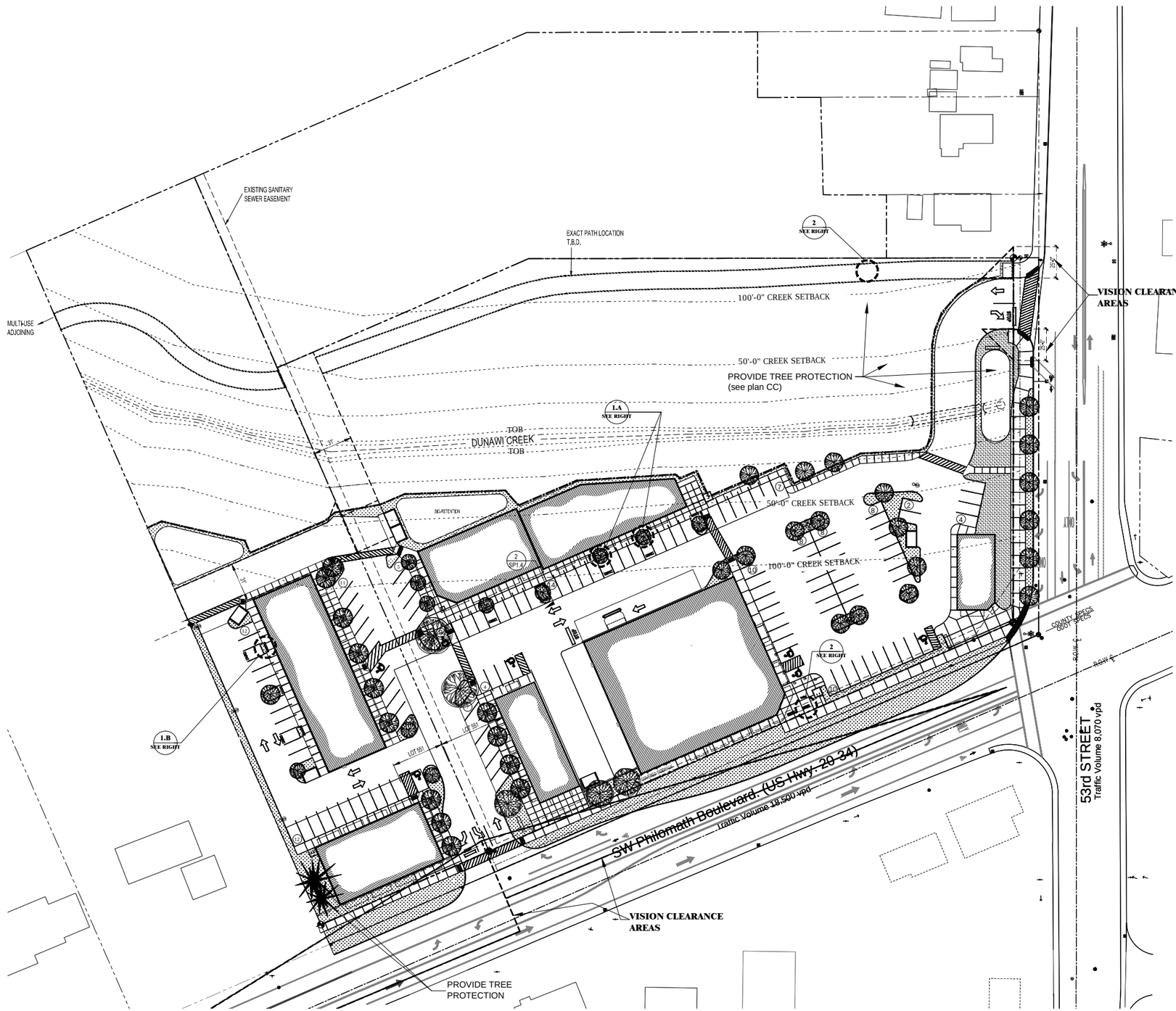
Approved for the Owner By: Date:

REVISIONS	BY

PLOT DATE: 4/15/2013
ISSUE DATE:
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09

SHEET
SP1.3C
SURVEYED WETLANDS OVERLAY

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (91 of 112)



K OVERALL CONCEPTUAL LANDSCAPE PLAN

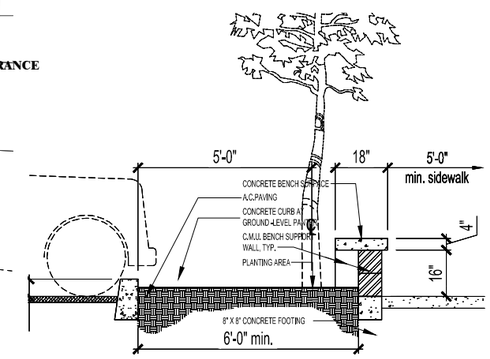
SCALE: 1" = 40'-0"

0 20' 40' 80'

SCALE: 1" = 40'-0"

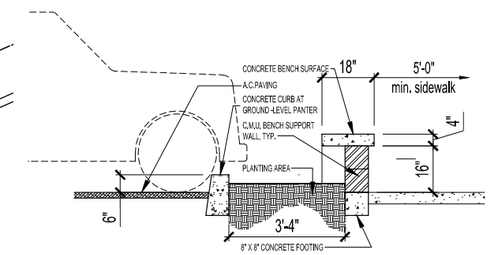
PATTERN LEGEND

- SMALL CANOPY TREES
- MEDIUM TREES (2-1/4" CALIPER MIN.) 30'-0" O.C. UNO
- LARGE TREES (50'-0" O.C. UNO)
- LANDSCAPED/ LAWN AREAS
- AREA OF MINIMAL DISTURBANCE/ RESTORED NATURAL LANDSCAPE
- EXISTING EVERGREEN TO REMAIN PROTECT IN PLACE
- EXISTING DECIDUOUS TO REMAIN PROTECT IN PLACE



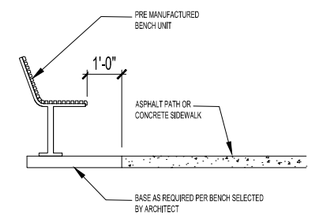
1.A SECTION AT PLANTER W/TREE

SCALE: 1/2" = 1'-0"



1.B SECTION AT PLANTER BENCH

SCALE: 1/2" = 1'-0"



2 SECTION AT STANDARD BENCH

SCALE: 1/2" = 1'-0"

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CREEKSIDE CENTER
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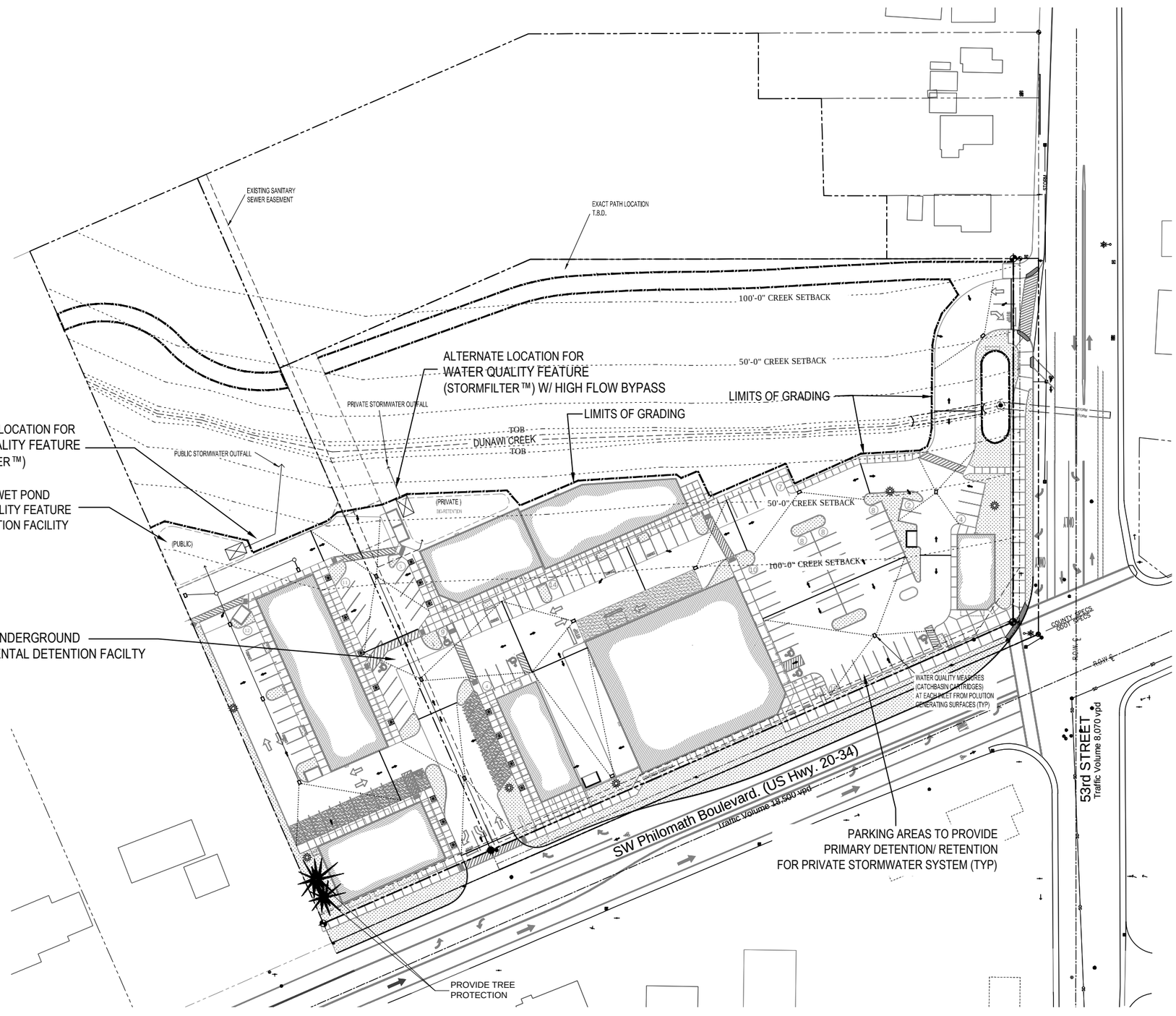
Approved for the Owner By: Date:

REVISIONS	BY

PLOT DATE: 4/15/2013
ISSUE DATE:
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09

SHEET
SP1.4
CONCEPTUAL LANDSCAPE PLAN

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (92 of 112)



PATTERN LEGEND

- HIGH POINTS
- VALLEYS
- CATCH BASINS
- FLOW DIRECTION
- EXISTING EVERGREEN TO REMAIN PROTECT IN PLACE
- EXISTING DECIDUOUS TO REMAIN PROTECT IN PLACE
- PERMEABLE PAVING
- THESE LOCATIONS MAY BE USED TO SUBSTITUTE OTHER WATER QUALITY FEATURES LISTED IN KING CO. SWDM SECTION 6.1.1 "BASIC WATER QUALITY MENU"

L

OVERALL CONCEPTUAL GRADING/ STORMWATER MANAGEMENT PLAN

SCALE: 1" = 40'-0"

0 20' 40' 80'

SCALE: 1" = 40'-0"

TO VERIFY SCALES 0" 1" ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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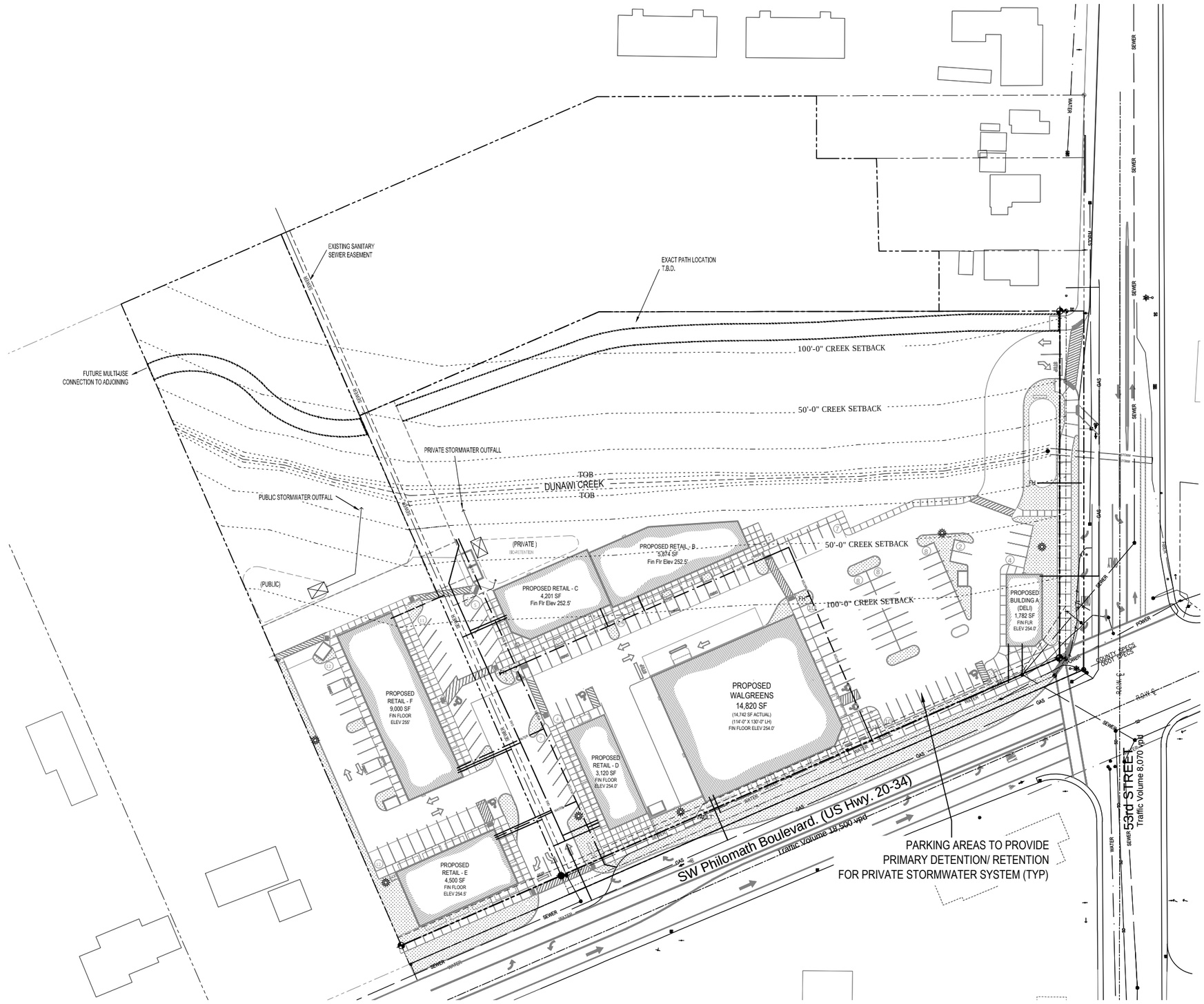
PLOT DATE: 4/15/2013
ISSUE DATE: .
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09

SHEET
SP1.5
CONCEPTUAL GRADING PLAN

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (93 of 112)



LEGEND

EXISTING LINES

NEW LINES

M OVERALL CONCEPTUAL UTILITY PLAN

SCALE: 1" = 40'-0"

0 20' 40' 80'

SCALE: 1" = 40'-0"

TO VERIFY SCALES 0" 1" ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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REGISTERED ARCHITECT
Mark McKechnie
Medford, Oregon
4666
STATE OF OREGON

OREGON ARCHITECTURE
221 West Tenth Street
Medford, Oregon 97501
Phone: 541.772.4372 Fax: 541.499.6329

THOMAS FOX PROPERTIES, LLC
515 WEST PICKETT CIRCLE - SUITE 400
SALTLAKE CITY, UTAH 84115
PHONE: 801-596-7711 FAX: 801-596-7161

CREEKSIDE CENTER CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY

PLOT DATE: 4/15/2013
ISSUE DATE:
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09
SHEET
SP1.6
CONCEPTUAL UTILITY PLAN

10 OF 22

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (94 of 112)

N

OVERALL CONCEPTUAL LIGHTING OUTFALL PLAN

SCALE: 1" = 40'-0"

0 20' 40' 80'

SCALE: 1" = 40'-0"

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CREEKSIDE CENTER CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY
.	.
.	.
.	.
.	.

PLOT DATE: 4/15/2013
ISSUE DATE: .
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09 .

SHEET
SP1.7
CONCEPTUAL LIGHTING PLAN

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (95 of 112)

OREGON ARCHITECTURE INC.
(541) 772-4372
221 WEST 10TH ST • MEDFORD, OR 97501 • FAX: (541) 499-6329 • WWW.OREGONARCHITECTURE.BIZ

ATTACHMENT O-2 (Sheet SP 1.8)

MADA CALCULATIONS FOR THE CREEKSIDE I DEVELOPMENT
FINALIZED June 29, 2010
REVISED June 8, 2012
REMAND 4-15-2013

LOT 500

Site area of lot 4.6412+/- AC x 43,560 sf/AC:	202,170 sf *verified by survey*	
Estimated area of site encumbered with proximal wetlands or Riparian Corridor: (from City of Corvallis and DSL data)	124,425 sf	
Unencumbered land area:		77,745 sf
Minimum Assured Development Area		
4.6412 AC x 19,600 sf/AC	90,968 sf	
Additional MADA Credits		
(Area 1)Multi-Use Path (15' disturbance)	8,281 sf	
(Area 2)Mitigation area for Multi-Use Path	* sf	
(Area 3)5' ROW dedication on 53rd Street	1,517 sf	
(Area 4)Mitigation for ROW through Wetlands	725 sf	
(Area 5)10' wide Multi-Use Path along 53rd Street	1,517 sf	
(Area 6)12' ROW dedication on Highway 34	5,416 sf	
(Area 7)Not Used		
(Area 8)Mitigation area for access drive, as approved by DSL	6,345 sf	
(Area 9)Detention Pond for Lot	2,730 sf	
(Area 10)Mitigation area for required local street	3,599 sf	
Total Credits	30,130 sf	
Total MADA + Credits		121,098 sf
Current gross proposed development area (Site + Multi-use path) 112,770 + 8,281	121,051sf	
Additional Development Allowed		47 sf

* MADA credits are not being taken for pathway mitigation at this time because construction cannot be scheduled until entire path is identified.

OREGON ARCHITECTURE INC.
(541) 772-4372
221 West 10th St • Medford, OR 97501 • Fax: (541) 499-6329 • www.oregonarchitecture.biz

MADA CALCULATIONS FOR THE CREEKSIDE II DEVELOPMENT

FINALIZED July 13, 2010
REVISED June 8, 2012
REMAND 4-15-2013

LOT 600

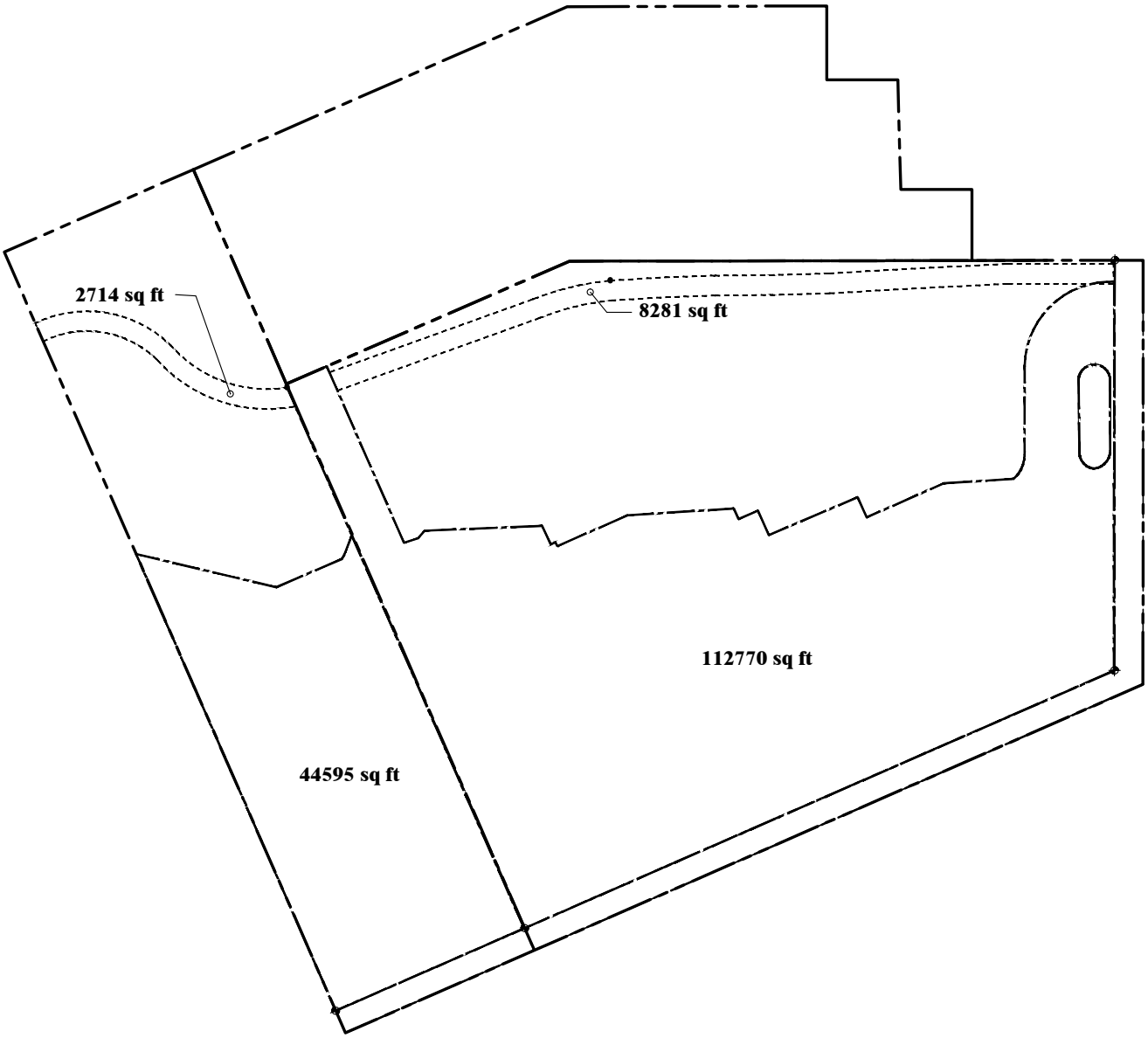
Site area of lot 1.9953+/- AC x 43,560 sf/AC:	86,912 sf *verified by survey*	
Estimated area of site encumbered with proximal wetlands and calculated floodplain: (from wetlands survey of the site)	42,594 sf	
Unencumbered land area:		44,318 sf
Minimum Assured Development Area		
1.9953 AC x 19,600 sf/AC	39,108 sf	

Additional MADA Credits

(Area 11)	17' ROW dedication on Highway 34	2,470 sf
(Area 12)	Detention Pond for future public ROW	2,007 sf
(Area 13)	Multi-Use Path (15' disturbance)	2,714 sf
(Area 14)	Mitigation area for Multi-Use Path	* sf
(Area 15)	Mitigation area for required local street	1,242 sf
Total Credits		8,433 sf

Total MADA + Credits		47,541 sf
Current proposed development area (Site + Multi-use path) 44,595 + 2,714	47,309 sf	
Additional Development Allowed		232 sf

* MADA credits are not being taken for pathway mitigation at this time because construction cannot be scheduled until entire path is identified.



1 Developed Areas

NOT TO SCALE

CREEKSIDE CENTER
CORVALLIS

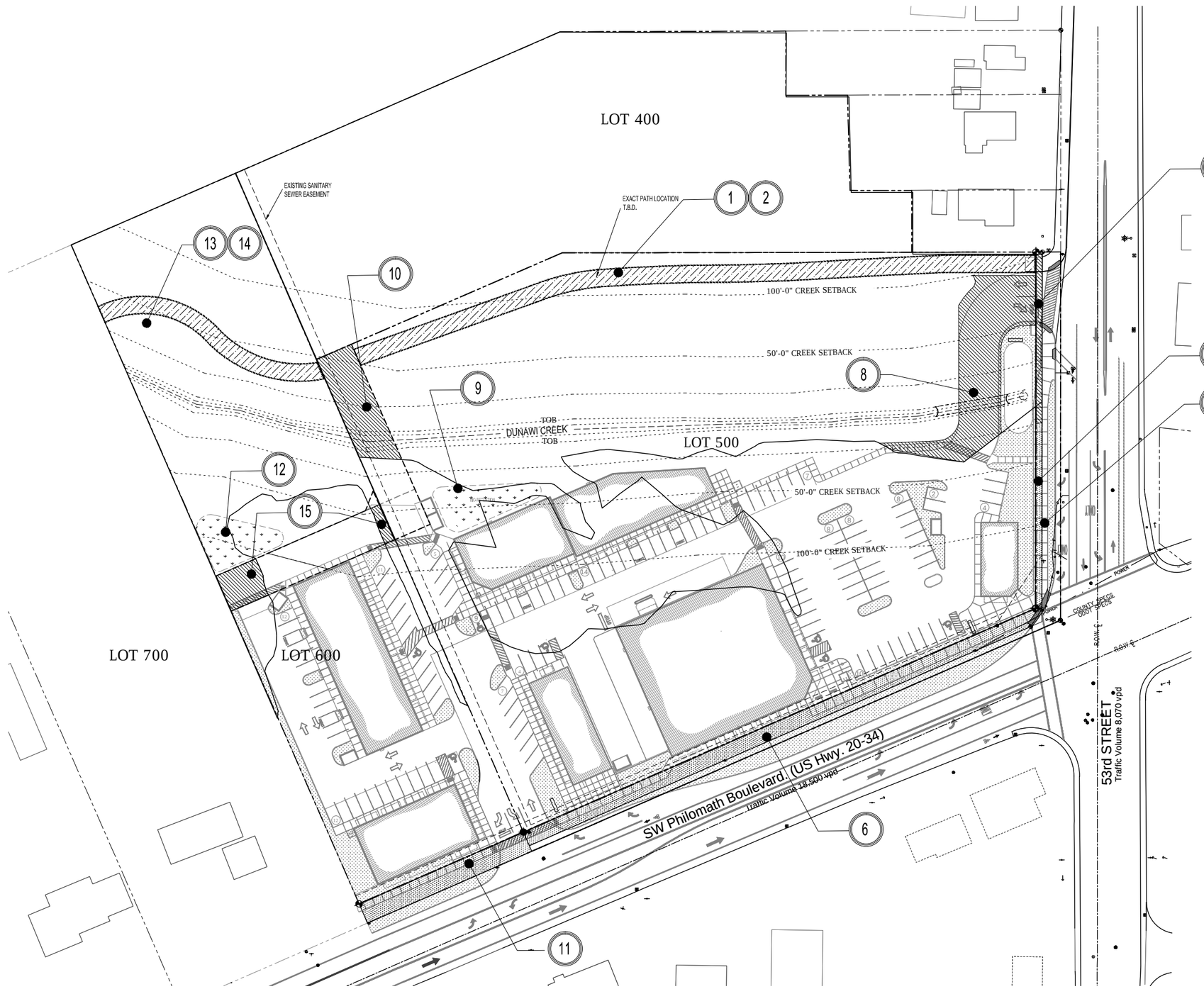
Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

THOMASFOX PROPERTIES, LLC
515 WEST PICKETT CIRCLE - SUITE 400
SALTLAKE CITY, UTAH 84115
PHONE: 801-596-7711 FAX: 801-596-7161

OREGON ARCHITECTURE
221 West Tenth Street
Medford, Oregon 97501
Phone: 541.772.4372 Fax: 541.499.6329

PLOT DATE: 3/25/13
ISSUE DATE:
DRAWN BY:
JOB NO.:
ATTACHMENT:

O-3



PATTERN LEGEND

- R.O.W. DEDICATION AREAS
- MULTI-USE PATHWAY
- DETENTION AREAS
- WETLAND MITIGATION FOR PUBLIC R.O.W.
- # SEE ATTACHMENT O-2

O MADA CREDIT AREAS

SCALE: 1" = 40'-0"

0 20' 40' 80'

SCALE: 1" = 40'-0"

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CREEKSIDE CENTER CORVALLIS

Project Location:
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CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY
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.	.
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.	.

PLOT DATE: 4/15/2013
ISSUE DATE: .
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09
SHEET
SP1.8
MADA CALCULATION AREAS

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (99 of 112)

MARQUESS & ASSOCIATES INC

YOUR PROFESSIONAL ENGINEERING TEAM SINCE 1957

P 541-772-7115 F 541-779-4079 1120 EAST JACKSON PO BOX 490 MEDFORD, OR 97501
EMAIL: info@marquess.com WEB: www.marquess.com

March 29, 2013

John Batzer
C/o Tomas Fox Properties, LLC
515 West Pickett Circle, Suite 400
Salt Lake City, Utah 84115

RE: CREEKSIDE CENTER
FLOOD STUDY
CORVALLIS, OREGON
MAI JOB NUMBER: 09-1126

Dear John:

I have reviewed the changes made to the development plan (updated plan prepared by Oregon Architecture dated 3/25/2013) as they relate to the Flood Study prepared by our office in 2010 (latest revision dated 6/3/2010).

The proposed changes to the development plan will have no significant impact on the results of the Flood Study.

Sincerely,

MARQUESS & ASSOCIATES, INC.

Robert S. Gunter, P.E.

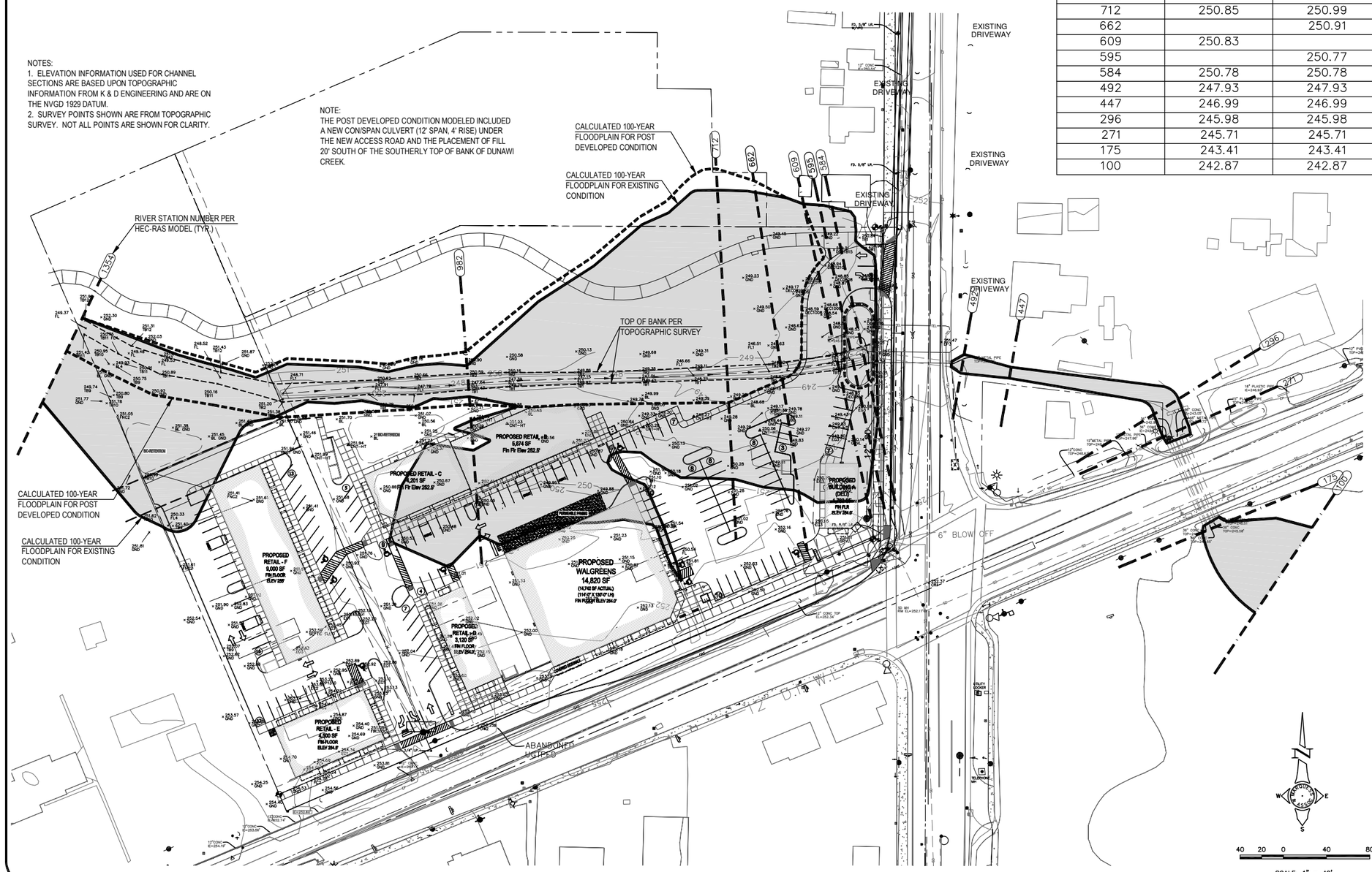
REGISTERED PROFESSIONAL ENGINEER
72363PE
OREGON
MARCH 11, 2005
ROBERT SCOTT GUNTER
RENEW DATE 6-30-2013

RSG/rsg
S:\09-1126\correspond\09-1126 Floodplain letter to John Batzer.doc

CALL BEFORE YOU DIG
1-800-332-2344
48 HOURS BEFORE BEGINNING EXCAVATION
OREGON LAW REQUIRES YOU TO FOLLOW RULES ADOPTED BY THE OREGON UTILITY NOTIFICATION CENTER. THOSE RULES ARE SET FORTH IN OAR 952-001-0010 THROUGH OAR 952-001-0090. YOU MAY OBTAIN COPIES OF THE RULES BY CALLING THE CENTER AT 503-232-1987.

NOTES:
1. ELEVATION INFORMATION USED FOR CHANNEL SECTIONS ARE BASED UPON TOPOGRAPHIC INFORMATION FROM K & D ENGINEERING AND ARE ON THE NVGD 1929 DATUM.
2. SURVEY POINTS SHOWN ARE FROM TOPOGRAPHIC SURVEY. NOT ALL POINTS ARE SHOWN FOR CLARITY.

NOTE:
THE POST DEVELOPED CONDITION MODELED INCLUDED A NEW CON/SPAN CULVERT (12' SPAN, 4' RISE) UNDER THE NEW ACCESS ROAD AND THE PLACEMENT OF FILL 20' SOUTH OF THE SOUTHERLY TOP OF BANK OF DUNAWI CREEK.



100 YEAR WATER SURFACE ELEVATION		
CROSS SECTION	EXISTING	POST DEVELOPED
1354	252.02	252.01
982	250.83	250.98
712	250.85	250.99
662		250.91
609	250.83	
595		250.77
584	250.78	250.78
492	247.93	247.93
447	246.99	246.99
296	245.98	245.98
271	245.71	245.71
175	243.41	243.41
100	242.87	242.87

REGISTERED PROFESSIONAL ENGINEER 72868PE RENEW DATE: 6-30-11 ELECTRONIC COPY OREGON MARCH 11, 2003 ROBERT SCOTT GUNTER

MARQUESS & ASSOCIATES, INC.
YOUR PROFESSIONAL ENGINEERING TEAM SINCE 1975
CIVIL | GEOTECHNICAL | DAM & CONSTRUCTION MONITORING
STRUCTURAL | MECHANICAL | ELECTRICAL | SURVEYING
P 541-772-7158 F 541-772-4877
2228 BIG BANK ROAD TO BOX 1489 MEDFORD, OR 97501
WEB: www.marquess.com

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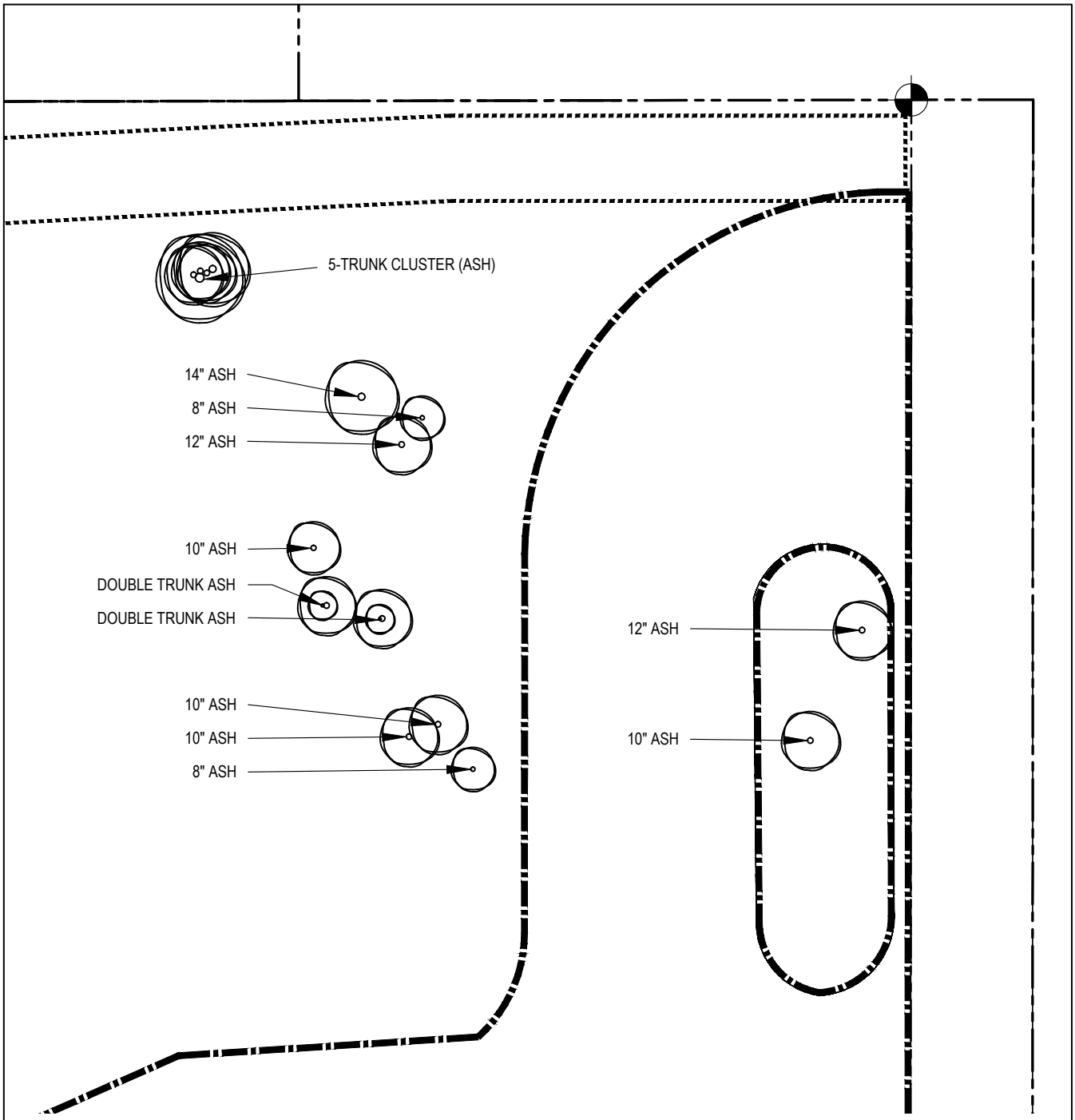
CREEKSIDE CENTER
CORVALLIS OREGON

FLOODPLAIN DELINEATION
DUNAWI CREEK

REVISIONS		
1	ADDED FIELD TOPO INFO	1/13/10
2	CITY COMMENTS	3/24/10
3	CITY COMMENTS	06/02/10
4	CITY COMMENTS	07/29/10

MAS JOB NO. 04-126
FILE NAME CITE
ISSUE DATE 09-30-09
DRAWN BSG
CHECKED BSG

SHEET
SP 1.9
OF SHEETS



1 Tree Survey/Protection Plan

NOT TO SCALE

DATA FROM JUNE, 2010 SURVEY BY:

NEIL HIBBS **LAND SURVEYING, INC.**
4739 Lookingglass Road
Roseburg, Oregon 97470
Phone: 541-957-9303

CREEKSIDE CENTER
CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

THOMASFOX PROPERTIES, LLC
515 WEST PICKETT CIRCLE - SUITE 400
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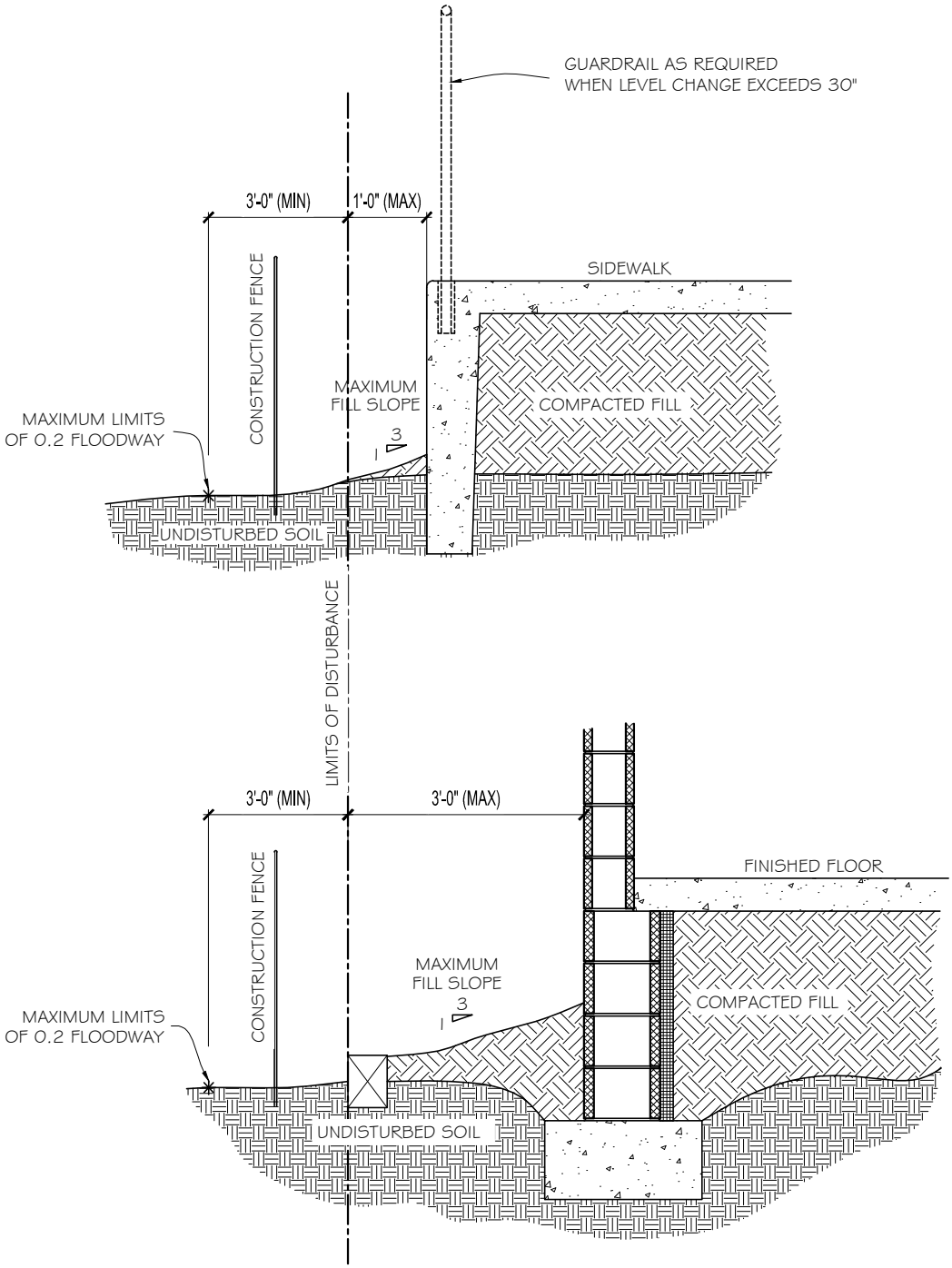
OREGON ARCHITECTURE INC.
221 West Tenth Street
Medford, Oregon 97501
Phone: 541.772.4372 Fax: 541.499.6329

PLOT DATE: 3/25/13
ISSUE DATE:
DRAWN BY:
JOB NO.:
ATTACHMENT:
CC



1 DETAIL @ LIMITS OF DISTURBANCE

CREEKSIDE CENTER
CORVALLIS

Project Location:

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CORVALLIS, OREGON

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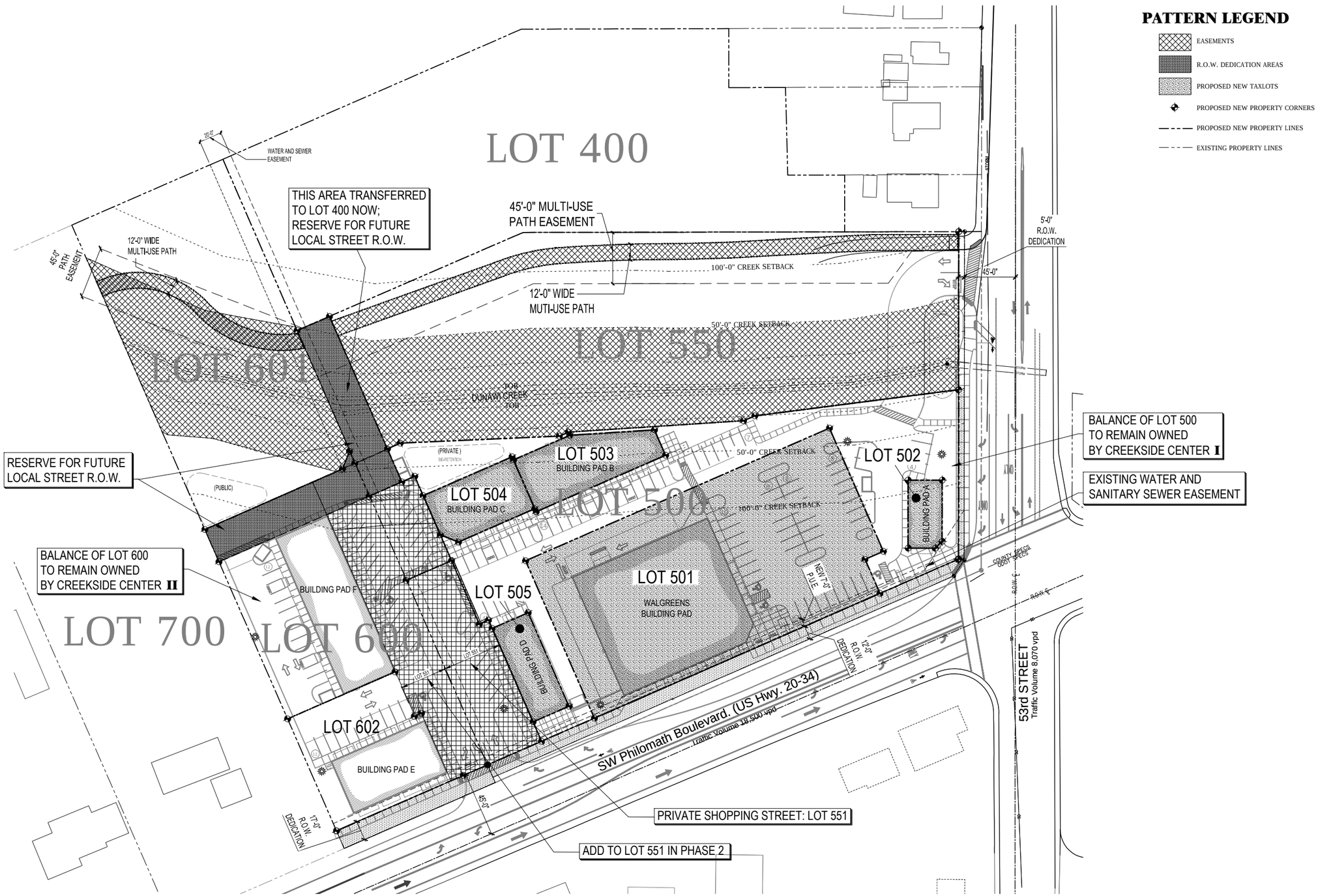

Q **PROPOSED PARCEL PLAT**
SCALE: 1" = 40'-0"

TO VERIFY SCALES 0" 1" ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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CREEKSIDE CENTER
CORVALLIS

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Approved for the Owner By: Date:

REVISIONS	BY
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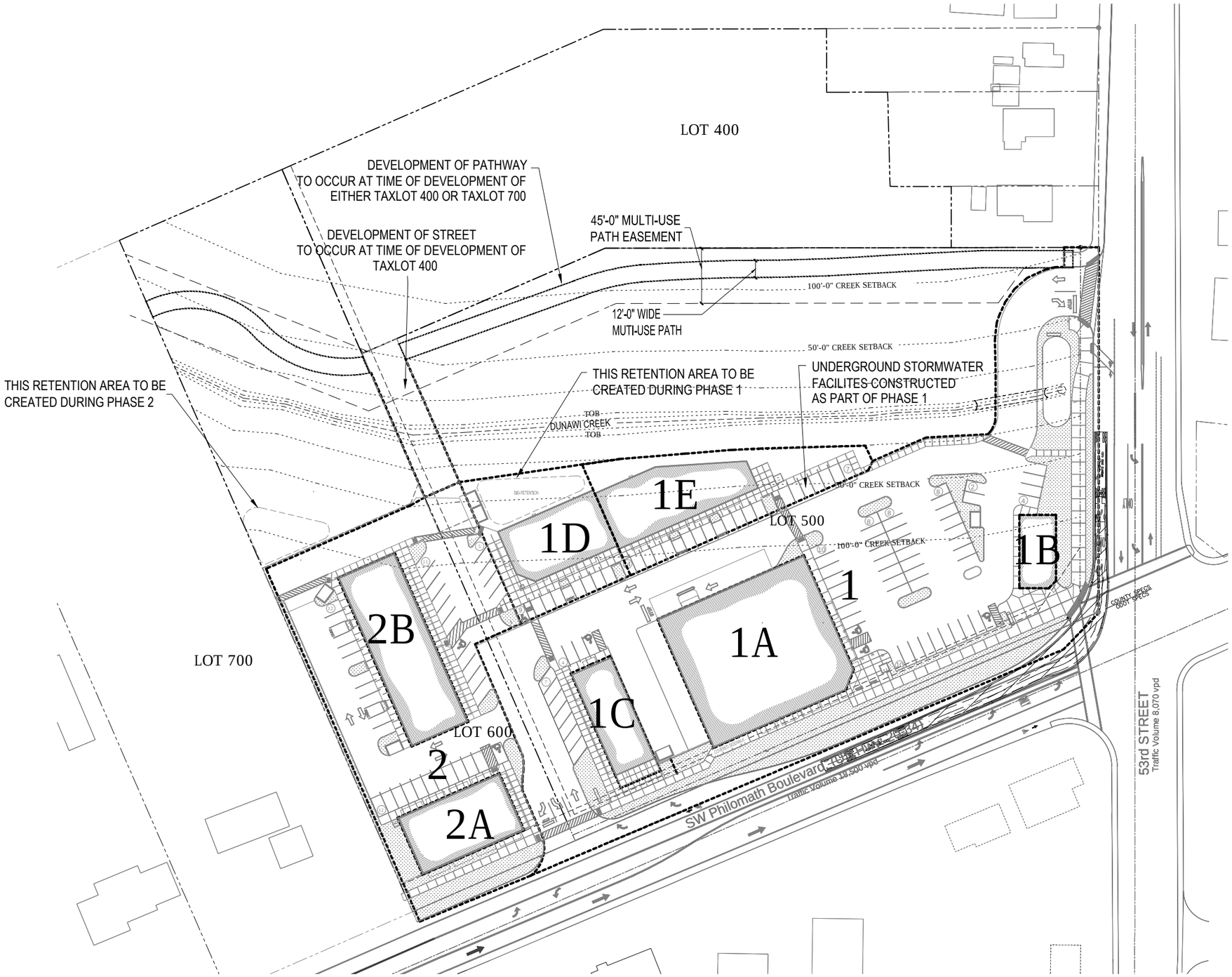
PLOT DATE: 4/15/2013
ISSUE DATE: .
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09 .
SHEET
SP1.10
PROPOSED PROPERTY PLAN

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (104 of 112)



R **PROPOSED PROJECT PHASE PLAN**
SCALE: 1" = 40'-0"

0 20' 40' 80'
SCALE: 1" = 40'-0"

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CREEKSIDE CENTER CORVALLIS

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Approved for the Owner By: Date:

REVISIONS	BY
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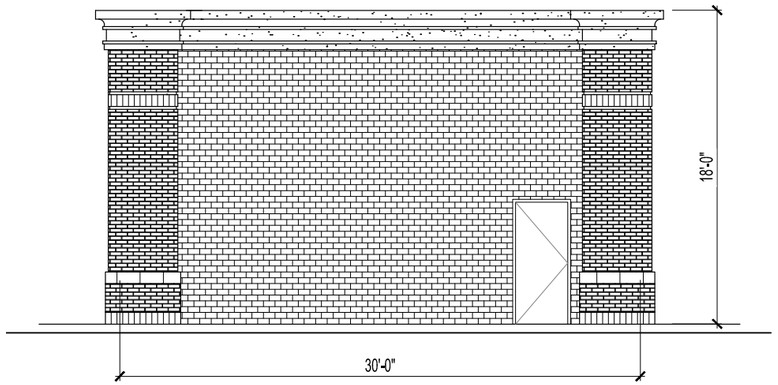
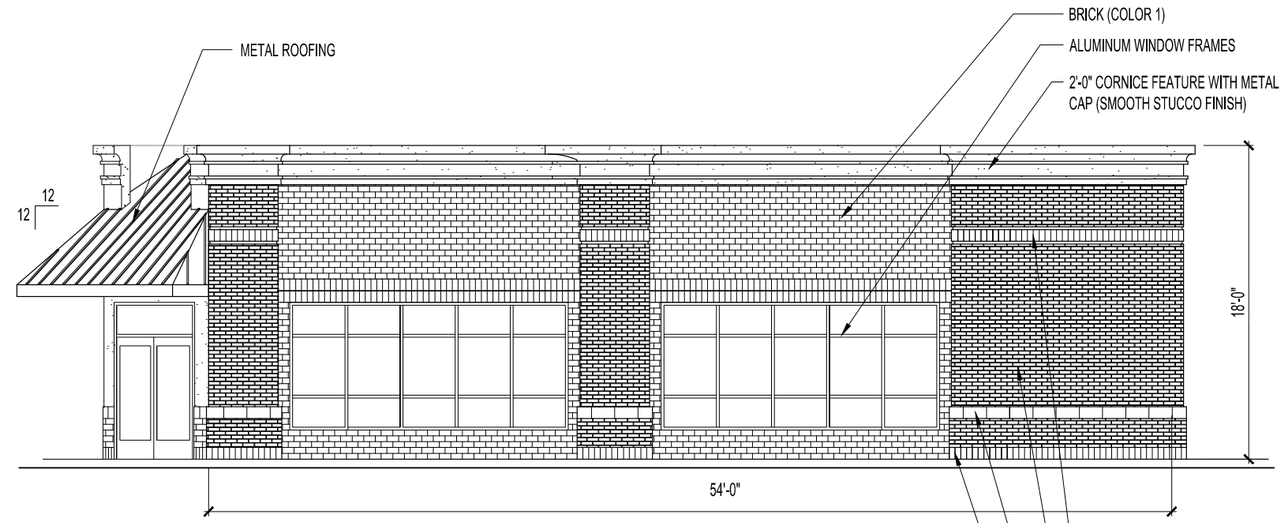
PLOT DATE: 4/15/2013
ISSUE DATE: .
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09
SHEET
SP1.11
PROPOSED PROJECT PHASE PLAN

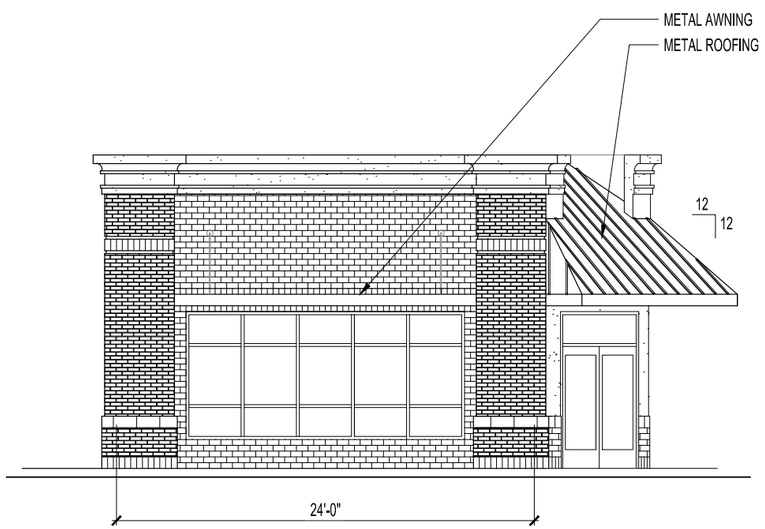
Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (105 of 112)



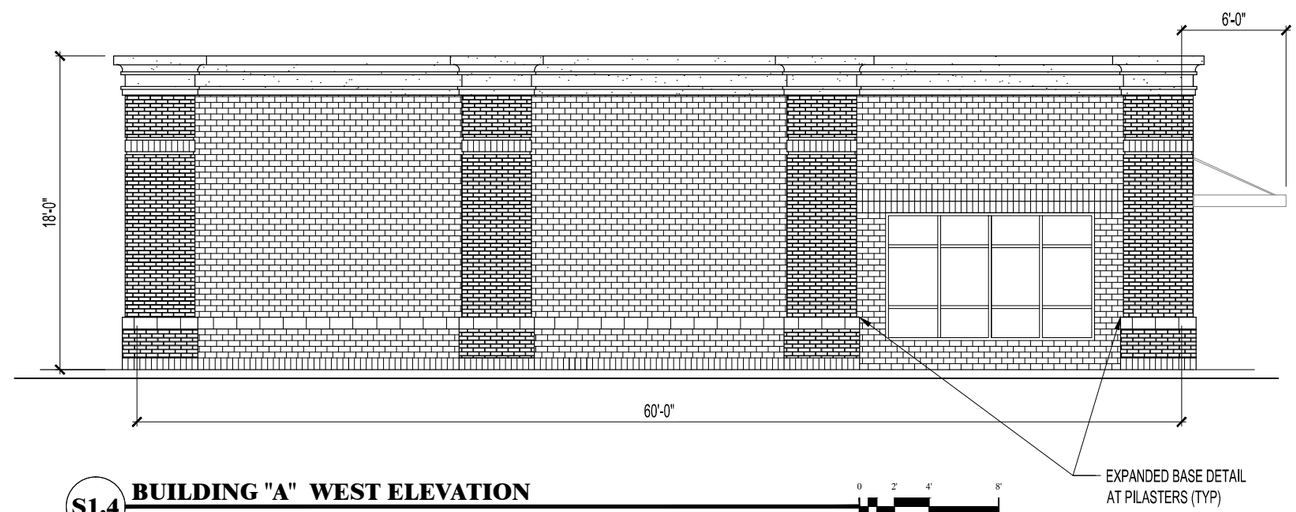
S1.1 BUILDING "A" NORTH ELEVATION
SCALE: 1/4" = 1'-0"



S1.2 BUILDING "A" EAST ELEVATION
SCALE: 1/4" = 1'-0"



S1.3 BUILDING "A" SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



S1.4 BUILDING "A" WEST ELEVATION
SCALE: 1/4" = 1'-0"

TO VERIFY SCALES 0" 1" ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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SALTLAKE CITY, UTAH 84115
PHONE: 801-596-7711 FAX: 801-596-7161

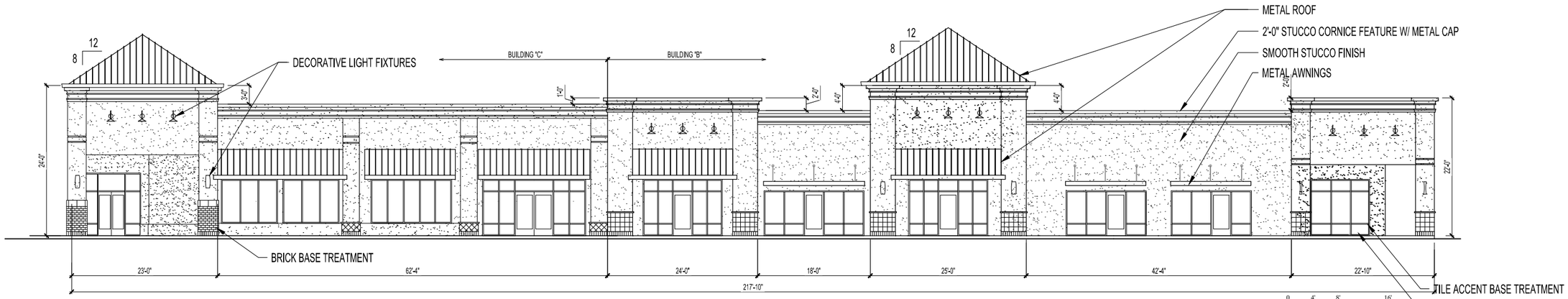
CREEKSIDE CENTER
CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY

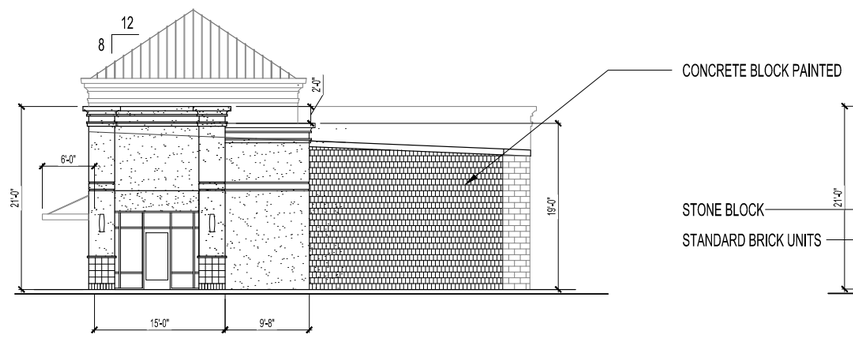
PLOT DATE: 3/25/2013
ISSUE DATE:
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09
SHEET
SP2.1
BUILDING ELEVATION
BUILDING "A"



S2.1 SOUTH ELEVATION - BUILDINGS "B & C"

SCALE: 1/8" = 1'-0"

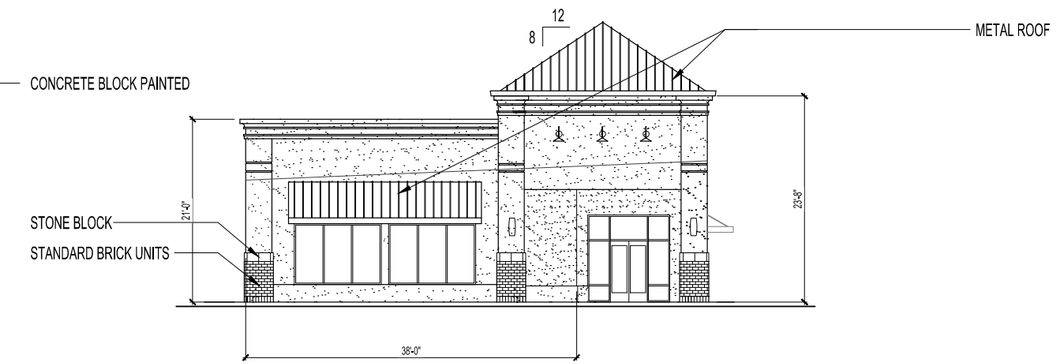
SCALE: 1/8" = 1'-0"



S2.2 EAST ELEVATION - BUILDINGS "B & C"

SCALE: 1/8" = 1'-0"

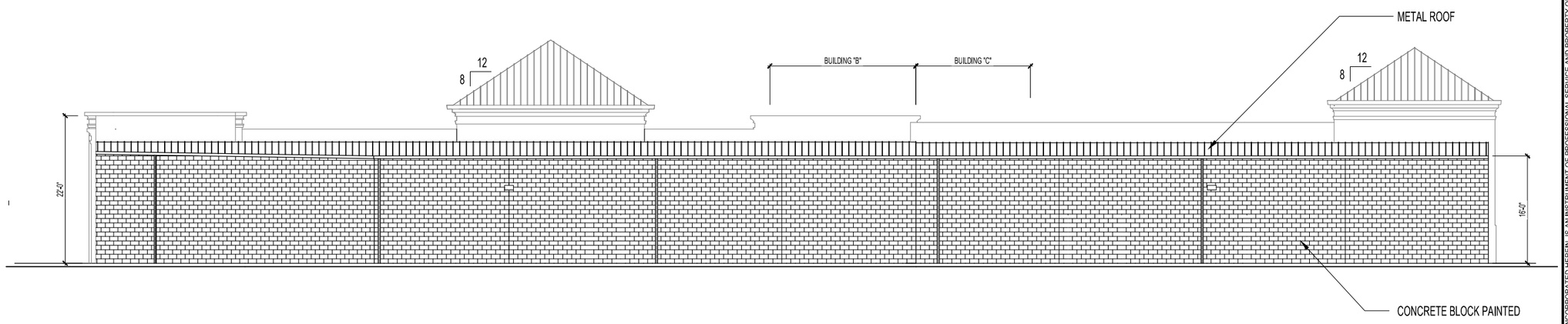
SCALE: 1/8" = 1'-0"



S2.3 WEST ELEVATION - BUILDINGS "B & C"

SCALE: 1/8" = 1'-0"

SCALE: 1/8" = 1'-0"



S2.4 NORTH ELEVATION - BUILDINGS "B & C"

SCALE: 1/8" = 1'-0"

SCALE: 1/8" = 1'-0"

TO VERIFY SCALES 0" 1" ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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PHONE: 801-596-7711 FAX: 801-596-7161

CREEKSIDE CENTER CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

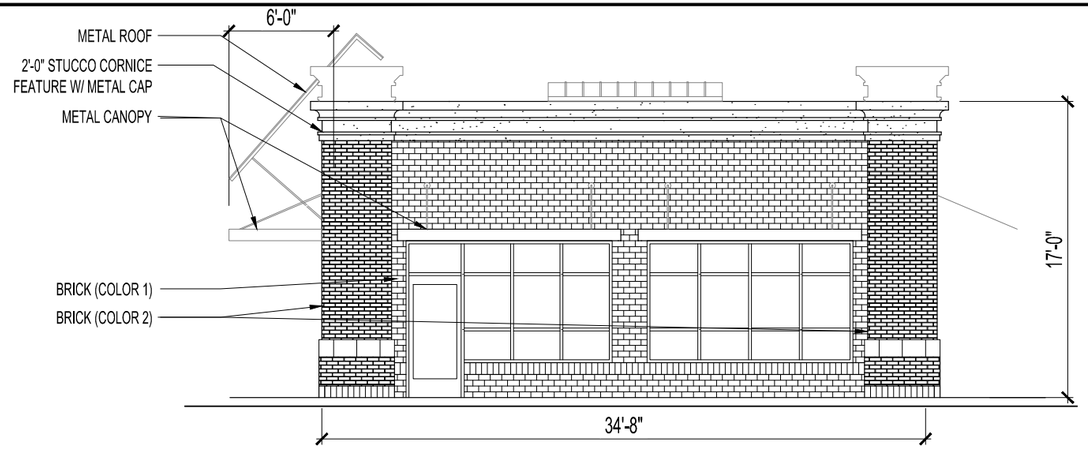
Approved for the Owner By: Date:

REVISIONS	BY
Canopy depth 12-22-09	CL-B

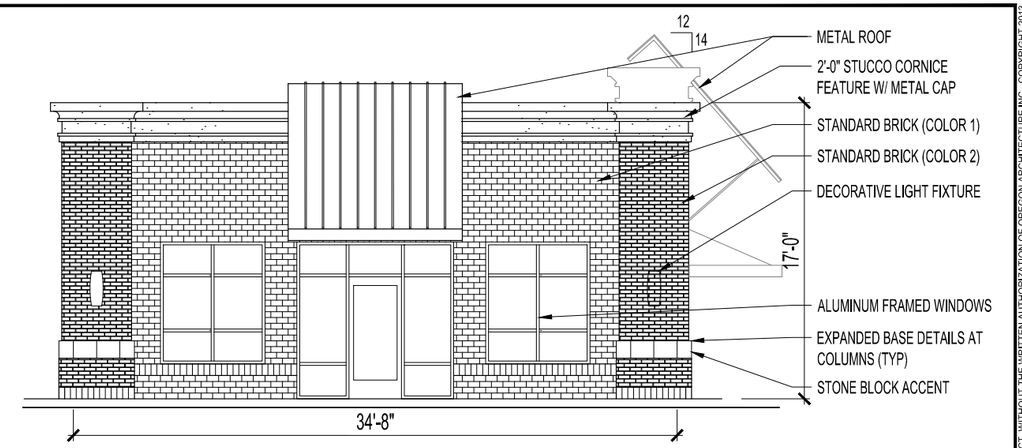
PLOT DATE: 3/27/2013
ISSUE DATE:
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09

SHEET
SP2.2
BUILDING ELEVATIONS
BUILDINGS "B & C"

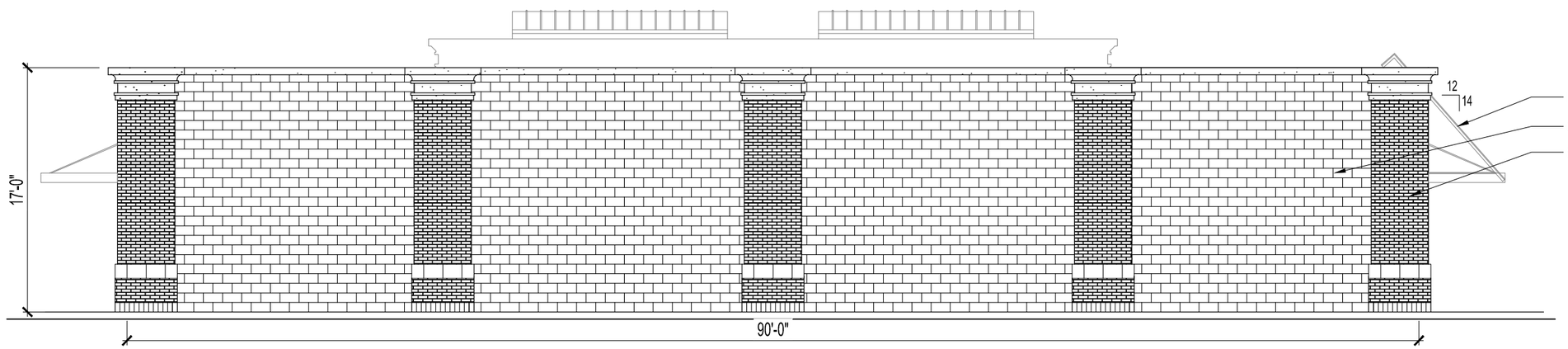
Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (107 of 112)



S3.1 SOUTH ELEVATION - BUILDING "D"
SCALE: 1/4" = 1'-0"



S3.2 NORTH ELEVATION - BUILDING "D"
SCALE: 1/4" = 1'-0"



S3.3 EAST ELEVATION - BUILDING "D"
SCALE: 1/4" = 1'-0"

S3.4 WEST ELEVATION - BUILDING "D"
SCALE: 1/4" = 1'-0"

TO VERIFY SCALES 0" 1" ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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CREEKSIDE CENTER
CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

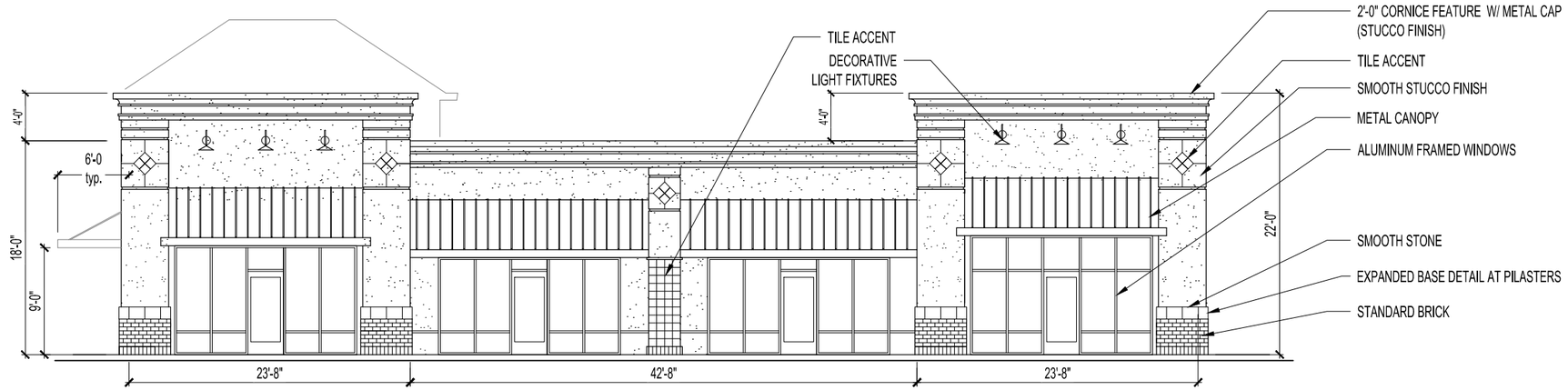
Approved for the Owner By: Date:

REVISIONS	BY

PLOT DATE: 3/25/2013
ISSUE DATE:
DRAWN BY: T.WHITNEY
JOB NO.: --

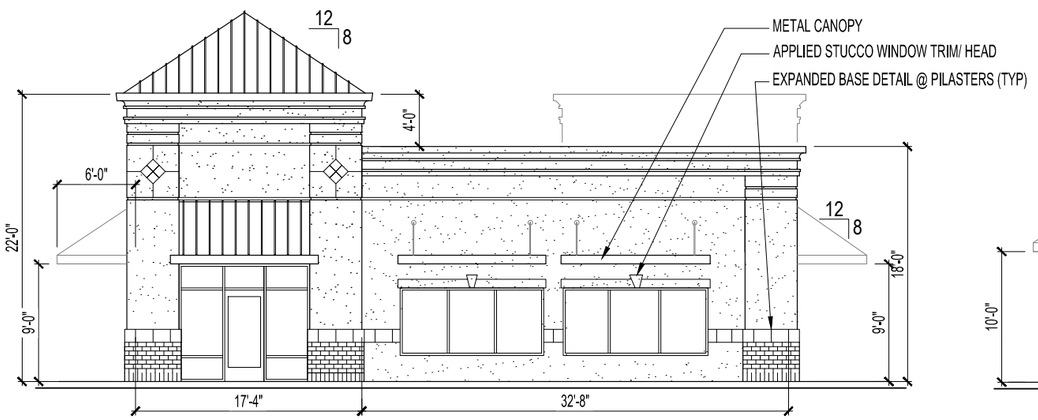
SHEET
SP2.3
BUILDING ELEVATIONS
BUILDING "D"

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (108 of 112)



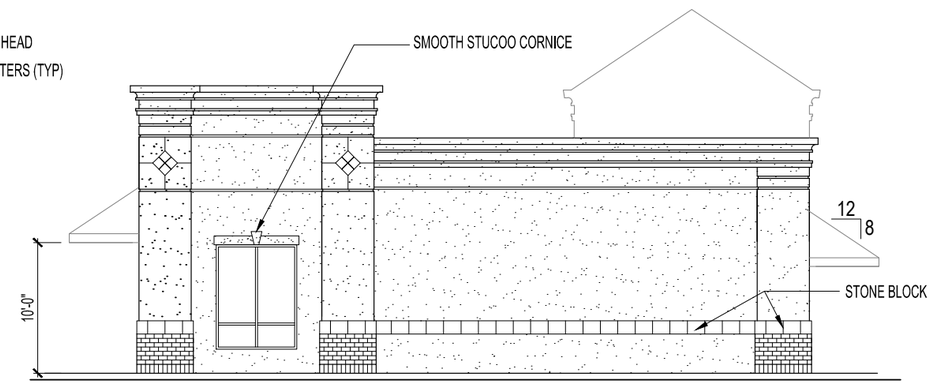
S4.1 NORTH ELEVATION - BUILDING "E"
SCALE: 3/16" = 1'-0"

0 2'-8" 5'-4" 10'-8"
SCALE: 3/16" = 1'-0"



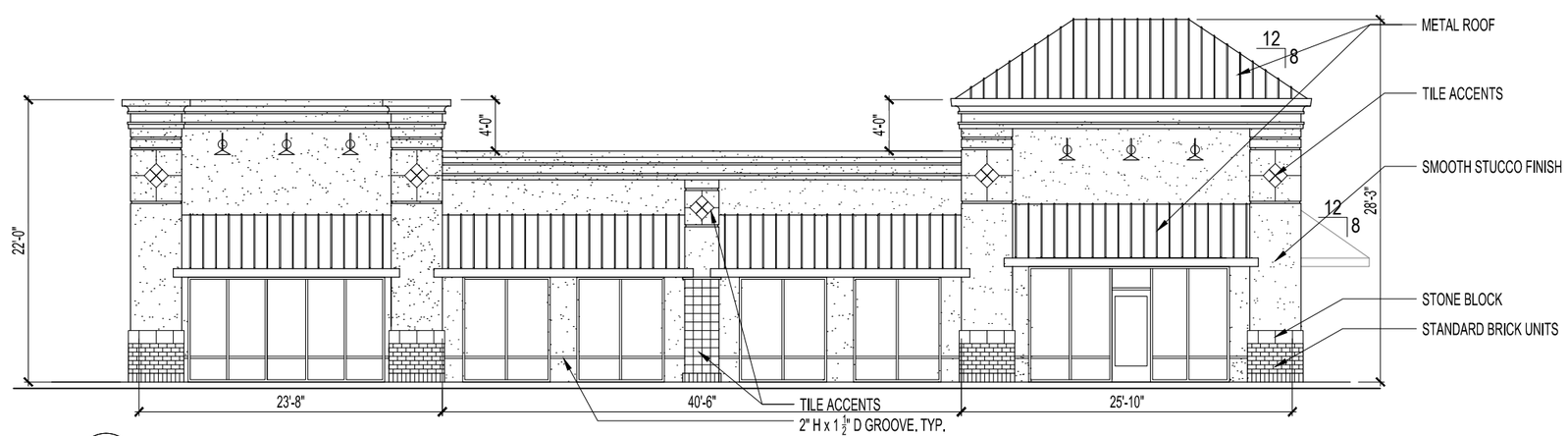
S4.2 EAST ELEVATION - BUILDING "E"
SCALE: 3/16" = 1'-0"

0 2'-8" 5'-4" 10'-8"
SCALE: 3/16" = 1'-0"



S4.3 WEST ELEVATION - BUILDING "E"
SCALE: 3/16" = 1'-0"

0 2'-8" 5'-4" 10'-8"
SCALE: 3/16" = 1'-0"



S4.4 BUILDING "E" ELEVATIONS
SCALE: 3/16" = 1'-0"

0 2'-8" 5'-4" 10'-8"
SCALE: 3/16" = 1'-0"

TO VERIFY SCALES 0" 1" ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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CREEKSIDE CENTER
CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY

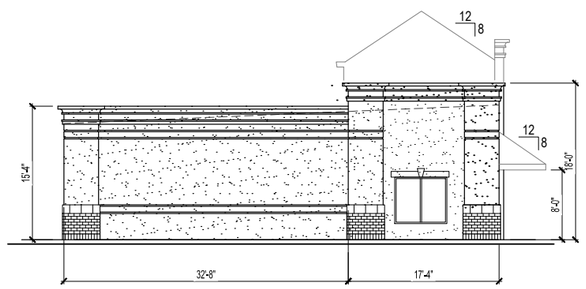
PLOT DATE: 3/25/2013
ISSUE DATE:
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09
SHEET
SP2.4
BUILDING ELEVATIONS
BUILDING "E"

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (109 of 112)

S5.1 EAST ELEVATION - BUILDING "F"

SCALE: 1/8" = 1'-0

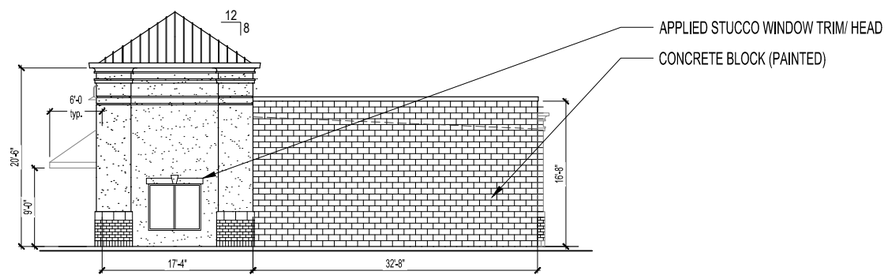
0 4' 8' 16'
SCALE: 1/8" = 1'-0"



S5.2 SOUTH ELEVATION - BUILDING "F"

SCALE: 1/8" = 1'-0

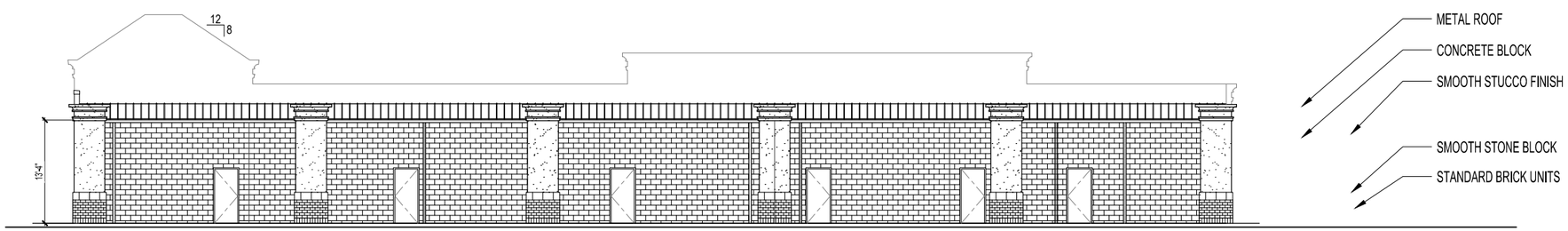
0 4' 8' 16'
SCALE: 1/8" = 1'-0"



S5.3 NORTH ELEVATION - BUILDING "F"

SCALE: 1/8" = 1'-0

0 4' 8' 16'
SCALE: 1/8" = 1'-0"



S5.4 WEST ELEVATION - BUILDING "F"

SCALE: 1/8" = 1'-0

0 4' 8' 16'
SCALE: 1/8" = 1'-0"

TO VERIFY SCALES 0" 1" ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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CREEKSIDE CENTER CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

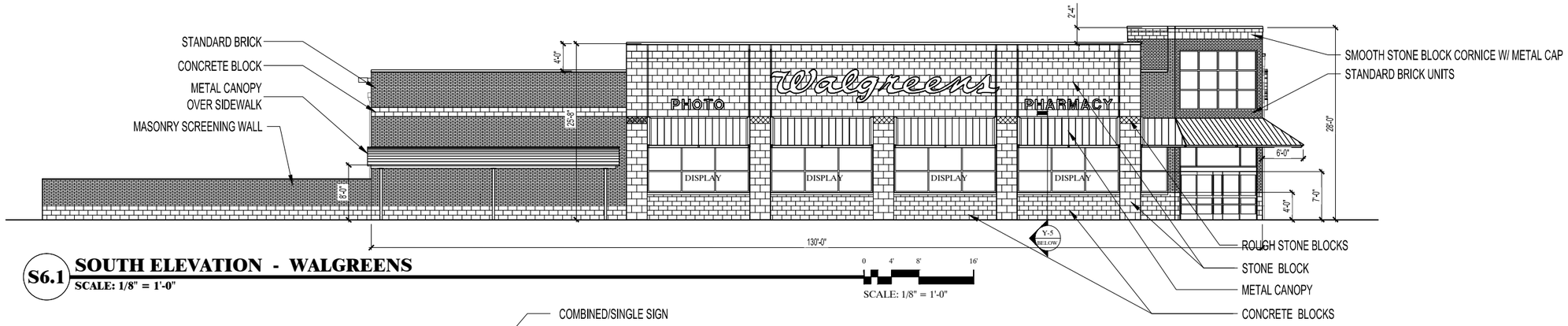
Approved for the Owner By: Date:

REVISIONS	BY

PLOT DATE: 4/15/2013
ISSUE DATE:
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09

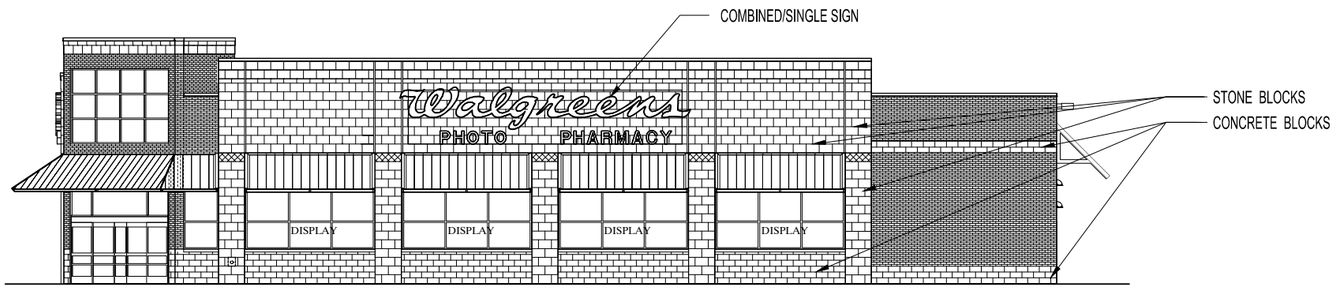
SHEET
SP2.5
BUILDING ELEVATIONS
BUILDING "F"

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (110 of 112)



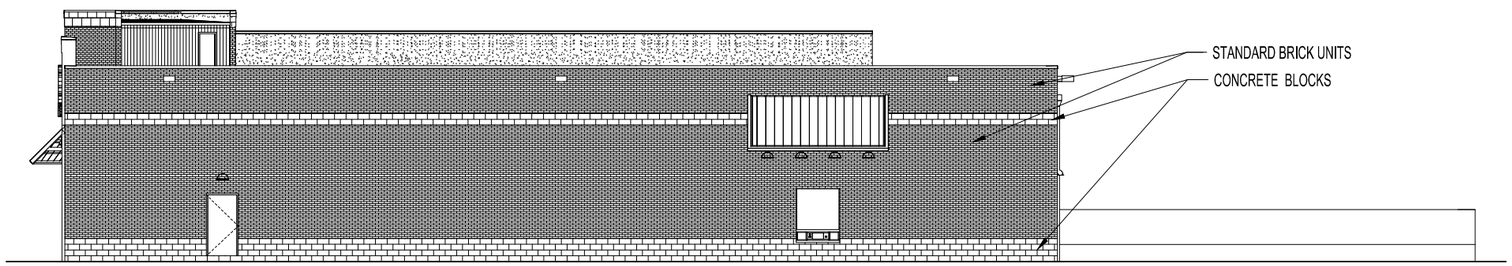
S6.1 **SOUTH ELEVATION - WALGREENS**
SCALE: 1/8" = 1'-0"

0 4' 8' 16'
SCALE: 1/8" = 1'-0"



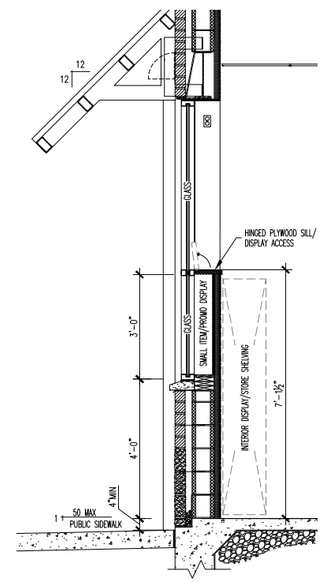
S6.2 **EAST ELEVATION - WALGREENS**
SCALE: 1/8" = 1'-0"

0 4' 8' 16'
SCALE: 1/8" = 1'-0"



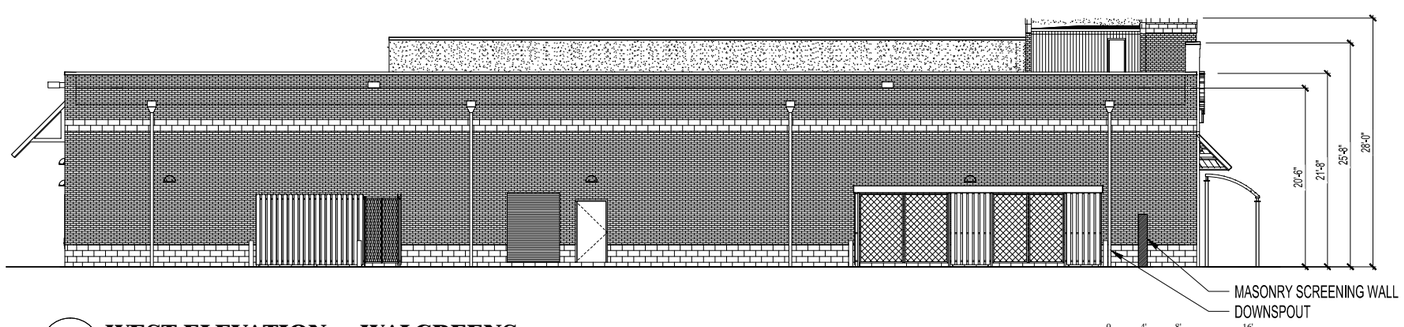
S6.3 **NORTH ELEVATION - WALGREENS**
SCALE: 1/8" = 1'-0"

0 4' 8' 16'
SCALE: 1/8" = 1'-0"



Y-5 **DISPLAY WINDOW**
SCALE: 1/2" = 1'-0"

0 1' 2' 4'
SCALE: 1/2" = 1'-0"



S6.4 **WEST ELEVATION - WALGREENS**
SCALE: 1/8" = 1'-0"

0 4' 8' 16'
SCALE: 1/8" = 1'-0"

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PHONE: 801-596-7711 FAX: 801-596-7161

CREEKSIDE CENTER
CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

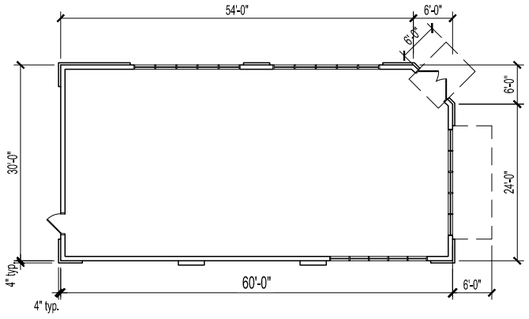
Approved for the Owner By: Date:

REVISIONS	BY

PLOT DATE: 3/25/2013
ISSUE DATE:
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09

SHEET
SP2.6
BUILDING ELEVATIONS
WALGREENS

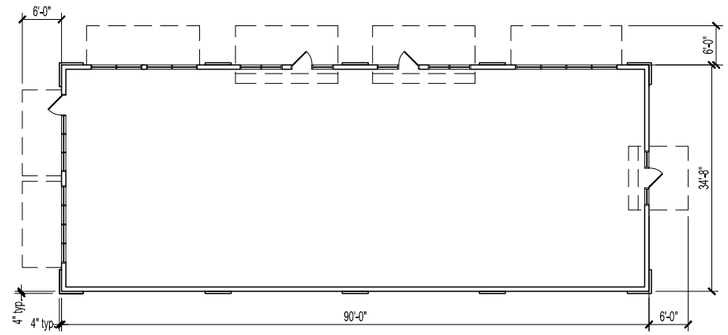
Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (111 of 112)



T1.1 RETAIL BUILDING 'A' PLAN

0 5'-4" 10'-8" 21'-4"

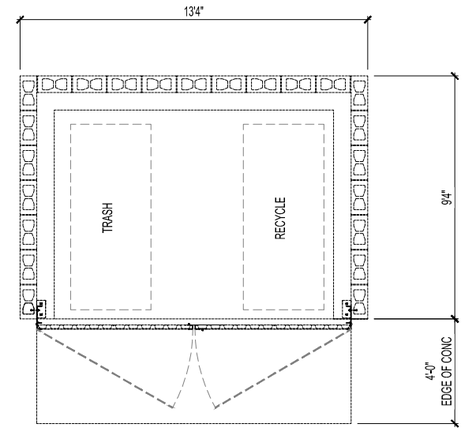
SCALE: 3/32" = 1'-0"



T1.3 RETAIL BUILDING 'D' PLAN

0 5'-4" 10'-8" 21'-4"

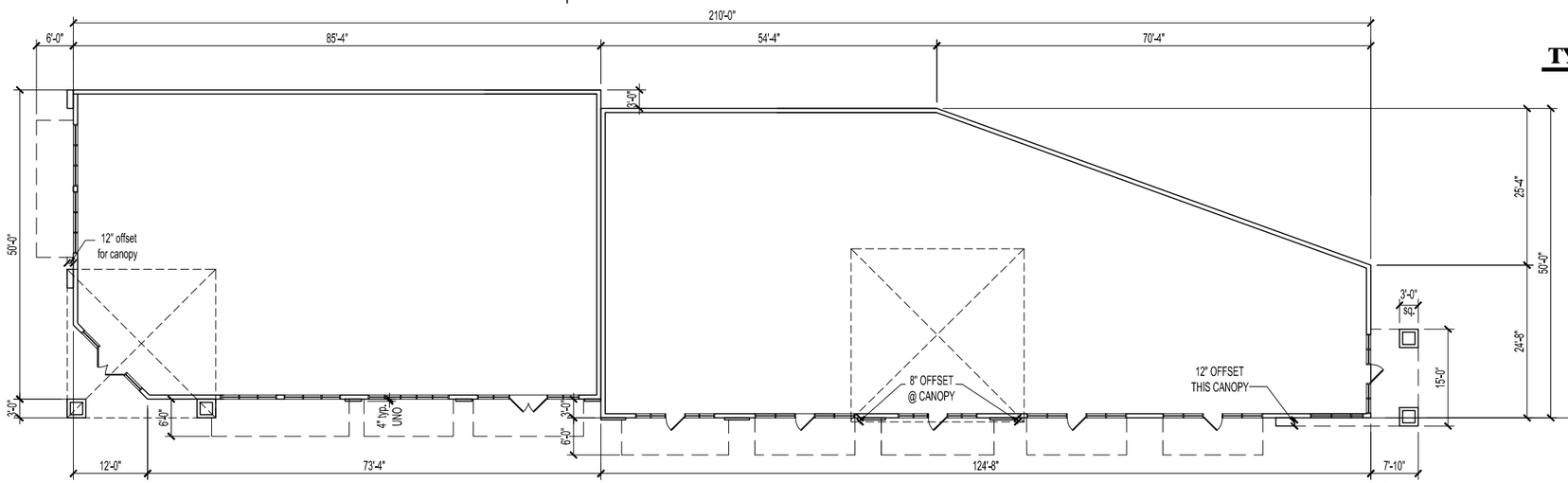
SCALE: 3/32" = 1'-0"



TYPICAL TRASH/ RECYCLE ENCLOSURE

0 1'-4" 2'-8" 5'-4"

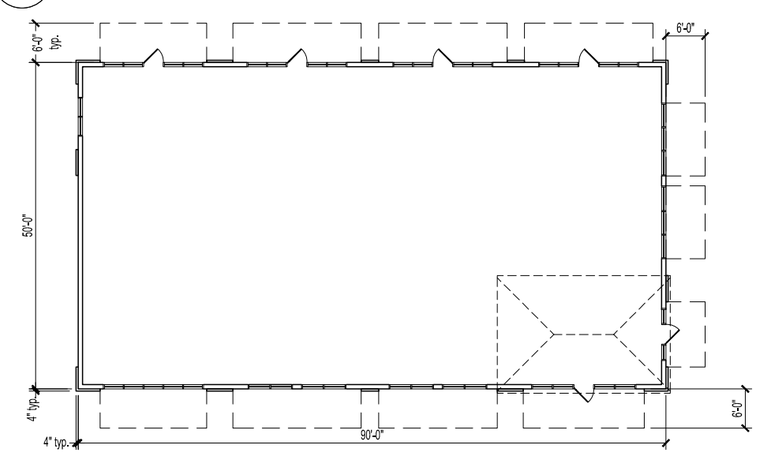
SCALE: 3/8" = 1'-0"



T1.2 RETAIL BUILDING 'B-C' PLAN

0 5'-4" 10'-8" 21'-4"

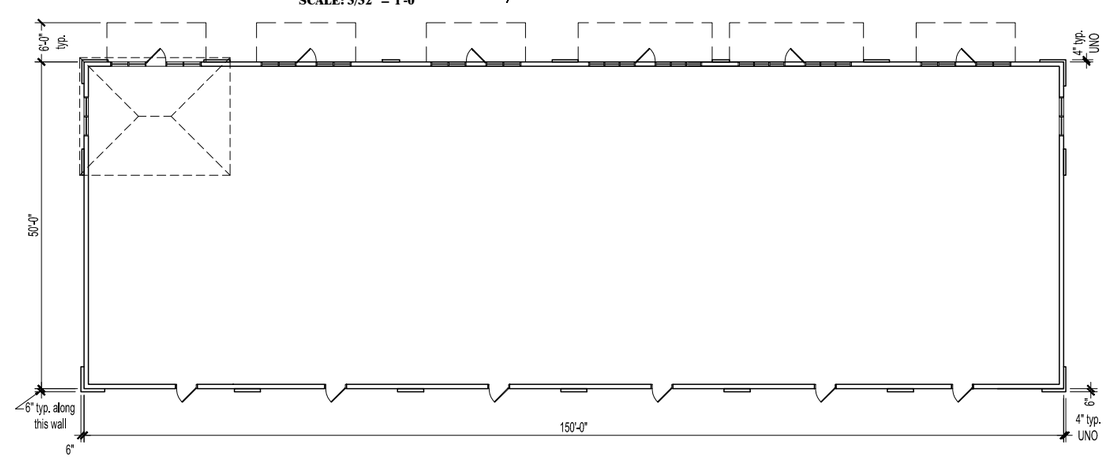
SCALE: 3/32" = 1'-0"



T1.4 RETAIL BUILDING 'E' PLAN

0 5'-4" 10'-8" 21'-4"

SCALE: 3/32" = 1'-0"



T1.5 RETAIL BUILDING 'F' PLAN

0 5'-4" 10'-8" 21'-4"

SCALE: 3/32" = 1'-0"

TO VERIFY SCALES 0" 1" ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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CREEKSIDE CENTER
CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY

PLOT DATE: 3/25/2013
ISSUE DATE:
DRAWN BY: T. WHITNEY
JOB NO.: 06-29-09

SHEET
SP3.1
RETAIL BUILDING FLOOR PLANS

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT A (112 of 112)

Oregon
John A. Kitzhaber, MD, Governor

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
(503) 986-5200
FAX (503) 378-4844
www.oregonstatelands.us

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OCT 18 2012
Community Development
Planning Division

State Land Board

John A. Kitzhaber, MD
Governor

Kate Brown
Secretary of State

Ted Wheeler
State Treasurer

October 18, 2012

Bret Fox
515 W. Pickett Cir., Suite #400
Salt Lake City, UT 84115

Re: Reissuance of Wetland Delineation Concurrence for Property at 53rd Street and Hwy. 20/34 in Corvallis, Benton County; T12S R5W Sec. 5DD, Tax Lots 400 & 500; WD #2004-0169

Dear Mr. Fox:

The Department of State Lands considered the request for reissuance of WD2004-0169 by conducting a site visit with Pat Thompson (consultant for the 2004 delineation) and Allen Martin, Geo Resources, at the site referenced above on October 3, 2012. Based upon observations and data collected during the site visit, we concur that the wetland and waterway boundaries as mapped in WD2004-0169 have not changed. The 2004 map approved by this Department therefore still applies at this site and the approval expiration is hereby extended for another 5 years. Within the study area, 4.46 acres of wetlands and Dunawi Creek (formerly Squaw Creek) are state jurisdictional and subject to the permit requirements of the state Removal-Fill law. Under current regulations, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in the wetland or below the ordinary high water line (OHWL) of a waterway (or the 2 year recurrence interval flood elevation if OHWL cannot be determined).

This concurrence is for purposes of the state Removal-Fill Law only. Federal or local permit requirements may apply as well. The Army Corps of Engineers will review the request and make their own determination of jurisdiction and applicability of the 2004 map for purposes of the Clean Water Act at the time that a permit application is submitted. We recommend that you attach a copy of this concurrence letter to both copies of any subsequent joint permit application to speed application review.

Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter, unless new information necessitates a revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon

request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity, or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

Thank you for having the site evaluated. Please phone me at 503-986-5300 if you have any questions.

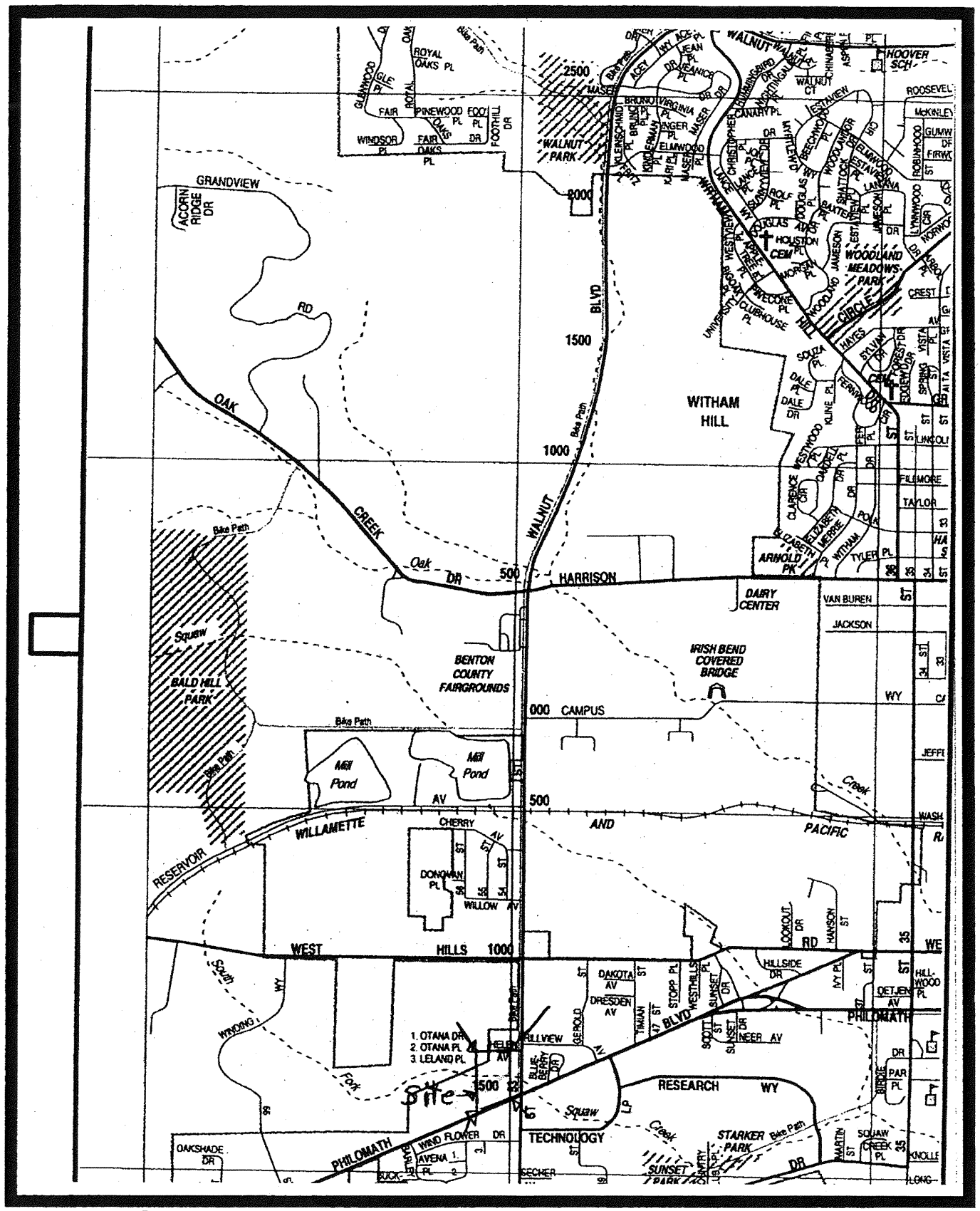
Sincerely,

Lynne McAllister
Wetland Specialist

Approved by
Anna Buckley
Wetlands Program Manager

Enclosures

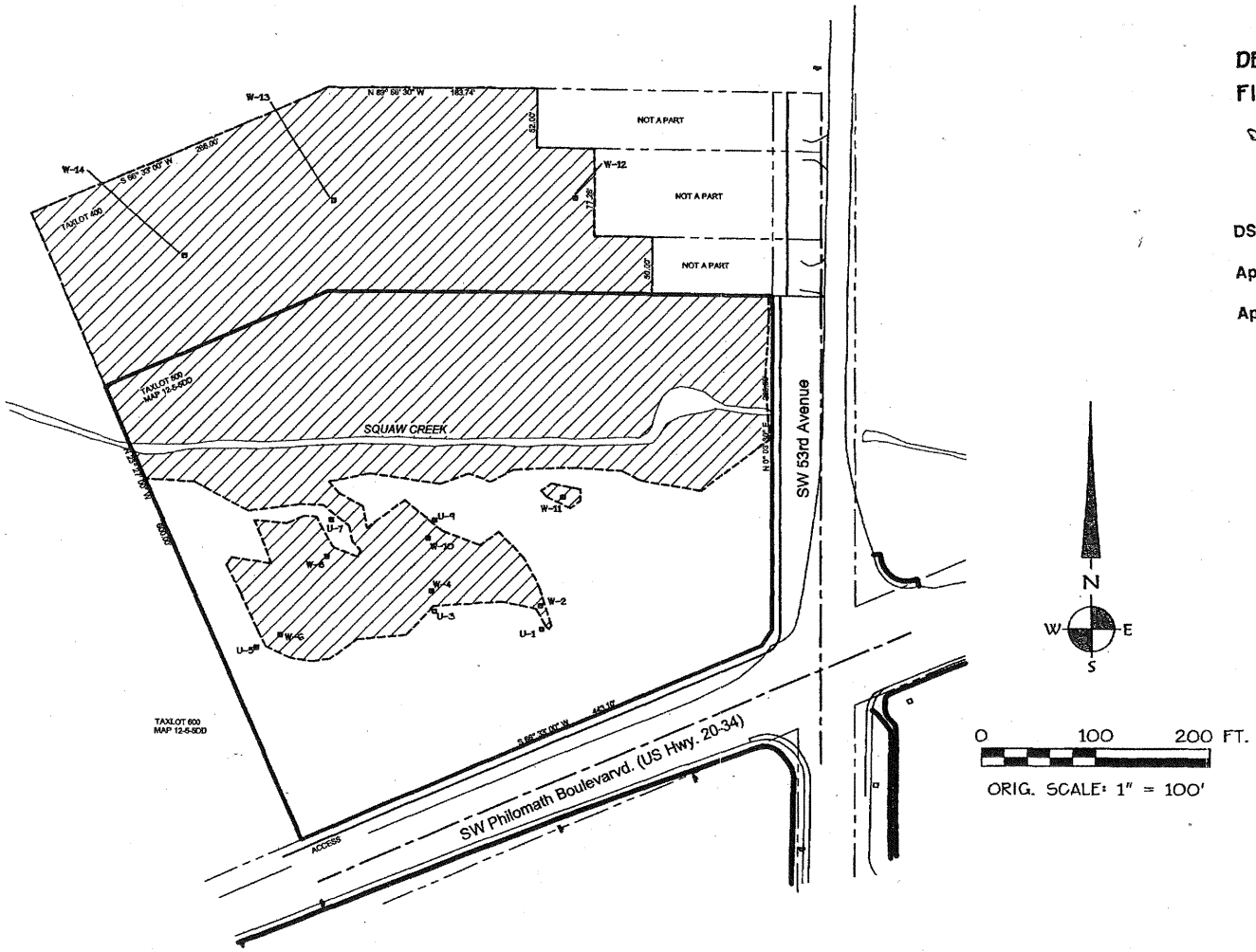
ec: Allen Martin, Geo Resources
City of Corvallis Planning Department
Benny Dean, Corps of Engineers, Eugene office
Gloria Kiryuta, DSL



Patrick S. Thompson
CONSULTING
Phone (541) 933-3318
Fax (541) 933-3319
Email pstcon@aol.com

Site Map
Figure 1

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT B (3 of 12)



DELINATION MAP
FIGURE 4

DSL # WD 04-0169

DSL WD # 2004-0169
Approval Issued Re- 10/18/12
Approval Expires 10/18/17

N
W E
S

0 100 200 FT.
ORIG. SCALE: 1" = 100'

NOTE:
TOTAL AREA OF WETLANDS:
4.46 ACRES

map accuracy estimated ± 1 foot

Oregon
John A. Kitzhaber, MD, Governor

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
(503) 986-5200
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State Land Board

John A. Kitzhaber, MD
Governor

Kate Brown
Secretary of State

Ted Wheeler
State Treasurer

December 1, 2011

Bret Fox
515 W. Pickett Circle Suite #400
Salt Lake City, UT 84115

Re: Wetland Delineation Report for Philomath Blvd. Property on Dunawi Creek, Benton County; T12S R5W Sec. 5, Tax Lot 600; WD #2011-0289; Corvallis Local Wetlands Inventory wetland WC-SQU-W-6

Dear Mr. Fox:

The Department of State Lands has reviewed the wetland delineation report prepared by Geo Resources for the site referenced above. Based upon the information presented in the report and additional information submitted upon request, we concur with the wetland and waterway boundaries as mapped in revised Figure 6 of the report. Please replace all copies of the preliminary wetland map with this final Department-approved map. Within the study area, one wetland including 2 ditches (totaling approximately 0.98 acres) and Dunawi Creek were identified. The wetland (including ditches) and waterway are subject to the permit requirements of the state Removal-Fill Law. Under current regulations, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in the wetland or below the ordinary high water line (OHWL) of a waterway (or the 2 year recurrence interval flood elevation if OHWL cannot be determined).

This concurrence is for purposes of the state Removal-Fill Law only. Federal or local permit requirements may apply as well. The Army Corps of Engineers will review the report and make a determination of jurisdiction for purposes of the Clean Water Act at the time that a permit application is submitted. We recommend that you attach a copy of this concurrence letter to both copies of any subsequent joint permit application to speed application review.

Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter, unless new information necessitates a revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT B (5 of 12)

request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity, or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

Thank you for having the site evaluated. Please phone me at 503-986-5300 if you have any questions.

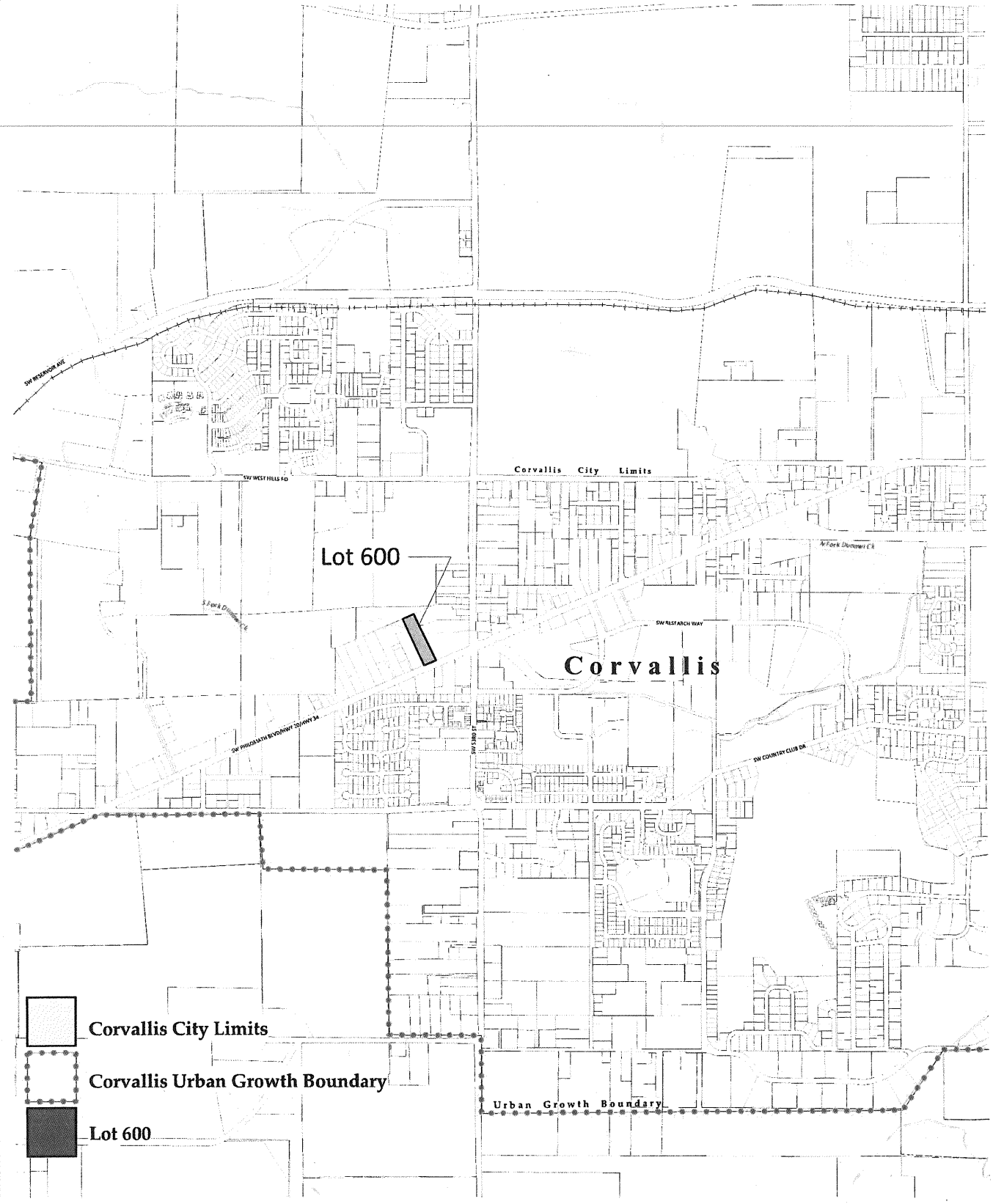
Sincerely,

Lynne McAllister
Wetland Specialist

Approved by
Anna Buckley
Acting Wetlands Program Manager

Enclosures

ec: Allen Martin, Geo Resources
City of Corvallis Planning Department (Maps enclosed for updating LWI)
Brian Wilson, Corps of Engineers Eugene office
Gloria Kiryuta, DSL



Tax Lot 600
Benton County Tax Map 12505DD
5435 SW Philomath Blvd
Corvallis, OR 97333

1200 0 1200 2400
Feet
Scale: 1:19,200

NORTH

FIGURE 1: LOCATION MAP

Scale: 1" = 1,600'
Source: Benton County GIS database
Drafted: 6/22/11

Geo Resources

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
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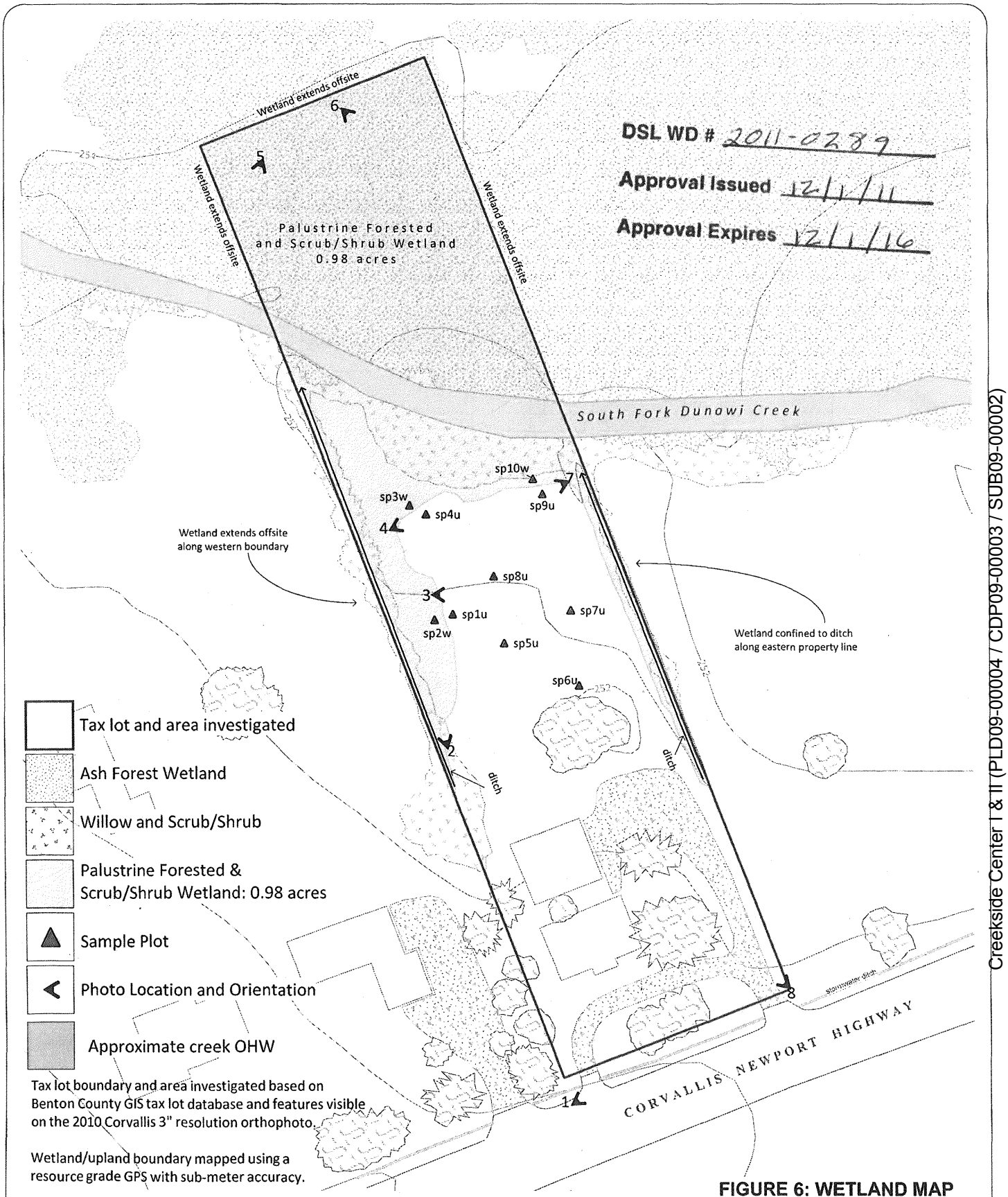

FIGURE 6: WETLAND MAP

Scale: 1" = 80'
Source: Benton County Tax Lot Database,
Corvallis 2010 orthophoto, flown 3/18/10,
Benton County 2-ft Contour database
Drafted: 6/22/11
Revised: 11/30/11

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
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EXHIBIT B (8 of 12)

Oregon
John A. Kitzhaber, MD, Governor

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
(503) 986-5200
FAX (503) 378-4844
www.oregonstatelands.us

RECEIVED
MAR - 9 2012
Community Development
Planning Division

March 8, 2012

GMK600/32863
CITY OF CORVALLIS COMMUNITY DEVELOPMENT
ATTN JASON YAICH
501 SW MADISON AVE
CORVALLIS OR 97333

State Land Board

John A. Kitzhaber, MD
Governor

Kate Brown
Secretary of State

Ted Wheeler
State Treasurer

Re: PLD 09-00004 /DSL Removal/Fill Permit Application No. 32863-FP
T. 12S, R. 05W, Section 4& 5, Tax Lot 500, Corvallis, Benton County

Dear Mr. Yaich:

Thank you for meeting with Southern Region Manager Eric Metz and myself on February 28, 2012 to discuss the conditions which involve additional decisions by the Department of State Lands on the above referenced file for Creekside Center Phase 1.

The additional impacts provided in the City development permit application by the applicant, were not authorized under the existing Department of State Lands Removal Fill Permit 32863-RF. More specifically, Creekside Phase 2 and an impact to forested wetlands associated with a City of Corvallis Parks Department conceptual path along Dunwai Creek.

Condition #4 and Condition #10 in the above document require additional approvals from the Department of State Lands that would not be granted based on the program requirement for independent utility for the path, while Phase 2 still needs an application and review under the existing state statutes.

On February 28, 2012, the Department was provided with the conceptual plan that includes additional off site wetland impacts associated with construction of this path from 53rd to West hills way. Under the requirement for independent utility, the Department must consider the impacts to wetlands associated with the construction of the path in its entirety from 53rd Street to West Hills Way.

An application for this type of recreational path project would be considered under the regulations for linear facilities. During the application process the Department would look at the delineation of the path, consider the purpose and need for the project, alternative analysis and designs to limit impacts to wetlands and waterways while still providing a complete recreational trail, and the proposed mitigation.

Notwithstanding the inability of the Department to permit the forested wetland impacts associated with partial segment of a path, under this application, nothing in our rules would prevent the applicant from entering into an easement agreement, and providing the City with funding for delineation, construction and wetland mitigation for this linear

footage of the path associated with their tax lot. This would secure for the City of Corvallis future site access and funding at a later date when the City is ready to complete the delineation and submit the application and proposed mitigation for this path.

Please call me at 503-986-5226 if you have any questions.

Sincerely,

Gloria Kiryuta
Southern Region Resource Coordinator
Wetlands and Waterways Conservation Division
Oregon Department of State Lands

Cc: Benny Dean Jr, Eugene Corps of Engineers
Brett Fox

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, PORTLAND DISTRICT
EUGENE FIELD OFFICE
1600 EXECUTIVE PARKWAY, SUITE 210
EUGENE, OREGON 97401-2156

RECEIVED
MAR - 6 2012
Community Development
Planning Division

REPLY TO
ATTENTION OF:

March 1, 2012

Operations Division
Regulatory Branch
Corps No. NWP-2004-519/1

Mr. Bret Fox
Thomas Fox Properties
515 W. Pickett Cir. Suite 400
Salt Lake City, Utah 84115-1978

Dear Mr. Fox:

This letter is in regard to the February 28, 2012, meeting with you, the U.S. Army Corps of Engineers (Corps), the City of Corvallis (City), and the Oregon Department of State Lands (DSL) about a multi-use path, which may require a Department of Army (DA) authorization. The path would be located in a palustrine forested wetland along Squaw Creek, in Corvallis, Benton County, Oregon. The site is in Section 4 & 5 of Township 12 South, Range 5 West. Your project is identified as Corps No. NWP-2004-519/1

The Corps has general permits, which may cover the construction of a multi-use path provided this prospective path has an identifiable purpose and need. The larger path shown in the City's recreational plan would have a clear purpose and need which may be permitable under a general permit if the aquatic impacts are below one-half acre, and the project complies with all federal laws. The path would require evaluation by means of an individual permit review if the aquatic impacts exceeded the one-half acre threshold and/or if the project has more than minimal impacts. The small section of pathway located solely on your property does not have a clear purpose and need, nor is it a necessary component of the development. The construction/placement of the small section of path due to City requirements is an insufficient purpose and need for the Corps.

In planning for the multi-use path, measures to minimize impacts should include avoiding or minimizing vegetation removal (such as trees in a forested wetland), elevating the pathway, reducing the width of the pathway, using pervious materials to allow uninterrupted water flows, reducing fill discharges in aquatic resources, etc. If the City did apply for the entire path, the Corps would need sufficient information about the location of the path, a delineation of aquatic resources present, mitigation bank credits for aquatic impacts, and a calculation of aquatic impacts with an alternatives analysis for the path. Other requirements which may come up during the review process may include a cultural resource survey and a rare/endangered plant survey due to potential impacts to cultural resources and Endangered Species Act (ESA) listed species.

During our review of your proposal to construct the multi-use path, it has come to the attention of the Corps the permit for the Creekside Center project issued to John Batzer, LLC. for this particular location and development expired on January 1, 2012, (General Condition 1). If you are the current permit holder, General Condition 4 of the permit requires transfer the permit if the property is transferred or sold. Attached is a new transfer of permit form (Enclosure). The permittee is also required to request an extension of time for the project a minimum of one month before the permit expires if additional time for project construction is needed (General Condition 1). Since the permit has expired, the Corps may need to reinitiate coordination with all agencies with regard to the Creekside Center project. Please provide the Corps in your request to renew your permit any updated information about your project or its potential impacts so we can begin working on renewing your permit.

If you have any questions regarding the John Batzer, LLC. permit or our permitting process, please contact me at the letterhead address, by telephone at (541) 465-6769, or email Benny.A.Dean@usace.army.mil.

Sincerely,

Benny A. Dean Jr.
Project Manager
Regulatory Branch

Enclosure

Copy Furnished:

Oregon Department of State Lands (Kiryuta)
Oregon Department of Environmental Quality (Anderson)
City of Corvallis Community Development (Yaich)

BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

LEAGUE OF WOMEN VOTERS OF CORVALLIS
and ELIZABETH FRENKEL,
Petitioners,

vs.

CITY OF CORVALLIS,
Respondent,

and

BRET FOX and THOMAS FOX
PROPERTIES, LLC,
Intervenors-Respondents.

LUBA No. 2011-002

FINAL OPINION
AND ORDER

Appeal from City of Corvallis.

Corinne C. Sherton, Salem, filed the petition for review and argued on behalf of petitioners. With her on the brief was Corinne C. Sherton PC.

David E. Coulombe, Corvallis, filed a response brief and James Brewer, Corvallis, argued on behalf of respondent. With him on the brief was Fewel, Brewer & Coulombe.

Michael C. Robinson, Portland, filed a response brief and Seth J. King argued on behalf of intervenors-respondents. With him on the brief was Perkins Coie LLP.

RYAN, Board Chair; BASSHAM, Board Member; HOLSTUN, Board Member, participated in the decision.

REMANDED 06/28/2011

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
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EXHIBIT C (1 of 17)

EXHIBIT A

Opinion by Ryan.

NATURE OF THE DECISION

Petitioners appeal a decision by the city approving a commercial planned development.

REPLY BRIEF

Petitioners move for permission to file a reply brief to respond to new matters raised in the city's response brief. The reply brief is allowed.

FACTS

The subject property is comprised of three tax lots, 400, 500, and 600, that are zoned Mixed Use Community Shopping (MUCS). Tax lot 400 lies immediately to the north of tax lot 500 and to the east of tax lot 600. All of tax lot 400, and approximately the northern half of tax lots 500 and 600 are designated as a protected wetland, protected riparian corridor, and/or a protected floodplain on the city's comprehensive plan maps. Dunawi Creek runs east to west along the northern part of tax lot 600 and along approximately the middle of tax lot 500.

Intervenor applied to develop approximately 179,319 square feet on the 6.64 acres comprising tax lots 500 and 600, including 43,000 square feet of retail and restaurant uses in seven buildings to be located on tax lot 500, and other transportation and stormwater infrastructure to be located on portions of tax lots 500 and 600. As part of the development intervenor also proposed to construct a 12-foot wide path within a 45-foot wide easement running east and west across tax lots 500 and 600, to the north of Dunawi Creek, within the protected wetland/riparian corridor/floodplain. The planning commission approved the applications, and petitioners appealed that decision to the city council. The city council approved the applications, and this appeal followed.

FIRST ASSIGNMENT OF ERROR

For nonresidential properties that are designated as protected wetlands, riparian corridors, or floodplains, Corvallis Land Development Code (LDC) 4.11.50.02.b provides a Minimum Assured Development Area (MADA) that is calculated by multiplying the acreage of the site by the MADA per acre that is shown in LDC 4.11.50.02 Table 4.11-2 – "Determining Minimum Assured Development Area (MADA) for Nonresidential Zones." Under LDC 4.11.50.02.b. and Table 4.11-2, the MADA for the site equaled 90,968 square feet. In addition, LDC 4.11.50.02.c allows the MADA to be increased (MADA credits) in certain circumstances beyond what is calculated according to LDC 4.11.50.02.b, including as relevant here:

> "c. **Additional Allowances for Determining the Minimum Assured Development Area of Residential and Nonresidential Sites** - The Minimum Assured Development Area calculated in Section 4.11.50.02.a and Section 4.11.50.02.b may be increased above the base MADA by adding the areas determined by the provisions below:
>
> " * * * * *
>
> "2. The area of Wetland mitigation that is required by the Department of State Lands and/or the U.S. Army Corps of Engineers when infrastructure must be extended through a Wetland. The area credited shall be based upon the written requirements of the associated permit approval of the Department of State Lands and/or the U.S. Army Corps of Engineers, whichever is greater;
>
> " * * * * *
>
> "4. Trails required by the Corvallis Transportation Plan or the City of Corvallis Park and Recreation Facilities Plan, or necessary to provide public access to or through designated open space areas." (Bold in original.)

The city allowed MADA credits for the development so that the total of developable area (MADA plus MADA credits) of the site equaled 180,728 square feet. The city adopted findings that determined that the proposed path running from east to west along tax lots 500 and 600 was eligible for MADA credits totaling 24,776 square feet: 12,388 square feet for

the path itself, and 12,388 square feet for the area of wetland and riparian area mitigation that the city concluded would be required to offset the effects of the path on the wetlands and riparian areas.[1]

In their first subassignment of error under the first assignment of error, petitioners argue that the city's findings are inadequate to explain why the city determined that the path qualifies for MADA credit under LDC 4.11.50.02.c.4, *i.e.*, either that the path is "required by" the city's transportation plan or Park and Recreation Facilities Plan (PRFP), or that it is "necessary to provide public access to or through designated open space areas." In their second subassignment of error, petitioners argue that the city's findings are inadequate to explain why the city awarded 12,388 square feet of MADA credit under LDC 4.11.50.02.c.2 for a mitigation area for constructing the path.

The city responds initially that petitioners failed to raise the issues presented in the first assignment of error, and under ORS 197.763(1) and ORS 197.835(3) are precluded from raising the issues for the first time at LUBA. In response to petitioners' first assignment of error, the city maintains that no participant below ever raised an issue regarding whether the path met the requirements for an award of MADA credits under LDC 4.11.50.02.c.4 and .2.

---

[1] The city adopted the following findings:

> "[A party] contended that the number and extent of MADA credits associated with the development was 'especially troubling' and not consistent with the intent of the LDC. The Council finds that [intervenor] presented substantial evidence in the Application that the Project qualified for MADA credits. The Council further finds that City staff properly applied the provisions of the LDC in calculating credits. * * *
>
> " * * * * *
>
> "[A]s part of the complete land use applications filed, the applicant has provided calculations which indicate that the base MADA permitted in the underlying * * * zone, as well as the additional MADA credits warranted under LDC 4.11.50.02.c, contribute to a total MADA allowance of 180,728 square feet, and that the proposed development plan impacts approximately 179,319 square feet of the development site. The Council finds that the proposed development area falls within the MADA allowance for the site." Record 80-81, 84.

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In their reply brief, petitioners respond that the issue of compliance with LDC 4.11.50.02.c.4 and .2 was raised at Record 270, where a participant stated that MADA credits should not be awarded for the path under "LDC 4.11.50.02.c." In *Lucier v. City of Medford*, 26 Or LUBA 213, 216 (1993), we held that in order to challenge the adequacy of adopted findings, a petitioner must challenge the proposal's compliance with a relevant criterion during the local proceedings. We explained:

> "The references in ORS 197.763(1) and 197.835[3] to 'issues' are references to issues concerning the substantive and procedural requirements that must be satisfied in rendering the challenged decision. Therefore, if a petitioner wishes to argue that a particular approval criterion or procedural requirement is not satisfied by a proposed land use action, the petitioner must raise the 'issue' of compliance with that criterion below. However, contrary to respondent's suggestion, a petitioner is *not* required to anticipate the actual findings a local government ultimately adopts in support of its final decision or question the adequacy of the evidence accepted into the record to support such findings.
>
> "In order to preserve the right to challenge at LUBA the adequacy of the adopted findings to address a relevant criterion or the evidentiary support for such findings, a petitioner must challenge the proposal's compliance with that criterion during the local proceedings. Once that is done, the petitioner may challenge the adequacy of the findings and the supporting evidence to demonstrate the proposal complies with the criterion. The particular findings ultimately adopted or evidence ultimately relied on by the decision maker need not be anticipated and specifically challenged during the local proceedings." (Emphasis in original.)

We agree with petitioners that the issue of whether the path qualifies for an award of MADA credits under LDC 4.11.02.50.c.4 and .2 was raised at Record 270 with sufficient specificity to allow petitioners to argue that the city's findings regarding the proposal's compliance with LDC 4.11.50.02.c.4 and .2 are inadequate. *See also Columbia Riverkeeper v. Clatsop County*, 58 Or LUBA 190, 213 (2009) (where issues regarding compliance with approval criteria were raised below, petitioners may challenge the adequacy of findings adopted regarding those approval criteria).

The city and intervenor next respond by pointing to findings that the city adopted that the path should be allowed to be developed in riparian and wetland areas under LDC

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4.13.50.b.2 and LDC 4.13.80.01.c.2, and in order to comply with LDC block perimeter and pedestrian connection standards, and argues that those findings suffice to explain the path qualifies for MADA credits under LDC 4.11.50.02.c.4. Record 72-73. However, LDC 4.11.50.02.c.4 requires the city to address whether MADA credits for the path and for mitigation for the path are justified because the path is "required by" the city's PRFP or transportation plan or "necessary to provide public access to or through dedicated open space," and LDC 4.11.50.02.c.2 requires the city to address whether MADA credits for mitigation for allowing the path are justified because the mitigation area is required by the Department of State Lands (DSL) or Army Corps of Engineers (ACOE). Those criteria involve different considerations than the considerations that are required in order for the city to determine whether the path should be allowed in a riparian and wetland area under LDC 4.13.50.b.2 and LDC 4.13.80.01.c.2, criteria which we discuss below in our resolution of the second assignment of error. The findings at Record 72-73 do not contain any adequate explanation by the city for why the path qualifies for MADA credit under LDC 4.11.50.02.c.

The first assignment of error is sustained.

SECOND ASSIGNMENT OF ERROR

A. Introduction

As noted above, the path crosses both a wetland and a riparian corridor. LDC Chapter 4.13 contains provisions that are intended to preserve and protect riparian corridors and wetlands. LDC 4.13.10. To that end, LDC 4.13.50.b prohibits building, paving, and grading in riparian corridors and riparian-related areas, except for certain specified purposes and only if the building, paving or grading is designed and constructed to minimize adverse impacts to the riparian area:

> "**Building, Paving, and Grading Activities** - The placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, are prohibited. Exceptions to the drainageway restrictions may be made for the purposes identified in items 1-7 of this Section, provided they are

designed and constructed to minimize adverse impacts to Riparian Corridors and Riparian-related Areas.

" * * * * *

"2. The location and construction of streets, utilities, bridges, bicycle, and pedestrian facilities within Highly Protected Riparian Corridors and Riparian related Areas must be deemed *necessary to maintain a functional system* by the City Engineer. This Code, City Transportation and Utility Master Plans, and other adopted City plans shall guide this determination. The design standards of Chapter 4.0 - Improvements Required with Development shall be applied to minimize the impact to the subject area[.]" (Bold in original, italics added.)

A similar provision, LDC 4.13.80.01.c prohibits building, grading, and paving activities in wetlands except for specified purposes and only if the building paving or grading is designed and constructed to minimize adverse impacts to the wetlands:

"**Building, Paving, and Grading Activities** - Within LPW areas, the placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, is prohibited, except as outlined below. Exceptions to the LPW restrictions may be made for the purposes identified in * * * '2,' below, provided they are designed and constructed to minimize adverse impacts to Wetland Functions.

" * * * * *

"2. Activities outlined in sections 4.13.50.b.2, 4.13.50.b.5, and 4.13.50.b.6." (Bold in original.)

B. Minimize Adverse Impacts

The decision approved construction of a "multi-use path" within the 45-foot wide easement area shown on SP1.10, the plan sheet that was included in intervenor's application, which shows a 12-foot wide path that meanders its location within a 45-foot wide easement that runs east to west across the property. Supplemental Record 1379.[2] The decision also imposed a condition of approval, Condition 10, which in part requires the path to be

[2] The PRFP defines "multi-use path" as a "paved path entirely separated from the roadway and used by pedestrians, roller bladers, joggers and cyclists." PRFP Glossary 2.

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constructed in accordance with the city Parks and Recreation Facilities Plan (PRFP) Design and Development Policies:

> "With submittal of the construction cost estimate, the Applicant shall include documentation of an approved fill permit, as required for wetland construction and wetland mitigation by [DSL] and [ACOE], which documents final acceptance by these agencies of the multi-use path construction and alignment. * * *
>
> "With submittal of the construction cost estimate, the applicant shall include construction details for the multi-use path that comply with Parks Department trail construction guidelines and DSL requirements, and includes the bench, as identified on Sheet SP1.4, if permitted by DSL. Path construction shall generally follow the 'Design and Development Policies' of the adopted [PRFP] (Page 5-2), and final path alignment shall occur so as to minimize removal of significant riparian area and to minimize impacts to the properly functioning condition of the riparian corridor/drainageway. * * *" Record 15.

In the first subassignment of error and in a portion of their second subassignment of error, we understand petitioners to argue that the city erred in approving the path to be located in riparian and wetland areas because there is not substantial evidence in the record to support a determination that the path will be "designed and constructed to minimize adverse impacts" to the riparian areas and wetlands. According to petitioners, the city could not determine that adverse impacts are minimized without knowing what the use of the path will be, its exact location, and its exact design, and according to petitioners those features are not known. In support of their argument, petitioners point out that the development plan that was approved by the final decision contains a notation that the "Exact Path Location TBD." Supplemental Record 1365. Petitioners also point to findings adopted by the city that specifically conclude that the city's decision to approve the proposed planned development that includes the path does not approve the precise design and construction materials for the path. Record 74. Petitioners also argue that in imposing Condition 10, the city improperly deferred finding compliance with LDC 4.13.50.b and 4.13.80.01.c to a later proceeding that does not require notice and an opportunity for hearing.

Respondents respond, and we agree, that there is substantial evidence in the record to support the city's conclusion that as conditioned the path will minimize adverse impacts to the riparian areas and wetlands under LDC 4.13.50.b and 4.13.80.1.c. First, the city approved a planned development that proposes locating a "multi-use path," a term that is defined in the PRFP, within the 45-foot wide easement area shown at Supplemental Record 1379, and required that path to be designed and constructed in conformance with the PRFP design guidelines for multi-use paths. Although petitioners quote some of the guidelines and policies, petitioners do not explain why a multi-use path located within the easement area that is designed and constructed in accordance with those policies will have more than a minimal adverse impact on the protected areas.

We also agree with respondents that in imposing condition 10 the city did not defer making a determination of compliance with LDC 4.13.50.b and 4.13.80.1.c to a future proceeding. Rather, in imposing condition 10, the city approved the path in a location within the 45-foot easement area, but allowed intervenor the flexibility to construct the path in the location within that easement area that minimizes adverse impacts to the protected area.

C. Necessary To Maintain a Functional System

1. Motion to Strike/Motion to Take Official Notice

As explained above, one of the exceptions to the prohibition on development in riparian and wetlands areas is for "[t]he location and construction of * * * bicycle, and pedestrian facilities within Highly Protected Riparian Corridors and Riparian-related Areas" that are "deemed necessary to maintain a functional system by the City Engineer." LDC 4.13.50.1.b.2. The city adopted findings that the path is "necessary to maintain a functional system:"

> "[League of Women Voters of Corvallis] LWVC conceded that both the City's Trails Master Plan and [PRFP] depict a trail in this general location; however, LWVC contends that this trail is conceptual only and was adopted prior to adoption of the [Natural Features Inventory] NFI. As such, LWVC contends that the trail designation did not take into account the wetlands

identified on the Property in the NFI. City staff responded by testifying that another adopted plan, the West Corvallis/North Philomath Plan ('WCNPP') identifies the Trail location inside of the natural features, thus showing a clear intent to route the Trial there notwithstanding the existence of the resources. Further City staff cited to specific WCNPP policies that support the Trail location in stream corridors as follows:

"OS-I-1:

"Work with private landowners to obtain dedications of open space lands for trails and preservation of natural systems.

"OS-I-7

"Where feasible, incorporate trails as part of stream corridors *as identified on the Circulation Plan, Figure VI-1.*

"OS-I-9

"Locate Trails at the edge of riparian buffer zones to minimize impacts on the natural functioning of the stream corridor and to preserve stream capacity.

"The Council concurs with the LWVC that standing alone, the conceptual trails depicted in the Trails Master Plan and the [PRFP] may not justify this location for the trail. However, the Council finds that there is additional substantial evidence in the record that supports the proposed Trail location as set forth in the WCNPP.

"The Council concurs with City staff findings that the Trail is 'necessary' in this location to 'maintain a functional trail system' as depicted in the adopted WCNPP and as further conceptually depicted in the Trails Master Plan and the [PRFP]. The Council further finds that each of the cited plans was approved by the Council through a public process." Record 72-73 (Emphasis added.)

Petitioners attach to the petition for review a copy of Figure VI-1 from the Circulation Plan that is part of the West Corvallis/North Philomath Plan (WCNPP) and that is referenced in the findings quoted above. Petition for Review App. 90. Figure VI-1 is not part of the record. In its response brief, intervenor moves to strike App. 90 and the portions of the petition for review at pages 16-17 that discuss Figure VI-1 and other provisions of the WCNPP that are not a part of the record. After the response brief was filed, petitioners filed a motion for LUBA to take official notice under Oregon Evidence Code (OEC) 202(7) of

1 excerpts from the WCNPP that are attached to petitioners' motion, including Figure VI.[3]
2 Intervenor objects to the motion to take official notice to the extent that petitioners
3 improperly seek to use the attached excerpted provisions of the WCNPP to provide evidence
4 that rebuts the city engineer's conclusion that the path is "necessary to maintain a functional
5 system" under LDC 4.13.50.b.2.[4]

6 Petitioners respond, and we agree, that the WCNPP is a part of the Corvallis
7 Comprehensive Plan (CCP) and under OEC 202(7) is subject to official notice. We disagree
8 with intervenor that petitioners seek to use Figure VI-1 to provide evidence to rebut the city's
9 determination about the necessity of the path to maintain a functional system. As discussed
10 below, petitioners' argument based on Figure VI-1 is essentially a legal argument: in
11 determining whether a path must be located in a riparian corridor in order to maintain a
12 functional trail system, as "guided by" city plans presumably including the WCNPP, what
13 legal significance should be attached to the fact that the relevant plans depict a path in the
14 riparian corridor but describe the depicted path or its location as "conceptual." The answer
15 to that question depends on the city's interpretation of various provisions of the LDC and the
16 CCP, including the WCNPP. The WCNPP has been adopted as part of the CCP and we may
17 take official notice of it. Accordingly, petitioners' motion to take official notice is granted
18 and intervenor's motion to strike portions of the petition for review is denied.

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[3] OEC 202(7) provides that LUBA may take official notice of "[a]n ordinance, comprehensive plan or enactment of any county or incorporated city in this state[.]"

[4] LUBA's review is limited by ORS 197.835(2)(a) to the record of the proceeding below, except in instances where an evidentiary hearing is authorized by ORS 197.835(2)(b). Thus LUBA may not take official notice of facts within documents that are subject to official notice under OEC 202, if notice of those facts is requested for an adjudicative purpose (i.e., to provide evidentiary support or countervailing evidence with respect to an applicable approval criterion that is at issue in the challenged decision). *Friends of Deschutes County v. Deschutes County*, 49 Or LUBA 100, 103-04 (2005); *Tualatin Riverkeepers v. ODEQ*, 55 Or LUBA 688, 692 (2007).

1 **2. Necessary to Maintain a Functional System**

2 As explained above, the city found that the exception to the general prohibition on
3 development in protected areas was allowed because the path is "necessary to maintain a
4 functional system" under LDC4.13.50.b.2 and LDC 4.13.80.01.c.2. In a portion of their
5 second subassignment of error, we understand petitioners to argue that the city misconstrued
6 applicable law in relying on portions of the WCNPP to conclude that the path is "necessary
7 to maintain a functional system."[5] According to petitioners, Figure VI from the circulation
8 plan that is a part of Chapter 6 of the WCNPP states that the trail locations are "conceptual
9 and may vary as more detailed plans are drafted," suggesting that it may not be necessary to
10 locate the trail within the riparian area at all, and therefore it was error for the city to rely in
11 part on those conceptual trail locations to conclude that locating the path in the riparian area
12 is "necessary to maintain a functional system[.]"

13 Intervenor responds that the city's interpretation of its land use regulations, including
14 LDC 4.13.50.b.2 and the WCNPP is required to be affirmed under ORS 197.829(1) because
15 the city's interpretation of the relevant provisions is plausible. *Siporen v. City of Medford*,
16 349 Or 247, 259, 243 P3d 776 (2010). It is not entirely clear to us what the city council
17 understood the label "conceptual" to mean, but it apparently disagreed with petitioners that
18 the "conceptual" label means that the plan maps have no bearing on whether the plan
19 anticipates that the path will be located in the riparian area in order to provide a functional
20 trail system. The city clearly believes that plan maps depicting a path within the area of a
21 riparian corridor support a conclusion that a path must be located somewhere in the corridor
22 in order to provide a functional trail system. We cannot say that view is implausible or
23 inconsistent with any relevant plan or code text. The label "conceptual" could plausibly

[5] The WCNPP has been adopted as a part of the city's comprehensive plan.

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mean that the exact location *within* the riparian corridor has yet to be determined, not that the plans are indifferent as to whether the path is located inside or outside the riparian corridor.

D. Development Associated with MADA

LDC 4.13.50.b.6 provides that one of the seven enumerated purposes that the city may rely on to allow development in a protected area is for "[d]evelopment associated with [MADA] that would be allowed in accordance with [LDC Chapter 4.11] * * *." In a subassignment of error petitioners argue that the city erred in approving MADA credits for the path and for that reason, LDC 4.13.50.b.6 cannot provide a basis for allowing development in protected areas.

It is unclear from the city's decision whether the city relied on LDC 4.13.50.b.6 to allow development in the protected areas, but one of the incorporated findings at Record 756 suggest that the city relied at least in part on that subsection. If that is the case, then we agree with petitioners that without findings justifying the award of MADA credit under LDC 4.11.50.02(c), the city may not rely on LDC 4.13.80.02.b.6 to allow development in the protected areas.

The second assignment of error is sustained, in part.

THIRD ASSIGNMENT OF ERROR

LDC 4.13.80.01.e provides:

> "**Department of State Lands and US Army Corps of Engineers Notification Required** - In addition to the restrictions and requirements of this Section, all proposed development activities within any Wetland are also subject to Oregon Department of State Lands (DSL) and US Army Corps of Engineers standards and approval. Where there is a difference, the more restrictive regulation shall apply. In accordance with ORS 227.350, as amended, the applicant shall be responsible for notifying DSL and the Corps of Engineers whenever any portion of any Wetland is proposed for development.
>
> "No application for development will be accepted as complete until documentation of such notification is provided. Additionally, no site development permits, such as Grading and Excavation Permits, Public Improvements by Private Contract Permits (PIPC), and Building Permits,

shall be issued until the City has received verification of DSL and Corps of Engineers approval for development on the subject site." (Bold in original).

In their third assignment of error, petitioners point to the current DSL fill and removal permit for tax lot 500, which contains the following condition (condition 8):

> "**Deed Restriction Recording.** Before disturbance of any wetland areas, deed restrictions, for the avoided wetlands on tax lot 400 in its entirety * * * and the proposed avoided PFO wetlands on tax lot 500 (202,653 square feet) as shown on Sheet 1 of 1 dated November 16, 2004 shall be recorded with the County Assessor's office." Record 350-51 (bold in original.)

According to petitioners, LDC 4.13.80.01.e prohibits the city from approving MADA credits for the path and prohibits the city from approving the path until condition 8 has been satisfied.

Respondents respond, and we agree, that LDC 4.13.80.01.e merely requires intervenor to notify DSL of the development application in order for the city to deem the planned development application complete, but it does not prohibit the city from approving the application for a planned development on tax lot 500 or the location of the path within the wetlands prior to DSL approval of a new fill and removal permit that approves the path, as long as that approval is conditioned on receiving DSL permits prior to the issuance of any site development permits. Here, the city imposed a condition of approval requiring DSL approval of development activities on tax lot 500 prior to the issuance of site development permits.[6] That condition prevents the city from issuing site development permits for the

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[6] Condition 4 provides in relevant part:

> "Development of the proposed public multi-use path north of Dunawi Creek, the remainder of Phase I * * * and Phase 2 * * * is either not authorized under the scope of the active DSL fill permit or relies on MADA credits associated with DSL approved wetland mitigation that has not yet been authorized. No development permits shall be issued for work beyond the scope of the active DSL fill permit and/or after expiration of the active DSL fill permit, until supplemental documentation, as required in LDC 4.13.80.1.e has been provided to the City. Permits for development that is reliant on DSL-approved wetland mitigation associated with MADA credits under LDC 4.11.50.02.c.2 shall not be authorized until documentation of the approved mitigation has been provided to the City, consistent with LDC 4.11.50.02.c.2." Record 13.

path until DSL has issued a new wetland fill and removal permit for the area of the path and until DSL has approved the mitigation area, if any, that will be required for the path. Petitioners do not challenge condition 4 or otherwise explain why condition 4 is inadequate to ensure that no site development of the path will occur until DSL has approved the development.

The third assignment of error is denied.

FOURTH ASSIGNMENT OF ERROR

Intervenor proposes to locate above-ground stormwater detention facilities on a portion of tax lot 600 that is currently within the 100-year floodplain, and on a portion of tax lot 500 within the riparian easement area.[7] Supplemental Record 1378.

A. 10-Year Floodplain

LDC 4.0.130.b.1 requires in relevant part that stormwater "[d]etention or retention facilities shall be located outside the 10-year Floodplain or the riparian easement area, whichever is greater." In their fourth assignment of error, petitioners argue that the city's findings fail to address petitioners' argument below that the 10-year floodplain has not been mapped, and without that mapping, the city could not determine whether the facilities will be located outside of the 10-year floodplain boundary.

Respondents point to the city's findings that "[t]he Application includes substantial evidence explaining how the proposed stormwater facilities are consistent with applicable provisions of the LDC, including LDC 4.0.130." Record 75. Respondents explain that the application includes an illustration showing that after development, the stormwater detention facility on tax lot 600 will be located outside the boundaries of the 100-year floodplain, and explain that the 100-year floodplain includes the 10-year floodplain. Supplemental Record

[7] LDC 4.13.70.02.d.2 Table 4.13-2 provides that the riparian easement area is 50 feet from the top of the bank of Dunawi Creek.

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1378.[8] We agree with respondents that the city's findings are adequate to explain why the city concluded that the stormwater facilities comply with LDC 4.0.130 and that the evidence in the record supports that conclusion. Supplemental Record 1378 shows that the storm water facility to be located on tax lot 600 is entirely outside of the post-development 100-year floodplain, and is therefore necessarily outside of the 10-year floodplain.[9]

B. Riparian Easement Area Encroachment

LDC 4.13.70.02.d.2 Table 4.13-2 provides that the riparian easement area is 50 feet from the top of the bank of Dunawi Creek. LDC 4.13.70.02.d.4 provides:

> "If, through the provisions of Chapter 4.11 - Minimum Assured Development Area (MADA), it is determined that encroachment into a Riparian Corridor area is necessary to allow for utilization of the Minimum Assured Development Area, any associated easement requirement shall be relaxed to the extent necessary to allow for the minimum necessary encroachment into the resource area."

Thus LDC 4.13.70.02.d.4 allows encroachment of development into the 50-foot riparian easement area in order for development to meet allowed MADA.

Some of the incorporated findings suggest that the city may have allowed development of the stormwater detention facility within the riparian easement area on tax lot 500 under LDC 4.13.70.02.d.4. Record 680. In a portion of their fourth assignment of error, we understand petitioners to contend that if their first assignment of error is sustained, the city also erred in relying on LDC 4.13.70.02.d.4 to allow development within the riparian easement area where the total MADA has not yet been determined. We agree with petitioners that without knowing the MADA for the development, the city could not

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[8] According to the plan at Supplemental Record 1378, the detention pond on tax lot 600 will be located outside of the *post-development* 100-year floodplain, which is north of the pre-development 100-year floodplain due to construction of a new culvert.

[9] As the city explains "[a] 100-year Flood Plain indicates the maximum level of flooding expected to occur every hundred years; in other words, there is a 1% chance of maximum level flooding each year. In a 10-year Flood Plain there is a 10% chance every year of maximum level flooding." Response Brief of City 28, n 9.

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1 determine under LDC 4.13.70.02.d.2 whether "encroachment into a Riparian Corridor area is
2 necessary to allow for utilization of" MADA.
3 The fourth assignment of error is sustained, in part.
4 The city's decision is remanded.

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
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Community Development
Planning Division
501 SW Madison Avenue
Corvallis, OR 97333

CORVALLIS CITY COUNCIL
NOTICE OF DISPOSITION

ORDER # 2010-077

CASE: **Creekside Center I & II**
(PLD09-00004 / CDP09-00003 / SUB09-00002)

REQUEST: Appeals of a Planning Commission decision to approve a Conceptual and a Detailed Development Plan, a Conditional Development Permit, and a Tentative Subdivision Plat for the Creekside Center I & II development. The Conceptual & Detailed Development Plan is for a commercial (retail and restaurant) development on 6.64 acres. The development plans include approximately 43,000 sq. ft. of commercial floor area divided among seven buildings. The request includes approval of a Conditional Development Permit to allow a drive-through conditional use adjoining one of the buildings. The request also includes a commercial Tentative Subdivision Plat, creating 3 Lots and 4 Tracts. The Planned Development request also includes variations to Land Development Code (LDC) standards. The appeals concern a condition of approval related to floodplain development indemnification, and construction of a public multi-use path and detention facilities within Natural Hazard and Natural Resource areas.

APPLICANT: Oregon Architecture
Attn: Mark McKechnie
221 W 10th Street
Medford, OR 97501

OWNER: Apple Creek I LLC
PO Box 4460
Medford, OR 97501

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

Bret Fox
ThomasFox Properties LLC
515 W Pickett Circle - Suite 400
Salt Lake City, UT 84115

LOCATION: The site is located at the northwest corner of SW 53rd Street and Highway 20/34 (SW Philomath Boulevard). The site is identified on the Benton County Assessor's Map # 12-5-05 DD, as Tax Lots 500 and 600.

DECISION: The City Council held a duly-advertised *de novo* public hearing on the appeals on November 1, 2010. The City Council received a request to hold the record open for seven additional days, in order for the public to submit additional testimony. City Council allowed the record to be held open, and allowed the applicant to submit final written arguments by November 12, 2010. The City Council deliberated and reached a tentative decision on the appeals on November 15, 2010. After consideration of all the testimony and evidence, the City Council voted to uphold the Planning Commission's decision to

approve the request, and consequently, approved the Conceptual and Detailed Development Plan, Conditional Development Permit, and Tentative Subdivision Plat, upheld the appeal filed by ThomasFox Properties LLC, and denied the appeal filed by League of Women Voters Corvallis. On December 20, 2010, the City Council adopted Formal Findings in support of its decision.

If you wish to appeal this decision, an appeal must be filed with the State Land Use Board of Appeals within 21 days from the date of the decision. The proposal, staff report, hearing minutes, memoranda to City Council, and findings and conclusions may be reviewed at the Community Development Department, Planning Division, City Hall, 501 SW Madison Avenue.

Charles C. Tomlinson
Mayor, City of Corvallis

Signed: December 20, 2010
LUBA Appeal Deadline: January 10, 2011

Attachment A: Conditions of Approval
Attachment B: Detailed Development Plan, Conditional Development Permit and Tentative Subdivision Plat

CONCEPTUAL AND DETAILED DEVELOPMENT PLAN
EXPIRATION DATE (IF NOT APPEALED): **January 10, 2016**

If no appeal is filed by the LUBA appeal deadline, the Detailed Development Plan shall be valid for five (5) years. The approval shall expire on January 10, 2016, unless development occurs, an Active Detailed Development Plan is established in accordance with LDC Section 2.5.50.09, or the approval is otherwise extended consistent with the Corvallis Land Development Code.

CONDITIONAL DEVELOPMENT PERMIT
EXPIRATION DATE (IF NOT APPEALED): **January 10, 2013**

If no appeal is filed by the LUBA appeal deadline, the Conditional Development Permit shall be valid for two (2) years. The approval shall expire on January 10, 2013, unless development occurs consistent with the approved Conditional Development Permit, in accordance with LDC Section 2.3.30.09.

TENTATIVE SUBDIVISION PLAT
EXPIRATION DATE (IF NOT APPEALED): **January 10, 2013**

If no appeal is filed by the LUBA appeal deadline, the Tentative Subdivision Plat shall be valid for two (2) years. If the applicant has not submitted a Final Subdivision Plat within the two-year period (with appropriate assurances for improvements, if applicable), or a Tentative Subdivision Plat Modification has not been approved, all approvals shall expire.

EXTENSION OF APPROVALS
Where the Planning Commission finds that conditions have not changed, at its discretion and without a public hearing, the Planning Commission may extend the period of approvals for the Conditional Development Permit and Tentative Subdivision Plat noted above, consistent with LDC provisions in LDC 2.3.30.09 (Conditional Development Permit), and 2.4.30.09 (Tentative Subdivision Plat).

Attachment A - Conditions of Approval and Approved Plans for Creekside Center I & II (cases PLD09-00004, CDP09-00003, SUB09-00002)

Condition #	Condition Language
1	**Consistency with Plans** – Development shall comply with the narrative and plans identified in **Attachments G and H** of this Staff Report, except as modified by the conditions below, or unless a requested modification otherwise meets the criteria for a Minor Planned Development Modification, Conditional Development Modification, and/or a Subdivision Modification, as applicable. Such changes may be processed in accordance with Chapters 2.3, 2.4 & 2.5 of the Land Development Code.
2	**Adherence to Land Development Code standards** - Where variations are not explicitly authorized by approval of this Conceptual and Detailed Development Plan, all development on the Creekside Center site shall comply with applicable Land Development Code standards. Compliance shall be demonstrated at time of building permit submittal.
3	**Construction Phasing**- Except as modified by this condition below, construction phasing shall be consistent with the phase plan identified on Sheet SP1.11 (**see Attachment G - page 18)**. Minor changes to the phase plan may be administratively approved by the Community Development Director, where it can be shown that the Conceptual and Detailed Development Plan will be able to be fully implemented if changes in ownership of one or multiple lots within the development site occur. Phase 1 construction is limited to the extent of improvements identified on the active DSL fill permit. The required public multi-use path on the north side of Dunawi Creek shall be financially secured as indicated in **Condition # 10** below prior to issuance of any site construction or building permits for Buildings B, C, and F, and related site excavation contained within Phases 1D, 1E, and 2B. Documentation shall be provided to the Community Development Director that indicates that DSL and COE have approved associated wetland mitigation credits as described in **LDC § 4.11.50.02.c,** where development relies on those credits. Prior to issuance of any site construction or building permits for Phase 2, dedication of the local street ROW (West Corvallis Access Strategy local street) shall occur.

Condition #	Condition Language
4	**Department of State Lands (DSL) / Army Corps of Engineer (COE) Approvals Required** :The applicant has obtained a DSL fill permit (Permit No. 32863-FP Renewal) that authorizes development on a portion of Tax Lot 500, and has provided a copy of the permit to the City as part of this land use application (**see Attachment H - Pages 153-154** and **Attachment L**). The active DSL fill permit has an expiration date of November 22, 2010. City of Corvallis development permits may be issued for that portion of Tax Lot 500 identified within the scope of the active DSL fill permit, as long as the applicable City permits are issued prior to expiration of the active DSL fill permit. Areas of the proposed CDP/DDP that fall within the scope of the active DSL fill permit include Phases 1-A (Walgreen's), 1-B (Building A), and 1-C (Building D), and Phase 1 (associated site improvements), as defined by the dashed lines and phasing labels on the Project Phase Plan (Sheet SP1.11). Also refer to the surveyed wetlands overlay (Sheet SP1.3C), and limits of development identified on the "Wetlands Joint Permit Site Plan", dated June 15, 2004 (active DSL fill permit) as defined by upland areas and wetland impact area. Development of the proposed public multi-use path north of Dunawi Creek, the remainder of Phase 1 (Tax Lot 500 - Phases 1-D (Building C) and 1-E (Building B) and related site improvements), and Phase 2 (Tax Lot 600) is either not authorized under the scope of the active DSL fill permit, or relies on MADA credits associated with DSL-approved wetland mitigation that has not yet been authorized. No development permits shall be issued for work beyond the scope of the active DSL fill permit and/or after expiration of the active DSL fill permit, until supplemental documentation, as required in **LDC § 4.13.80.01.e** has been provided to the City. Permits for development that is reliant upon DSL-approved wetland mitigation associated with MADA credits under **LDC § 4.11.50.02.c.2** shall not be authorized until documentation of the approved mitigation has been provided to the City, consistent with **LDC § 4.11.50.02.c.2**.
5	**Archaeological Resources** - The developer shall contact the City Planning Division and the State Historic Preservation Office if discovery of archaeological resources occurs during any phase of construction. The developer shall acquire necessary permits before proceeding, if resources are found.

Condition #	Condition Language
6	**Vehicle Parking - MADA Calculations** - With submittal of the site development permit applications, the developer may reduce the amount of required vehicle parking constructed by up to 15%, in accordance with LDC § 4.11.50.03, to achieve the MADA and minimize development encroachments into protected Natural Resource and Natural Hazard areas. If the developer chooses to use this LDC provision, areas originally illustrated as vehicle parking on the CDP/DDP and intended to be eliminated shall abut undisturbed Natural Resource / Natural Hazard areas and shall be added to the area noted as undisturbed and outside the limits of grading, as illustrated on Sheet SP1.5. The development shall otherwise comply with the minimum and maximum parking space requirements specified in LDC Chapter 4.1.
7	**MADA Calculations:** With submittal of site development permit applications, the applicant shall include a complete analysis of Natural Features and Natural Hazards protections and Minimum Assured Development Area (MADA) for Development Services staff review and approval. The MADA analysis shall outline and graphically illustrate the components of the proposed development which encroach into Natural Features and Natural Hazards areas based on a final excavation and grading plan, showing the limits of development and calculating said area. Final MADA calculations shall be provided per LDC Section 4.11.40.f. Supplemental documentation shall be provided which lists MADA credits utilized under LDC Section 4.11.50.02.c, and shall include additional documentation from DSL and COE as necessary to verify mitigation credits received pursuant to LDC Section 4.11.50.02.c.2. Upon final acceptance by the City of MADA calculations, and recordation of a final plat for the development, the City's Official Zoning Map shall be updated to reflect the use of the MADA allowances on the subject development site.
8	**Natural Features Protection Fencing** - Prior to issuance of any site construction or PIPC permits, the applicant shall install construction fencing along the "Limits of Grading" identified on Sheet SP1.5. Silt fencing or other approved erosion control measures shall be installed along the "Limits of Construction" (on the development side of the construction fence) per the City's adopted Erosion Prevention and Sediment Control Manual. Construction fencing shall remain in place throughout all phases of construction.

Condition #	Condition Language
9	**Barricades** - When constructed, the proposed local street and public multi-use path shall have barricades erected at the northern terminus of the street and west end of the multi-use path. Barricade details shall be included with the construction drawings submitted as part of the PIPC application (local street) or for the private improvements associated with the development (multi-use path).
10	**Pre-Payment for Public Multi-Use Path Construction (Dunawi Creek)** - The Applicant shall deposit with the appropriate City official an amount of cash equal to the estimated cost of the construction of the Dunawi Creek multi-use path, prior to issuance of site development permits for Phases 1E, 1D, or 2, whichever occurs first. The estimated cost shall be prepared by the Applicant and approved by the City, and shall be based upon a multi-use path, located within the multi-use path easement area shown on Sheet SP1.10, that meets applicable City and DSL standards for construction and alignment, and accounts for necessary excavation and fill and any other reasonably related requirements imposed by the City. The City shall place this money in the appropriate account and shall use it only for construction of the path. In the event that the City determines not to build the path, the City shall refund the money to the Applicant within a reasonable time period. With submittal of the construction cost estimate, the Applicant shall include documentation of an approved fill permit, as required for wetland construction and wetland mitigation by the Oregon Department of State Lands("DSL") and the United States Army Corps of Engineers("Corps"), which documents final acceptance by these agencies of the multi-use path construction and alignment. The cost of obtaining any necessary permits from DSL and the Corps shall be paid by the Applicant. With submittal of the construction cost estimate, the applicant shall include construction details for the multi-use path that comply with Parks Department trail construction guidelines and DSL requirements, and includes the bench, as identified on Sheet SP1.4, if permitted by DSL. Path construction shall generally follow the "Design and Development Policies" of the adopted Park and Recreation Facilities Plan (Page 5-2), and final path alignment shall occur so as to minimize removal of significant riparian vegetation and to minimize impacts to the properly functioning condition of the riparian corridor / drainageway. The City shall make the final determination of when the path is to be constructed, based on Project Implementation guidelines established in City Council Policy 99-7.14.

Condition #	Condition Language
11	**Weather Protection** – All required weather protection (canopies) along building facades shall be at least 8-ft. above the adjacent sidewalk and extend from the building face a minimum of 6-ft., per **LDC § 4.10.70.05.a.1**.
12	**Fire Code – Addressing** - Prior to issuance of a final certificate of occupancy, address numbers shall be provided that are a minimum of 6 inches in height, contrast with their background, be readable from the access drive, and readily visible at night. Where structures are set back more than 250 feet from the street, larger numbers will be required so that they are distinguishable from the street of address reference. In the event the structure(s) is not visible from the street, the address number(s) shall be posted adjacent to the driveway entrance. Ref: OFC 505.1, 2007 ed, CFD Guideline 11.2.1 (available on the City website).
13	**Fire Code – Water Supply and Construction Timing** - The water supply, including mains and hydrants, shall be in-service PRIOR to building construction proceeding above the level of the foundation. This project will require water mains and fire hydrants to be extended on-site for coverage. Ref: OFC 501.4, 2007 ed.
14	**Wheelstops for Parking Abutting Landscape Buffers -** With submittal of the site development permit applications, the applicant shall clearly indicate that concrete wheel stops are provided for all vehicle parking spaces that abut required landscape buffers, where the landscape buffer is less than 7.5-ft. in depth, in order to ensure a minimum planted area of 5 feet and to prevent damage to the plants from the bumper overhangs, per LDC Section 4.2.40.a. Additionally, wheel stops shall be provided for all vehicle parking spaces that face tree wells in sidewalks (adjacent to Buildings B,C, D, and F) in order to protect against possible damage to the tree trunks and vehicles.
15	**Exterior Lighting** – All exterior light fixtures and appurtenances shall comply with LDC Section 4.2.80. As noted in the narrative and Detailed Development Plan attachments, glare shields and other fixture attachments will be required to ensure that when evaluated from a point four ft. above the ground, bulbs of light fixtures are not visible from adjacent property. Documentation shall be provided to the Development Services Division, for verification of compliance with these standards, prior to issuance of required permits.

Condition #	Condition Language
16	**Commercial Driveway Approaches Required** - With submittal of the site development permit applications (including those required by Benton County and ODOT), the applicant shall provide Corvallis standard commercial driveway approaches for all driveways and the private Shopping Street, where they intersect with adjacent public streets.
17	**Pedestrian Crossings at Drive Aisles:** As noted in the application narrative, and with submittal of the site development permit applications (including those required by Benton County and ODOT), the applicant shall clearly indicate that all pedestrian crossings at internal streets (private Shopping Street), drive aisles, parking aisles, and commercial driveway approaches, are constructed of paving materials that contrast with the abutting pavement used for vehicular circulation, in conformance with **LDC § 4.10.70.03.a.5**. This includes one driveway entrance on 53rd Street, one driveway entrance on Philomath Blvd. (at private Shopping Street), and two driveways that intersect with the new local street, the drive aisle crossings between Buildings E and F, the Shopping Street crossing between Buildings F and C, the drive aisle crossing between Buildings C and D, and the drive aisle crossing between the Walgreen's building and Building B / pedestrian plaza.
18	**Bicycle Parking** - With submittal of the site construction permit applications, the applicant shall provide a minimum of 12 bicycle parking stalls, consistent with LDC Chapter 4.1 and the City's standard detail # 503. Covered bicycle shelters shall be provided as illustrated on Sheet SP1.2 (east of Building B and east of Walgreen's). Each bicycle shelter shall provide weather protection for four bicycles, consistent with LDC § 4.1.70.d as illustrated.
19	**Building Setback and Conformance to Proposed Grading Plans / Detail DD** - Any changes to final grading, noted on the Conceptual Grading Plans, will require a Planned Development Modification, as defined in the Planned Development Modification Criteria in **LDC § 2.5.60**. Since the limits of grading in areas on the south side of Dunawi Creek will generally follow the required drainageway easement line and in some cases be adjacent to the 0.2 floodway line, Building B shall be setback a minimum of 3 feet from this grading limits/easement line as shown in the applicant's attachment DD, in order to ensure that all development and associate construction fencing / erosion control fencing is located outside of the 0.2'-Floodway and drainageway easement area.

Condition #	Condition Language
20	**SW 53rd Street Improvements** - Improvements to SW 53rd Street along the site frontage shall be consistent with the improvements outlined by Benton County in a letter dated February 5, 2009 (**Attachment K**), including a 12-foot left turn lane, 11-foot through lane, 6- foot bicycle lane, 11-foot right turn lane, 6-foot planter strip and 10-foot multi-use path. Transitions, including the bike lane, will be reviewed and approved with the construction plans submitted to Benton County and the City. A median restricting left turn movements to and from the site shall also be installed. A minimum ROW dedication of 50 feet from the original Centerline is necessary to construct these improvements. Improvements shall be installed or secured per **LDC § 4.0.20** prior to approval of the final plat.
21	**County Permits** - Currently SW 53rd Street is under County Jurisdiction. Access and construction plans for SW 53rd Street including storm drainage will be subject to County Review and permitting. If the applicant is unable to obtain approval for the proposed street improvements, and modifications to these improvements are required, a Planned Development Modification approval will be required, consistent with **LDC § 2.5.50.10.**
22	**Hwy. 20/34 Improvements** - Improvements to the Highway shall be consistent with those shown on the applicants sheet SP 1.2 and as permitted by ODOT. These improvements consist of installation of a right turn pocket into the site at the new access point to the shopping street, extending the east bound left turn lane on the Highway at SW 53rd Street to the maximum possible while still accommodating the full movement access, installation of a two-way left turn lane from Hwy. 20/34 into the site, a bike lane, curb and gutter, a planter strip varying in width from 12 feet to 24 feet, and a 6-foot sidewalk. The 6-foot public sidewalk shown in the applicant's plan adjacent to the Walgreen's building will need to be located in the ROW. A minimum ROW dedication of 57 feet from the original Centerline is necessary to construct these improvements. Improvements shall be installed or secured per LDC section 4.0.20 prior to approval of the final plat. If the applicant is unable to obtain approval for the proposed street improvements, and modifications to these improvements are required, a Planned Development Modification approval will be required, consistent with **LDC § 2.5.50.10.**
23	**ODOT Permits** - Currently Hwy. 20/34(Philomath Blvd.) is under ODOT Jurisdiction. Access and construction plans for Hwy. 20/34, including storm drainage, will be subject to ODOT Review and permitting. If ODOT requires the access to move to the west, the applicant will be required to apply for a Planned Development Modification.

Condition #	Condition Language
24	**Local street improvements across lot 600** - The local street across tax lot 600 shall be constructed prior to issuance of any building permits, per City Council Policy CP91-7.04, on tax lot 600 (Phase 2). This street shall consist of a minimum 20 feet of pavement and 5-foot curbside sidewalks on both sides. Curb radii and intersection design shall accommodate Fire Department apparatus. Storm Drainage and other City utilities as required to serve this parcel, and stubbed to adjacent parcels per LDC section 4.0.70.d shall be constructed with the street improvements. A reservation for this ROW shall be shown on the final plat. Dedication of ROW shall occur prior to issuance of any building permits for phase 2.
25	**Public Improvements** - Any plans for public improvements referenced within the application or this staff report shall not be considered final engineered public improvement plans. Prior to issuance of any structural or site utility construction permits, the applicant shall obtain approval of, and permits for, engineered plans for public improvements by private contract (PIPC) from the City's Engineering Division. The applicant shall submit necessary engineered plans and studies for public utility and transportation systems to ensure that adequate street, water, sewer, storm drainage and street lighting improvements are provided. Street signs and curb markings will be reviewed and approved with the PIPC plans. Final utility alignments that maximize separation from adjacent utilities and street trees shall be engineered with the plans for public improvements in accordance with all applicable LDC criteria and City, DEQ and Oregon Health Division requirements for utility separations Public improvement plan submittals will be reviewed and approved by the City Engineer under the procedures outlined in Land Development Code Section 4.0.80.
26	**Multi-Use Path and Driveway Access to SW 53rd Street** - The multi-use path across the driveway access on SW 53rd Street shall be constructed of paving materials that contrast with both the commercial driveway approach and existing path. Truncated domes may be located on each side of the driveway approach on the multi-use path. If grades allow, the path should be located in a raised crossing across the commercial driveway approach. Appropriate signing including a stop sign meeting MUTCD requirements for retroreflectivity for vehicles exiting the site shall be located at the crossing. This path is under Benton County jurisdiction. Benton County is responsible for issuing permits associated with the driveway and multi-use path.

Condition #	Condition Language
27	**Water Line** - Per LDC section 4.0.20, prior to approval of the final plat, the applicant shall install an 8-inch minimum waterline from the current location along Hwy. 20/34 through the property to the boundary of tax lot 400. Final design and line sizing shall include engineering calculations addressing flow requirements. Final fire hydrant locations and waterline alignment including clearance from landscaping will be reviewed with the final PIPC permit construction plans. Any easements for future waterlines shall be located outside of the construction limits for a future bridge or culvert that would cross Dunawi Creek.
28	**Sewer Services** - Each lot shall have an individual connection to a public sewer. Sewers, either public or private, are installed by the applicant at the applicant's expense. Installation of individual private sanitary sewer lateral extensions will be subject to permitting through the City's Development Services Division. If these laterals cross property lines, private easements shall be provided. Common private sewers serving more than one parcel/lot are not allowed except as noted in LDC section 4.0670.f.
29	**Private Storm Drainage** - Installation of the private storm drainage system will be subject to permitting through the City's Development Services Division and shall comply with improvements shown on sheet SP1.5. The detention facilities shall be located as shown with one facility under the shopping street and one detention pond. As proposed, the water quality facilities for the site include Stormfilter™ cartridges. A private maintenance agreement with enforcement provisions to ensure maintenance for these facilities shall be established in accordance with LDC sections 4.0.70.f and 4..0.60.d prior to permitting these improvements. As part of the proposed storm water management plan for the site, 5100 sq. ft of pervious pavement in addition to the drive up lane for Walgreens shall be installed with Phase I. Private stormwater facilities shall not be located within any existing or future public street ROW.

Condition #	Condition Language
30	**Private Water Quality Facility Design** - As part of the building plans, the developer shall provide engineered calculations for storm water quality facilities demonstrating compliance with both criteria outlined in Appendix F of the Storm Water Master Plan, and criteria outlined in the King County, Washington Surface Water Design Manual. Infiltration facilities are a recommended means of meeting water quality requirements where soil and slope conditions (not more than 10%) permit the use of infiltration facilities and where the facilities will not have an adverse impact on the subject site or adjacent or downhill properties. The water quality analysis shall contain a discussion on the feasibility of implementing infiltration during both wet and dry seasons. The use of pervious pavements may reduce the contributing area used in the treatment volume calculations. A private maintenance agreement with enforcement provisions to ensure maintenance for this facility shall be established in accordance with LDC sections 4.0.70.f and 4.0.60.d.
31	**Private Stormwater Detention** - Concurrent with development, stormwater detention shall be implemented. Infiltration and open storm water facilities should be considered. The storm water detention facilities should be designed consistent with both criteria outlined in Appendix F of the Storm Water Master Plan, and criteria outlined in the King County, Washington, Surface Water Design Manual, and should be designed to capture and release run-off so the run-off rates from the site after development do not exceed the pre-developed conditions, based on the 2-year, 5-year, and 10-year, 24-hour design storms. Installation of the private storm drainage system will be subject to permitting through the City's Development Services Division. The use of pervious pavements may reduce the contributing area used in the detention volume calculations. A private maintenance agreement with enforcement provisions to ensure maintenance for this facility shall be established in accordance with LDC sections 4.0.70.f and 4.0.60.d.

Condition #	Condition Language
32	**Public Water Quality Facility Design** - As part of the PIPC plans for the local street, the developer shall provide engineered calculations for storm water quality facilities demonstrating compliance with design criteria outlined in the LDC, Appendix F of the Storm Water Master Plan, and design criteria outlined in the King County Washington, Surface Water Design Manual(KCWSWDM). Acceptable facilities are listed under section 6.1.1 of the KCWSWDM (2009). Infiltration facilities are a recommended means of meeting water quality requirements where soil and slope conditions (not more than 10%) permit the use of infiltration facilities and where the facilities will not have an adverse impact on the subject site or adjacent or downhill properties. The water quality facilities shall be designed to remove 70 percent of the total suspended solids (TSS) entering the facility during the water quality design storm, 0.9" 24-hr rainfall event with NRCS Type 1A distribution. The facility shall be designed to allow a 100-year storm event to pass through or a separate bypass provided.
33	**Public Stormwater Detention** - Concurrent with development and application for PIPC permits for the local street, stormwater detention shall be implemented. The storm water detention facilities shall be designed consistent with design criteria outlined in Appendix F of the Storm Water Master Plan, and design criteria outlined in the King County, Washington, Surface Water Design Manual, and shall be designed to capture and release run-off so the run-off rates from the site after development do not exceed the pre-developed conditions, based on the 2-year, 5-year, and 10-year, 24-hour design storms. The facility shall be designed to allow a 100-year storm event to pass through. Installation of the public storm drainage system will be subject to the PIPC plans permitting process.
34	**Floodplain Permits** - Per **LDC § 4.5.50.02.e**, All necessary permits from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, as amended, shall be obtained, or obtaining such permits shall be a Condition of Approval to be satisfied prior to issuance of any construction permit.
35	**Franchise Utilities** - Prior to issuance of public improvement permits, the applicant shall submit, as part of the public improvement plan set, an overall site utility plan that shows existing and proposed franchise utility locations, including vaults, poles and pedestals. Except as specified in **Condition # 39-E**, the proposed franchise utilities shall conform to requirements outlined in the LDC section 4.0.100, including provision of appropriate utility easements. The applicant shall provide confirmation the franchise utilities have reviewed these plans prior to review by the City.

Condition #	Condition Language
36 - a	**<u>Landscaping Construction and Maintenance</u>** – The following landscaping provisions shall apply to overall development of the site: **<u>Landscape Construction Documents</u>** - Concurrent with submittal of public and private site improvement and building permit applications, the applicant shall submit for review and approval by the Development Services Division, landscape construction documents, which contain a specific planting plan (including correct Latin and common plant names), a Significant Vegetation preservation plan, construction plans, irrigation plans, details, and specifications for all required landscaped areas on the site. The irrigation plans shall indicate source of water, pipe location and size, and specifications for backflow prevention. The irrigation system shall utilize 100 percent sprinkler head-to-head coverage or sufficient coverage to ensure 90 percent coverage of plant materials in three years. Plantings shall be provided as shown on Sheet SP1.4 - Conceptual Landscape Plan, except as modified by the additional conditions below. Where a particular plant or irrigation standard is not specifically mentioned below, the plans shall comply with LDC Chapter 4.2. As proposed by the applicant, small, medium (**2.25-inch caliper minimum**), and large canopy trees (along portions of the east side of the proposed Shopping Street) shall be provided as specified. Tree plantings shall match planting standards adopted by the Urban Forester. The landscape construction documents shall include an overlay drawing which illustrates proposed plantings and existing and proposed underground utilities, in order to ensure that plantings and utilities meet the separation requirements outlined in **LDC § 4.2.30.b**.

Condition #	Condition Language
36-b	**Significant Vegetation Preservation Plan** - As specified in the preceding condition, the applicant shall submit a Significant Vegetation preservation plan, for Development Services staff review and approval. The plan shall be consistent with the standards in **LDC § 4.12.60.f** and **LDC § 4.2.20.d.2.b.** Vegetation required to be protected includes all vegetation and associated Circles of Protection completely within Natural Features protection areas (as delineated by the "limits of grading" identified on Sheet SP1.5), specific trees identified for protection on Sheet SP1.4 and Attachment CC, and all Significant Trees where tree trunks are located within the Natural Features protection areas but where the associated Circle of Protection crosses the "limits of grading" boundary. In cases where the Circle of Protection crosses the "limits of grading" boundary, the Significant Vegetation preservation plan shall include a report by the project arborist that describes the health of the subject vegetation and best practices for preservation of the vegetation. Protective fencing shall be provided and all such fencing shall be in place prior issuance of an Excavation and Grading Permit. Fencing shall be maintained throughout all phases of construction, consistent with **LDC § 4.12.60.f.**
36-c	**Special Soil Preparation - Planting Techniques** - With submittal of the landscape construction documents, the applicant shall include construction details that identify special planting techniques and soil preparation to be used in locations where required trees are located within 5 feet of a permanent paved surface such as the parking lot pavement and pedestrian sidewalks. The construction detail shall be reviewed and approved by Development Services staff and the Urban Forester. Soil mixture and sub-base preparation shall be monitored in the field to comply with the special planting techniques.
36-d	**Re-vegetation of Streambanks**- Those portions of the Highly Protected Riparian Corridor where encroachments are allowed to occur per MADA, that have been graded but not occupied by buildings or pavement shall be planted and restored. With submittal of the landscape construction documents, the applicant shall provide supplemental plantings in the subject areas consistent with **LDC § 4.13.50.d**.
36-e	**Residential Landscape Screen along West Property Line** – With submittal of the landscape construction documents, the applicant shall include a mix of trees, shrubs, and groundcover within the planter located along the west property line of Tax Lot 600, to achieve a mix of plant materials, as prescribed in the **LDC § 4.2.40**, and to provide an effective screen consistent with **LDC § 4.2.50.**

Condition #	Condition Language
36-f	**Parking Landscape Buffers**– With submittal of the landscape construction documents, the applicant shall include a mix of trees, shrubs, and groundcover within the planter that abuts the vehicle parking stalls between Walgreen's and Building A, and within the planter that abuts the vehicle parking stalls immediately north of Building A, so that an effective buffer has been provided between the vehicle parking and public right-of-way. Plantings shall be consistent with **LDC § 4.2.40.a.**
36-g	**Planters Along Building Walls**: In order to comply with **LDC § 4.10.70.03.a.1**, planters shall be provided abutting the entire length of applicable building walls in addition to the weather protection canopies that are proposed. Planters need not be provided under the proposed weather protection or where tenant doors interrupt the planters.
36-h	**Pedestrian Amenities** - With submittal of the landscape construction documents, the applicant shall provide benches, planter benches, pedestrian plazas, and tree caliper sizes as proposed and illustrated on Sheets SP1.2 and SP1.4 , and as required per **LDC § 4.10.70.05.a.4**.
36-I	**SW Philomath Blvd Frontage Landscaping**: With submittal of the landscape construction documents, the applicant shall provide street trees along the development site's SW Philomath Boulevard frontage, consistent with **LDC § 4.2.30.** Tree trunks shall be located a minimum of 10 feet from the existing sewer and water mains along the SW Philomath Blvd. frontage, and shall otherwise meet the separation requirements outlined in **LDC § 4.2.30.b**. Trees shall be located as far north as possible within the planter strip, while maintaining the utility spacing noted above, in order to encourage protection of the street trees in the event that SW Philomath Blvd. is widened to four lanes in the future. Street tree species shall be reviewed and approved by the City's Urban Forester and ODOT. The applicant shall include in the required Detailed Planting Plan, additional shrubs and groundcover that provide a visual vertical planting buffer along the entire length of highway frontage, between the south edge of the public sidewalk and the curb on SW Philomath Blvd. All plantings within the SW Philomath Blvd. park strip shall comply with the vision clearance requirements established by ODOT.

Condition #	Condition Language
36-j	**SW 53rd Street Frontage Landscaping** - As noted in the project narrative, the developer intends to provide enhanced landscaping along the site's SW 53rd Street frontage, in order to compensate for the reduced width parkway. With submittal of the landscape construction documents, the applicant shall include additional shrubs and groundcover within the 6-ft. parkway, and additional trees, shrubs, and groundcover within the landscaped area between the row of (7) seven vehicle parking spaces north of Building A and the sidewalk/multi-use path on SW 53rd Street. Shrubs within the 6-ft. parkway shall be of a species and size that is compliant with the vision clearance standards established by the City Engineer and Benton County.
36-k	**Detention Facility Landscaping** - With submittal of the landscape construction documents, the applicant shall include additional plant materials within the bio-retention facilities that provide erosion control and biofiltration, consistent with **LDC § 4.2.50.04.**
36-l	**Inspections and Three Year Maintenance Guarantee** - All landscaping and irrigation associated with Phase I shall be installed, inspected, and approved by the Development Services Division, prior to or concurrent with final inspections for the final building to receive an occupancy permit within Phase I. All landscaping and irrigation associated with Phase II shall be installed, inspected, and approved by the Development Services Division, prior to or concurrent with final inspections for the final building to receive an occupancy permit within Phase II. Prior to final acceptance of the installation of required landscaping by the City for each phase, the applicant shall provide a three year maintenance bond or other financial assurance to the Development Services Division for review and approval. This financial assurance is to cover the required three year landscape maintenance period which begins at the time the landscape installation is approved by the City. This includes achieving the minimum 90 percent coverage specified by Code. Required landscaping is illustrated on the landscape plan submitted to comply with item (a) above and as modified by this Condition. Exceptions to the plantings shown on Attachment G may be administratively approved by the Development Services Division where, due to plant availability or performance issues, minor changes are warranted. Plant substitutions shall meet the LDC performance criteria and maintain at least the minimum plant density and plant size as specified in this Condition and on Attachment G.

Condition #	Condition Language
36-m	**Vision Clearance Areas and Plantings** - With submittal of the landscape construction documents, the applicant shall illustrate the required vision clearance areas for all applicable driveway and street intersections. In addition to the requirement to comply with the City's vision clearance standards, the applicant shall coordinate with ODOT and Benton County to ensure related vision clearance standards are satisfied. All planting located within vision clearance areas shall comply with the height limitations of the applicable jurisdiction's vision clearance standards.
36-n	**Tree Spacing**- The Conceptual Landscape and Utility Plans show potential conflicts between required trees and utilities such as public water lines and fire hydrants. Per **LDC § 4.2.30.b.2**, a minimum 10-ft. separation is required between these public utilities and tree trunks. With submittal of PIPC and site construction permit applications, the applicant shall include an overlay of existing and proposed utilities and all trees, and illustrate that the LDC spacing requirements are satisfied. Proposed utility locations may need to be adjusted in order to accommodate the required landscaping.
36-o	**Three-Year Maintenance Guarantee Release -** The developer and/or POA shall provide a report to the Development Services Division just prior to the end of the three year maintenance period for each individual 3-Year Maintenance Bond initiated by this Detailed Development Plan, as prescribed in **LDC § 4.2.20.a.3** of the LDC. The report shall be prepared by a licensed arborist or licensed landscape contractor and shall verify that 90 percent ground coverage has been achieved, either by successful plantings or by the installation of replacement plantings. The Director shall approve the report prior to release of the guarantee.
37	**Signs** – All signs associated with the Creekside Center I and II shall comply with LDC Chapter 4.7.
38	**Vision Clearance** - Prior to issuance of site construction and PIPC permit applications, the applicant will need to verify with the City's Development Services Division, that all vision clearance standards, as adopted by the City Engineer, Benton County, and ODOT, are maintained at the intersections of all site driveways, the Shopping Street, and the public streets that abut the development site.

Condition #	Condition Language
39-a	**Final Plat - ROW Dedication/Easements/Reservation** - Any easements or ROW dedications shall be shown on the plat. Easements for water, sewer, and storm drainage shall be provided for facilities located outside the ROW. Minimum easement width shall be per LDC section 4.0.100.a. The reservations for future ROW's shall be noted on the plat and shall be dedicated with the appropriate phases. An environmental assessment for all land to be dedicated must be completed in accordance with LDC Section 4.0.100.g and provided to the City concurrent with Final Plat submittal. As proposed, a reservation for the local street ROW (West Corvallis Access Strategy local street) shall be shown on the final plat. Dedication of ROW shall occur prior to issuance of any building permits for Phase 2.
39-b	**Final Plat Easements – Public Pedestrian and Bicycle Access** - With submittal of the final plat, the applicant shall include a declaration for and shall graphically illustrate public access easements for the two proposed public multi-use paths where located on private property, for all sidewalks that are located on private property and which are intended to represent Block Perimeter connections or public street frontage sidewalk, and for the proposed pedestrian plazas (per **LDC § 4.10.70.05.a.4**). The declaration language shall specify the purpose, ownership, and party responsible for maintenance of the improvements located within the easement area(s).
39-c	**Final Plat Tract and Easement (Shopping Street)** - With submittal of the final plat, the property owner shall include in the plat declarations, the proposed private Shopping Street Tract, located at the southwest corner of the site ("Lot 551"). The declaration language shall specify the purpose, ownership, and party responsible for maintenance of the private Shopping Street. The declarations shall include a public access easement over the entirety of the Shopping Street Tract, as specified in **LDC § 4.0.60.m.2.b**. A private maintenance agreement with enforcement provisions to ensure maintenance for this facility shall be established in accordance with **LDC § 4.0.60.d**. The private Shopping Street dimensions are shown on Sheet SP 1.2 of the application. Commercial approaches shall be required at each end to delineate the private street and provide a raised pedestrian crossing with contrasting paving materials, consistent with **LDC § 4.10.70.03.a.5**. Private improvements associated with Phase I as shown on Sheet SP 1.11 shall be installed or secured per **LDC § 4.0.20** prior to approval of the final plat. Private improvements associated with Phase II shall be installed prior to issuance of any Certificates of Occupancy for that phase.

Condition #	Condition Language
39-d	**Final Plat Tract and Easement (Drainageway and Natural Features Preservation)** - With submittal of the final plat, the property owner shall include in the plat declarations, a dedication for the proposed Drainageway and Natural Features Tracts ("Lot 550" and "Lot 601"). The declaration language shall specify the purpose, ownership, and party responsible for maintenance of the Tracts. The declarations shall also grant to the City of Corvallis, a public drainageway easement within the Tracts, as specified per **LDC § 4.13.70.02.d**. A minimum drainage way easement of 50-feet shall be provided along the north side of Dunawi Creek. On the south side of Dunawi Creek the easement will need to follow the grading limits line as shown on sheet SP1.5. Since the limits of grading will be the easement line and in some cases the 0.2 floodway line, Building B shall be setback 3 feet from this grading limits/easement line as shown in the applicant's attachment DD. A public drainage easement will also be needed under or through the private creek crossing at the east end of the site up to SW 53rd Street. The easement will need to outline the private maintenance responsibilities of the creek crossing associated with the site access.
39-e	**Final Plat - Franchise Utility Easements** - According to LDC Section 4.0.100.b, a 7-foot Utility Easement (UE) is required adjacent to all street ROWs. This UE is granted at the time of the plat. In addition, a 7-foot wide UE shall be provided along or under the private shopping street. The applicant may provide A UE on one side of the public local street as proposed if the applicant confirms via letters from the franchise utility companies that this easement is not needed on both sides of the street and the area will be able to be fully served by franchise utilities. If these letters are not provided, the applicant will need to grant a UE consistent with LDC requirements which may require a modification to the land use approvals.
39-f	**Final Plat Reciprocal Access Easement** - With submittal of the final plat, the property owner shall include in the plat declarations, a dedication for a private reciprocal access easement to ensure that vehicle access is maintained within and between all lots that share driveways and parking. The declaration language shall specify the purpose, ownership, and party responsible for maintenance of the reciprocal access easement.

Condition #	Condition Language
39-g	**Final Plat - Public Sewer Easement** - A minimum sewer easement 15 feet wide shall be granted for the existing sewer line through the site. The Easements shall be centered over the utility they are for. The easement for the sewer line extending to tax lot 400 and across Dunawi Creek shall be located outside the Construction limits for a future bridge or culvert across Dunawi Creek. If a bridge were located over City Utilities, the footings could impact the line and it may be difficult to access the sewer line for maintenance. Due to the size of the existing 18-inch sewer line, it is recommended that no building be built within 10 feet of the actual location of the sewer line based on field locates.
39-h	**Final Plat - Easements**- Any easements for future waterlines shall be located outside of the construction limits for a future bridge or culvert that would cross Dunawi Creek. If private sewer laterals cross property lines, private easements shall be provided on the final plat. Common private sewers serving more than one parcel/lot are not allowed except as noted in **LDC § 4.0.70.**
39-l	**Final Plat - Easement for Public Wet Pond** - With Phase 2 of the development and dedication of the future local street ROW, an easement shall be granted for the combined water quality and detention pond shown on Sheet SP1.5
39-j	**Final Plat - Common Landscape Maintenance Easement** - In order to ensure an understanding between all individual lot owners that landscaping maintenance is to be a responsibility of the Property Owner's Association (POA), common landscape maintenance easements, or a "blanket easement" shall be dedicated on the final plat. A dedication statement shall be included on the final plat that describes the purpose of the easement, and specifies that the POA is the grantee and party responsible for maintenance of landscaping within the common easement (the POA).
39-k	**Final Plat Submittal Required** -Except as supplemented by these conditions of approval, a Final Plat shall be submitted as outlined in **LDC § 2.4.40**, to formalize City approval of the Tentative Subdivision Plat. The submittal shall be made to the Planning Division for review and final approval, prior to issuance of any Certificate of Occupancy. The Final Plat may occur in Phases as proposed, as long as all public and private easement and right-of-way dedications (or reservations where proposed), public and private improvement installations, and Tract dedication requirements associated with each Phase are otherwise satisfied. Phasing of the final plat shall be consistent with the Project Phase Plan, identified on Sheet SP1.11 and the Tentative Plat identified on Sheet SP1.10.

Condition #	Condition Language
39-I	**Final Plat - Electronic Version of Final Plat** - Provide an electronic version of the final plat, including all required revisions, at the time that the final version is routed through the City for signatures. The electronic files shall match the City's Geographic Information Systems (GIS) standards for electronic files.
40	**Additional Floodplain Study and Revisions to Detailed Development Plan** - With submittal of the site excavation and grading permit application, where grading is proposed within the pre-development floodway fringe, the applicant shall provide a revised floodplain study and site grading plans which demonstrates that the post-development floodplain elevation on adjacent properties is no greater than the pre-development condition. The post-development floodplain boundary shall not expand horizontally beyond the limits of the pre-development floodplain boundary as it currently exists on adjacent properties. The applicant may choose to reduce or eliminate building area associated with Phases 1D (Building C), 1E (Building B), and Phase 2, as well as associated vehicle parking, if it is necessary to accommodate flood water volume and meet this condition of approval. The Planning Commission finds that if building area is reduced in order to comply with this condition, the minimum Floor Area Ratio (FAR) requirement of 0.25, as specified in LDC § 3.19.40.03, may be reduced below 0.25. If this occurs, the Planning Commission finds that a compensating benefit has been provided for the variation to FAR in the form of no net impact upon adjacent properties due to development within the floodway fringe.
41 *	**Floodplain Impacts Indemnification - Prior to issuance of building permits for structures or grading within floodplain areas, the applicant shall sign an Indemnification and Release Agreement, provided by the City. The Agreement shall indemnify and release the City from potential liability resulting from issuance of this approval and all building permits that result in damage to person or property directly or indirectly related to flooding created, caused, or contributed to by his / her / its development activities adjacent to or within the floodplain. This Indemnity and Release Agreement shall be recorded against the property and shall run with the land.**

**** Condition of Approval # 41 modified by City Council***

DEVELOPMENT RELATED CONCERNS:

A. **FEMA Mapping and Regulations** - As part of the FEMA map modernization process, FEMA is updating the Benton County Flood Insurance Study by digitizing the current paper maps. No new FEMA studies are being done. However, because the digitization is based on topographic maps, some of the floodplain boundaries

are different and more accurate than the boundaries shown on the current paper maps. When the digitized maps are ready for implementation, FEMA will issue a Letter of Final Determination for the Benton County Flood Insurance Study. The most recent FEMA estimate is that this Letter of Determination is likely to be issued in September, 2010. Within six months following that date, the City of Corvallis will be required to process and implement Land Development Code Text Amendments to fully address the National Flood Insurance Program (NFIP) regulations. Failure to accomplish this task will result in the City's exclusion from the National Flood Insurance Program. Additionally, at the conclusion of the six-month period following the FEMA issuance of the Letter of Final Determination for the Benton County Flood Insurance Study, the City will be required to use the new FEMA maps for all activities. These activities include the issuance of Building Permits and Construction permits, irrespective of any prior issued land use permits, and irrespective of when applications were submitted.

The NFIP regulations require a Floodplain Development Permit for all proposed construction and other development in the community, where such construction and/or other development occurs within the 100-yr. floodplain. This includes sites where the 100-yr. floodplain is not currently mapped by FEMA or the City of Corvallis, but where independent floodplain studies have confirmed the presence of the 100-yr. floodplain. As part of the Land Development Code Text Amendment process, the City will be implementing the mandated Floodplain Development Permit process and any other NFIP regulations that are not already addressed by the combination of the City's land use, building permit, and construction permit processes. The purpose of this Development Related Concern is to inform you that Staff anticipate changes to floodplain mapping and regulations in the near future, which affect how buildings and site improvements are constructed on this site. Refer also to the 2005 ASCE - Chapter 24.05.

B. **Excavation and Grading Permit Required** - In order to protect the environment from the impacts of erosion due to ground disturbing activities, excavation and grading plans including erosion control methods shall be submitted to the City's Development Services Division for review and approval prior to undertaking any ground disturbing activity. Upon approval by the Development Services Division, an Excavation (EXC) permit can be issued.

C. **Future Development of Tax lot 400** - Utility service and access including a public street extension across the creek to tax lot 400 will need to be constructed concurrent with development of that lot. Traffic impacts associated with tax lot 400 were not included with this development application. ODOT should be included in any development proposal that provides tax lot 400 access to the highway.

D. **Commercial Approaches** - All private street accesses shall be constructed to City standards for commercial approaches.

E. **SDC Reimbursement** - Public improvements for extra capacity elements may be eligible for SDC reimbursement per Corvallis Municipal Code Chapter 2.13.

F. **Detectable Warnings** - Since the access to the site is provided by a private Shopping Street, the need for detectable warnings on the sidewalks at the commercial approaches should be evaluated.

G. **Transit Facilities** - The need for a transit stop location at the northern end of the site along SW 53rd Street will be reviewed and permitted with the Public Improvements by Private Contract (PIPC) or building permit.

H. **Abandonment of existing service laterals** - With the PIPC plans or building permits, the applicant shall abandon and remove any public service lateral connections which will not be used as required by the City Engineer.

I. **Excavation and Grading Plans** - Prior to issuance of any construction permits, the applicant shall submit an excavation and grading plan, including erosion control methods, to the City's Development Services Department for review and approval.

J. **Infrastructure Cost Recovery** - Where it is determined that there will be Infrastructure Cost Recovery payments from past public improvements the developer should pay their required share of the costs prior to recording of the final plat.

K. **Other Permits** - Prior to issuance of any construction permits, the applicant shall obtain a National Pollutant Discharge Elimination System (NPDES) permit if construction activity will disturb, through clearing, grading, and/or excavation, one acre of the site. Additionally, any permits required by other agencies such as the Division of State Lands; Army Corps of Engineers; Railroads; County; or Oregon Department of Transportation, shall be approved and submitted to the City prior to issuance of any City permits.

L. **Private Lights** - The private lights shall not be located over City utilities. A separation of 10 feet should be provided.

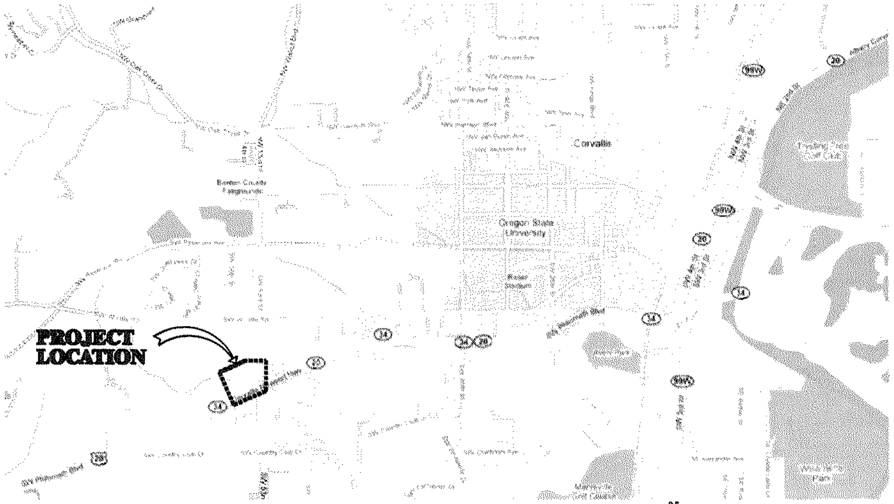
M. **Streetscape Plan** - As part of the public improvement plans, the applicant shall include a "streetscape" plan that incorporates the following features: composite utility plan; street lights; proposed driveway locations; vision clearance triangles for each intersection; street striping and signing (in conformance with the MUTCD); and proposed street tree locations.

N. **Tree Plantings** - When laying out the tree planting locations please be aware of not blocking street signs, or traffic signals. In addition, trees should not be planted in areas outlined in LDC section 4.2.30.b. The 24-foot wide planter strip along the highway will likely be reduced to 12 -feet in the future.

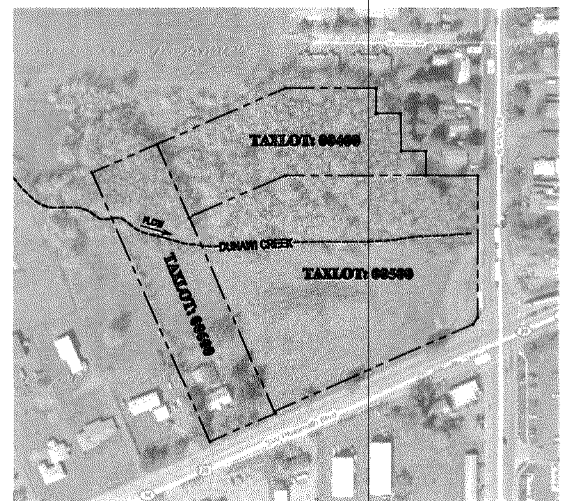
O. **Zone of Benefit Applications (ZOB)** - The applicant may apply for a cost recovery for improvements that benefit other property owners adjacent to the

improvements as outlined in Chapter 2.16 of the Corvallis Municipal Code. The applicant must submit a written request within one year from the acceptance of the public improvements.

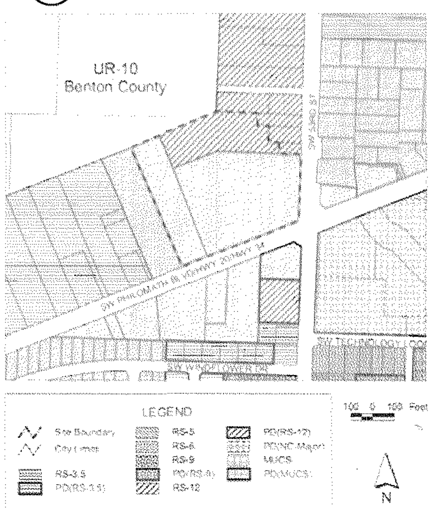
P. **Parks SDC Credit** - The developer of Tax Lot 400 may be eligible for a Parks SDC credit, at time of development of Tax Lot 400, as it relates to the Dunawi Creek multi-use path pre-payment. Application of the potential Parks SDC credit should be made at time of pre-payment for the multi-use path, in order to make the appropriate calculations and record the credit against Tax Lot 400 in City records.



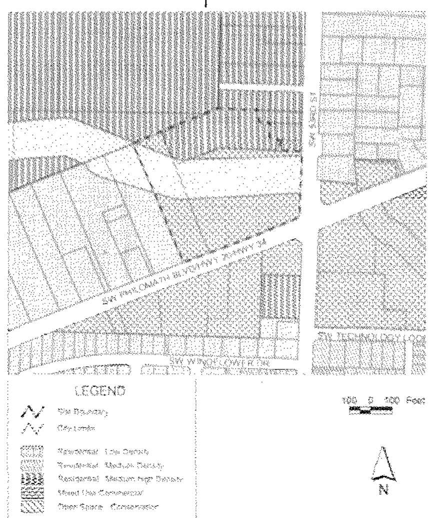
A-1 VICINITY MAP
SCALE: N.T.S.



A-2 SITE AERIAL
SCALE: N.T.S.
MAP: 12505DD



D EXISTING ZONING DESIGNATIONS
SCALE: N.T.S.



C COMPREHENSIVE PLAN DESIGNATIONS
SCALE: N.T.S.

CREEKSIDE CENTER
CORVALLIS
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

THOMASFOX PROPERTIES, LLC

OREGON ARCHITECTURE
221 West Tenth Street
Medford, Oregon 97501
Phone 541.772.4372 Fax 541.499.6329

REGISTERED ARCHITECT
Mark McKechnie
Medford, Oregon
STATE OF OREGON

PLOT DATE: 7/30/2010

SP1.0

CREEKSIDE CENTER I & II
(PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL NOTICE OF DISPOSITION
ATTACHMENT B - Page 1 of 25

WEST CORVALLIS ACCESS STRATEGY OVERLAY

09/96 PLAN PROPOSED ALIGNMENT

PROPOSED RIGHT OF WAY

ACTUAL RIGHT OF WAY

E **1000' VICINITY PROPERTIES/ SURROUNDING USES**
SCALE: 1" = 150'-0"

SCALE: 1" = 150'-0"

PROPERTIES/ FEATURES SHOWN HERE WERE TAKEN FROM BENTON COUNTY'S GIS SYSTEM, AND ARE LIMITED THE ACCURACY CONTAINED THEREIN.

FOR FUTHER INFORMATION ON PARTICULAR SURROUNDING PROPERTIES. VISIT BENTON COUNTY'S WEBSITE AT WWW.CO.BENTON.OR.US

TO VERIFY SCALES: ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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Mark McKechnie
Medford, Oregon
4556
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PHONE 541.772.4372 FAX 541.499.6929

THOMASFOX PROPERTIES, LLC
518 WEST PICKETT CIRCLE - SUITE 400
SALT LAKE CITY, UTAH 84115
PHONE: 801-538-7711 FAX: 801-536-7161

CREEKSIDE CENTER
CORVALLIS

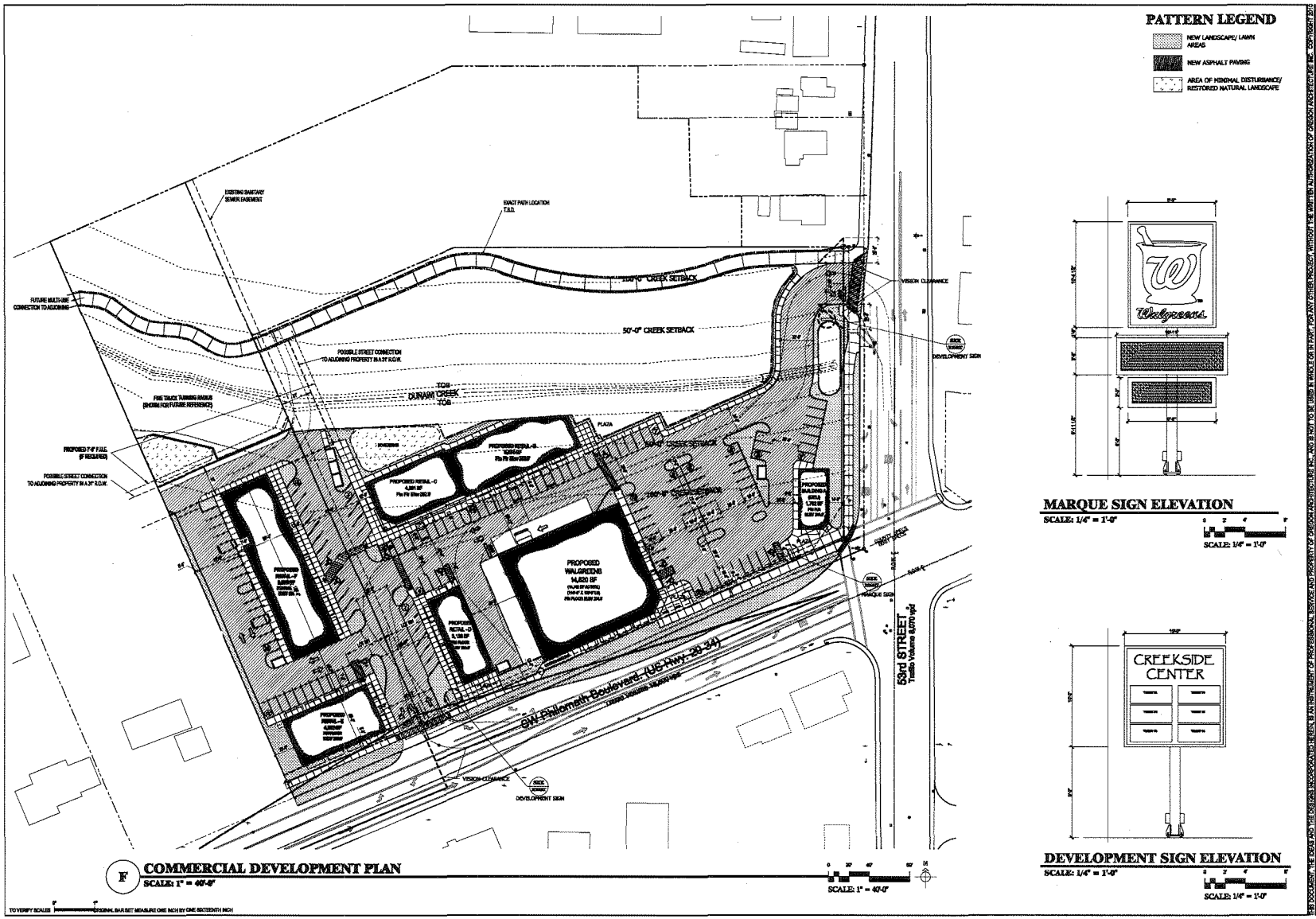
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By:	Date:
REVISIONS	BY

PLOT DATE: 7/30/2010
ISSUE DATE:
DRAWN BY: Z.WRIGLEY
JOB NO.:
SHEET
SP1.1
SURROUNDING PROPERTIES
1000' VICINITY

2 OF 25

CREEKSIDE CENTER I & II
(PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL NOTICE OF DISPOSITION
ATTACHMENT B - Page 2 of 25


PATTERN LEGEND
NEW LANDSCAPE/ LAWN AREAS
NEW ASPHALT PAVING
AREA OF MINIMAL DISTURBANCE/ RESTORED NATURAL LANDSCAPE
EXISTING SANITARY SEWER EASEMENT
EXACT PATH LOCATION T.B.D.
FUTURE MULTI-USE CONNECTION TO ADJOINING
100'-0" CREEK SETBACK
50'-0" CREEK SETBACK
POSSIBLE STREET CONNECTION TO ADJOINING PROPERTY IN A 37' R.O.W.
TOB
DUNAWI CREEK
TOB
FIRE TRUCK TURNING RADIUS (SHOWN FOR FUTURE REFERENCE)
PROPOSED 7'-0" FULL (IF REQUIRED)
POSSIBLE STREET CONNECTION TO ADJOINING PROPERTY IN A 37' R.O.W.
PLAZA
PROPOSED RETAIL-C 4,200 SF
PROPOSED WALGREENS 14,820 SF
VISION CLEARANCE
DEVELOPMENT SIGN
MARQUE SIGN
53rd STREET
SW Philomath Boulevard (US Hwy. 20-34)
F COMMERCIAL DEVELOPMENT PLAN
SCALE: 1" = 40'-0"
MARQUE SIGN ELEVATION
SCALE: 1/4" = 1'-0"
Walgreens
CREEKSIDE CENTER
DEVELOPMENT SIGN ELEVATION
SCALE: 1/4" = 1'-0"
REGISTERED ARCHITECT
Mark McKechnie
Medford, Oregon
4668
STATE OF OREGON
OREGON ARCHITECTURE
221 WEST TENTH STREET
MEDFORD, OREGON 97501
PHONE: 541.772.4372 FAX: 541.499.6329
THOMASFOX PROPERTIES, LLC
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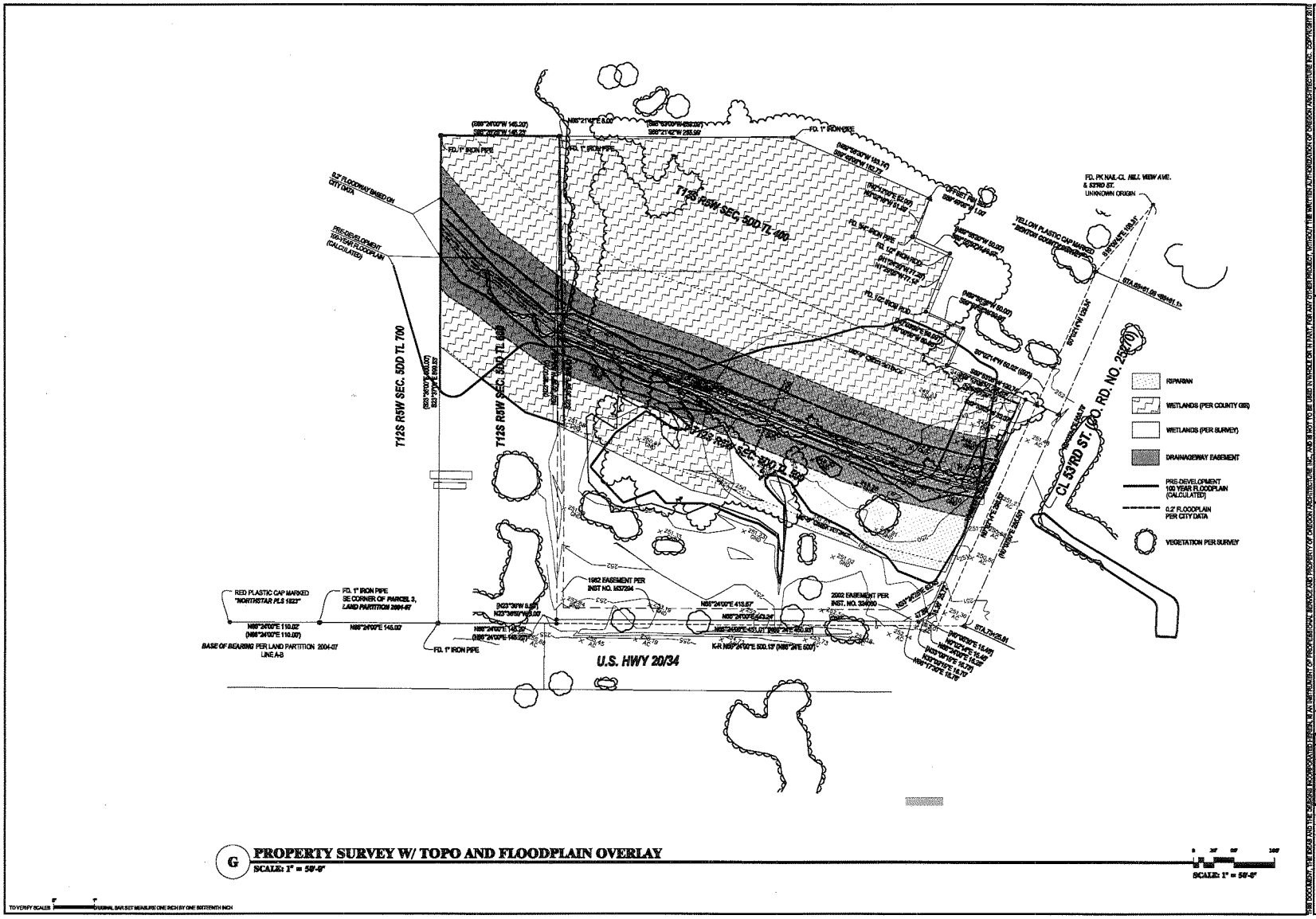
BALTLAKE CITY, UTAH 84115
PHONE: 801-595-7711 FAX: 801-499-7161
CREEKSIDE CENTER
CORVALLIS
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON
PLOT DATE: 8/3/2010
SHEET
SP1.2
CONCEPTUAL DEVELOPMENT PLAN (COMMERCIAL ONLY)



G PROPERTY SURVEY W/ TOPO AND FLOODPLAIN OVERLAY
SCALE: 1" = 50'-0"

TO VERIFY SCALE: ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

REGISTERED ARCHITECT Mark McKechnie Medford, Oregon 4666 STATE OF OREGON

OREGON ARCHITECTURE
221 WEST TENTH STREET
MEDFORD, OREGON 97501
PHONE: 541.772.4372 FAX: 541.499.6328

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515 WEST PIONEER CIRCLE - SUITE 400
SALTLAKE CITY, UTAH 84115
PHONE: 801-666-7711 FAX: 801-666-7161

CREEKSIDE CENTER
CORVALLIS

INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

REVISIONS	BY

PLOT DATE: 8/2/2010
ISSUE DATE:
DRAWN BY: S.WEIKENEY
JOB NO.:

SHEET
SP1.2A
SURVEY

4 OF 22

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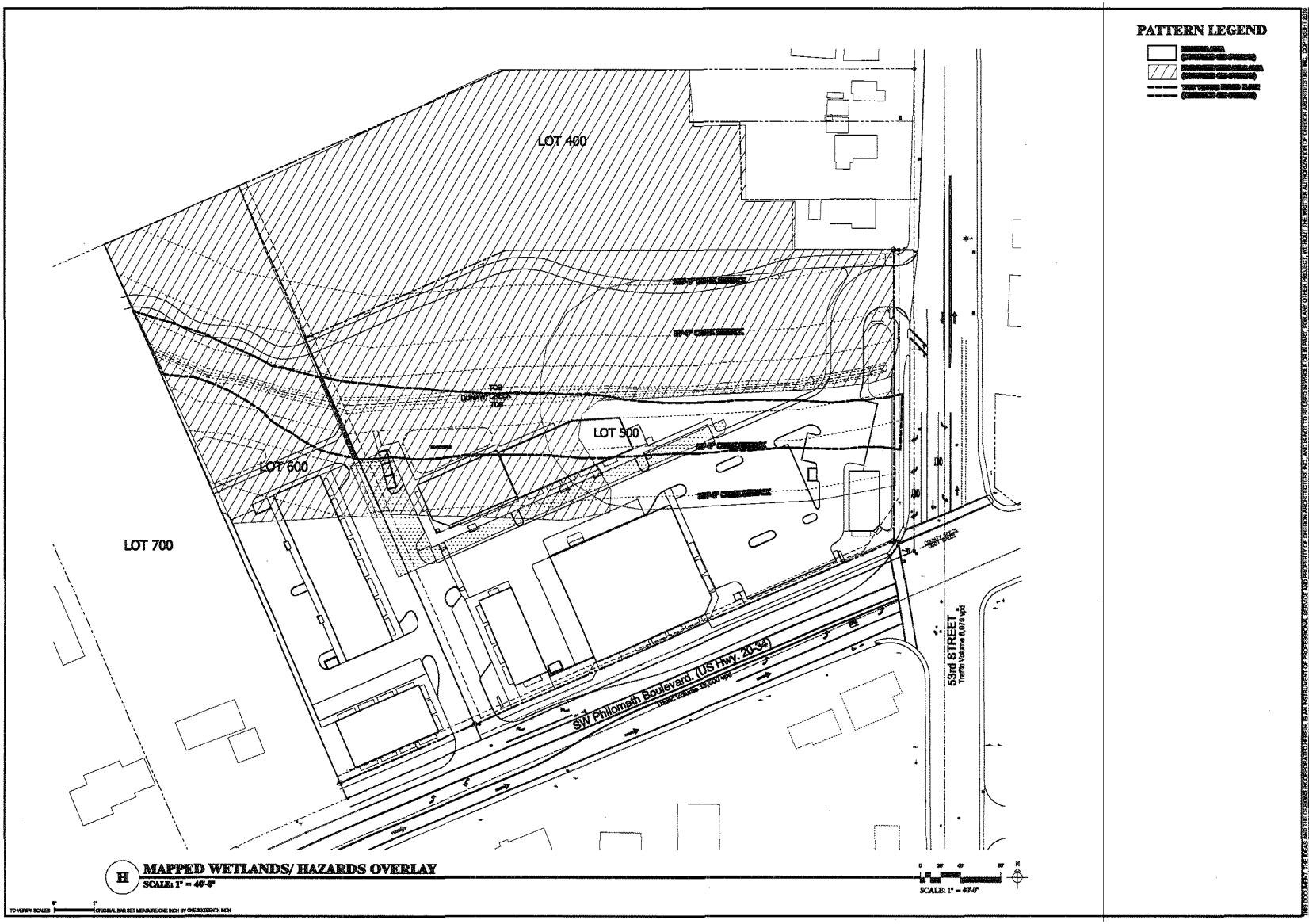
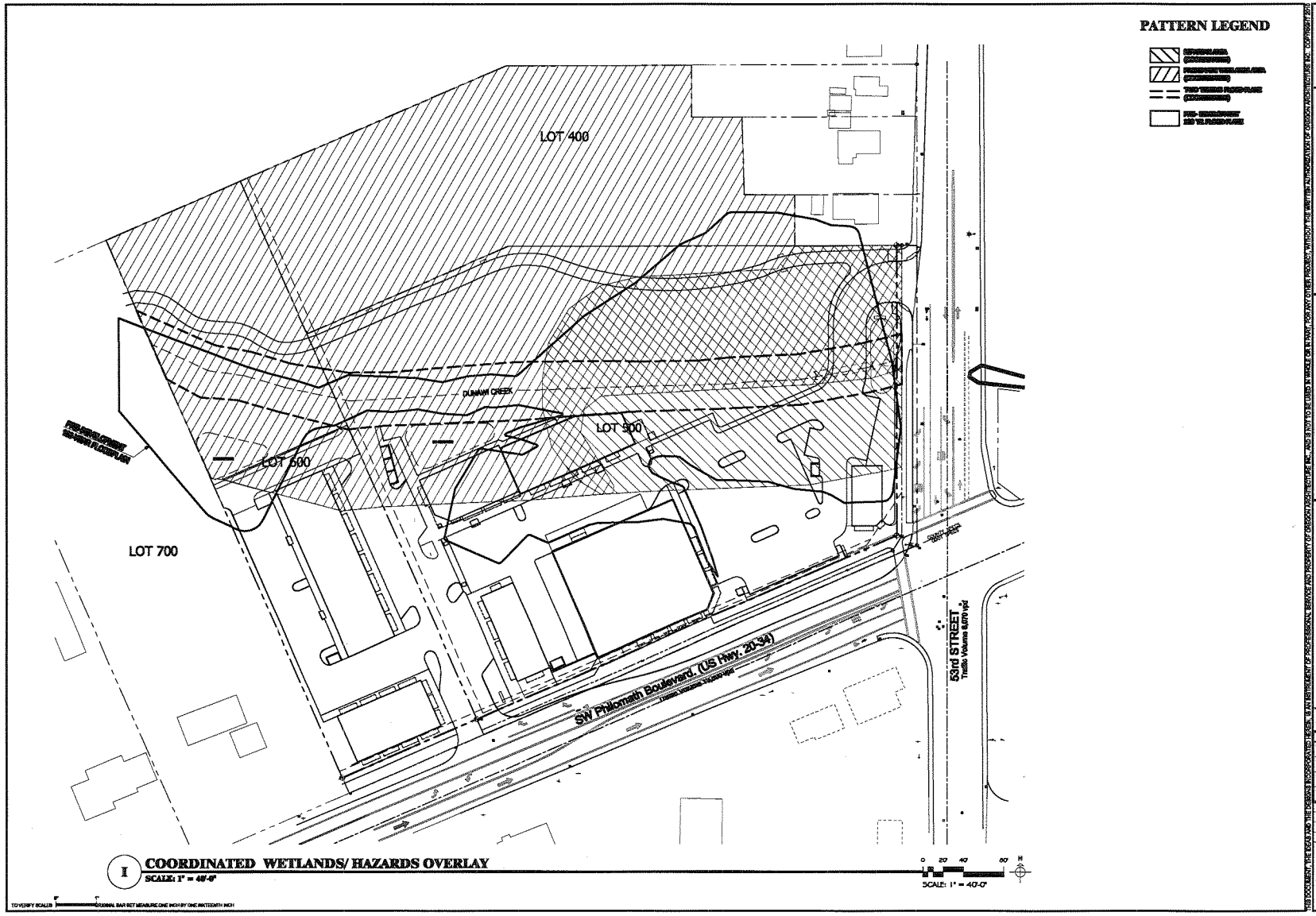
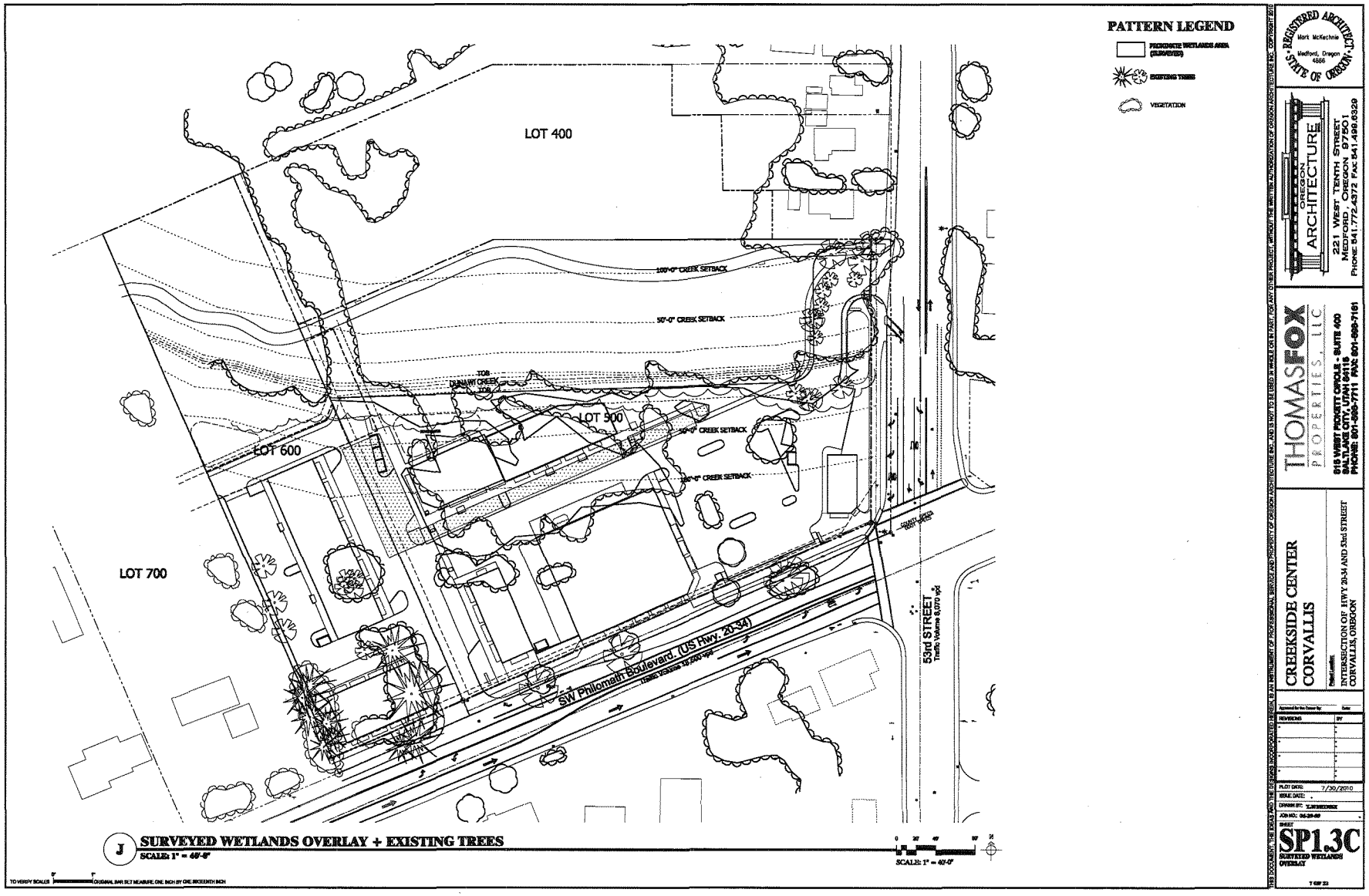

LOT 400
LOT 500
LOT 600
LOT 700
SW Philomath Boulevard (US Hwy. 20-34)
53rd STREET
PATTERN LEGEND
H
MAPPED WETLANDS/ HAZARDS OVERLAY
SCALE: 1" = 40'-0"
CREEKSIDE CENTER
CORVALLIS
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON
THOMASFOX PROPERTIES, LLC
OREGON ARCHITECTURE
221 WEST TENTH STREET
MEDFORD, OREGON 97501
PHONE: 541.772.4372 FAX: 541.499.6329
PLOT DATE: 7/30/2010
SHEET
SP1.3A
MAPPED WETLANDS/ HAZARDS OVERLAY


PATTERN LEGEND
LOT 400
LOT 500
LOT 600
LOT 700
DUNAWAY CREEK
SW Philomath Boulevard (US Hwy. 20-34)
53rd STREET
Traffic Volumes 6,070 vpd
I
COORDINATED WETLANDS/ HAZARDS OVERLAY
SCALE: 1" = 40'-0"
0 20 40 80
SCALE: 1" = 40'-0"
TO VERIFY SCALES
ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH
OREGON ARCHITECTURE
221 WEST TENTH STREET
MEDFORD, OREGON 97501
PHONE: 541.772.4372 FAX: 541.499.6329
THOMAS FOX PROPERTIES, LLC
515 WEST PICKETT CIRCLE - SUITE 400
SALTLAKE CITY, UTAH 84115
PHONE: 801-566-7711 FAX: 801-566-7161
CREEKSIDE CENTER
CORVALLIS
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON
REVISIONS
BY
PLOT DATE: 7/30/2010
DRAWN BY: T.WHEDONEY
SHEET
SP1.3B
ADJUSTED WETLANDS OVERLAY
5 OF 22


PATTERN LEGEND
PROMINENT WETLANDS AREA (SURVEYED)
EXISTING TREES
VEGETATION
LOT 400
LOT 500
LOT 600
LOT 700
100'-0" CREEK SETBACK
50'-0" CREEK SETBACK
DUNAWAY CREEK
TOB
SW Philomath Boulevard (US Hwy. 20-34)
53rd STREET
J SURVEYED WETLANDS OVERLAY + EXISTING TREES
SCALE: 1" = 40'-0"
REGISTERED ARCHITECT
STATE OF OREGON
Mark McKechnie
Medford, Oregon
4866
OREGON ARCHITECTURE
221 WEST TENTH STREET
MEDFORD, OREGON 97501
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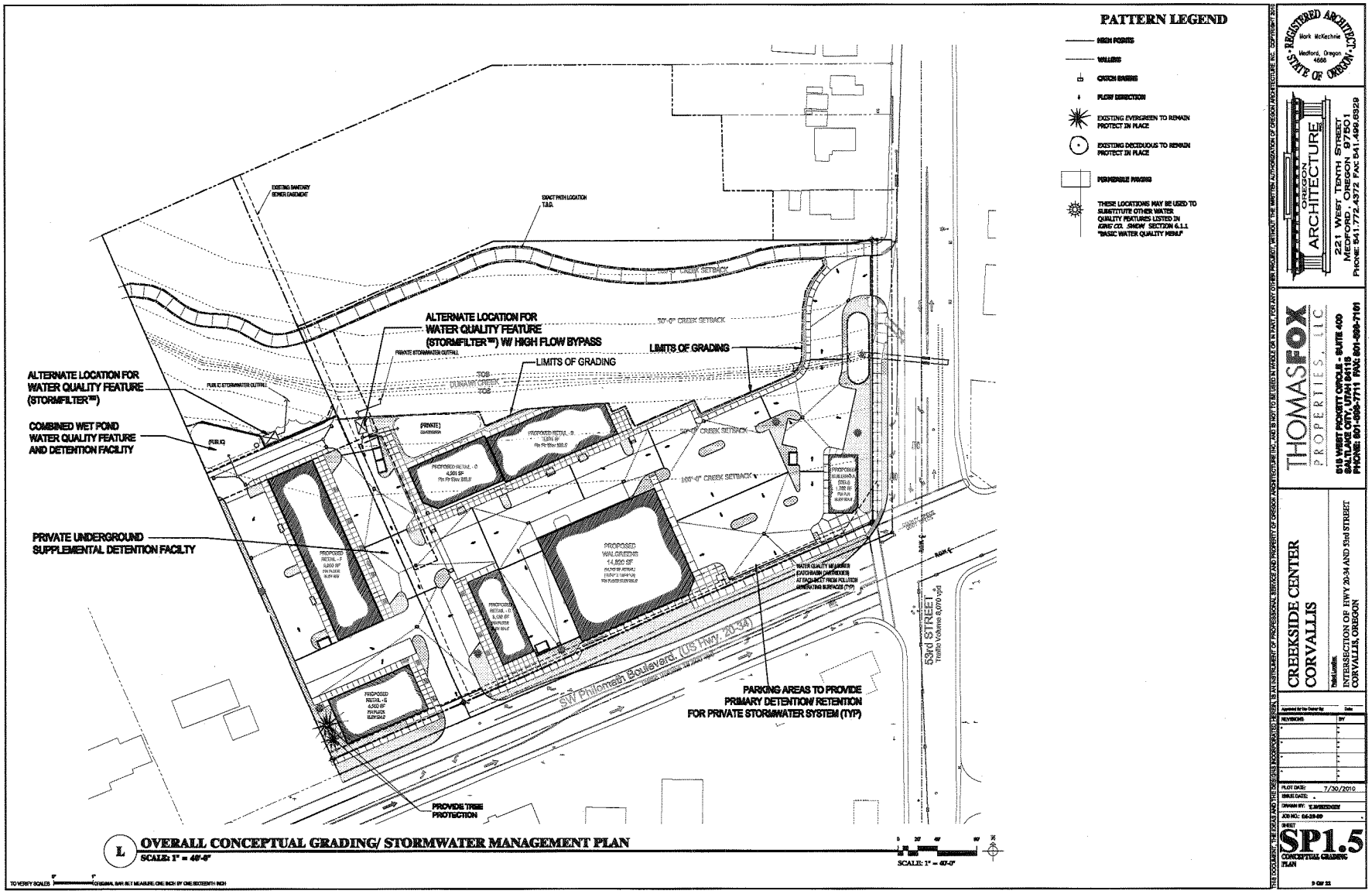
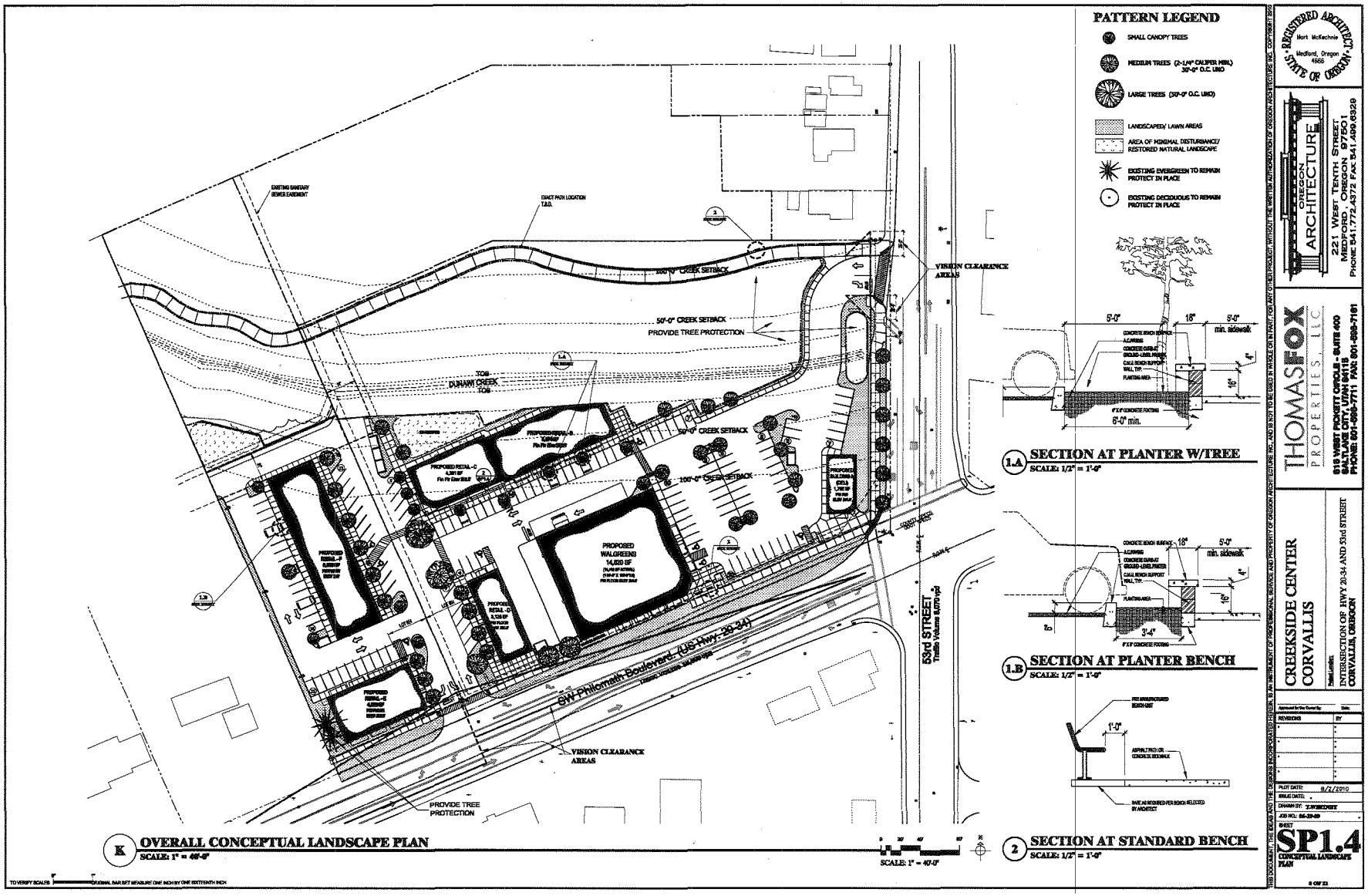
CREEKSIDE CENTER
CORVALLIS
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON
PLOT DATE: 7/30/2010
SHEET
SP1.3C
SURVEYED WETLANDS OVERLAY


PATTERN LEGEND
HIGH POINTS
VALLEYS
CATCH BASINS
FLOW DIRECTION
EXISTING EVERGREEN TO REMAIN PROTECT IN PLACE
EXISTING DECIDUOUS TO REMAIN PROTECT IN PLACE
PERMEABLE PAVING
THESE LOCATIONS MAY BE USED TO SUBSTITUTE OTHER WATER QUALITY FEATURES LISTED IN KING CO. SWDM SECTION 6.1.1. "BASIC WATER QUALITY MEAN"
EXISTING SANITARY SEWER EASEMENT
EXACT PATH LOCATION T.B.D.
50'-0" CREEK SETBACK
ALTERNATE LOCATION FOR WATER QUALITY FEATURE (STORMFILTER™) W/ HIGH FLOW BYPASS
LIMITS OF GRADING
PRIVATE STORMWATER OUTFALL
PUBLIC STORMWATER OUTFALL
TOB
DUNAWAY CREEK
ALTERNATE LOCATION FOR WATER QUALITY FEATURE (STORMFILTER™)
COMBINED WET POND WATER QUALITY FEATURE AND DETENTION FACILITY
PUBLIC
PRIVATE
PROPOSED RETAIL - D 4,001 SF
PROPOSED RETAIL - C 3,000 SF
100'-0" CREEK SETBACK
PRIVATE UNDERGROUND SUPPLEMENTAL DETENTION FACILITY
PROPOSED RETAIL - F 6,000 SF
PROPOSED WALGREENS 14,820 SF
PROPOSED RETAIL - E 6,000 SF
PROPOSED RETAIL - G 6,000 SF
WATER QUALITY MEASURES (CATCH BASIN CARTRIDGES AT EGRESS) FROM POLLUTION GENERATING SURFACES (TYP)
PARKING AREAS TO PROVIDE PRIMARY DETENTION/ RETENTION FOR PRIVATE STORMWATER SYSTEM (TYP)
SW Philomath Boulevard, (US Hwy 20-34)
53rd STREET
Traffic Volume 6,070 vpd
PROVIDE TREE PROTECTION
L OVERALL CONCEPTUAL GRADING/ STORMWATER MANAGEMENT PLAN
SCALE: 1" = 40'-0"
SCALE: 1" = 40'-0"
TO VERIFY SCALES (ORIGINAL BAR SHOULD MEASURE ONE INCH BY ONE SIXTEENTH INCH)
REGISTERED ARCHITECT
Mark McKechnie
Medford, Oregon
4666
STATE OF OREGON
OREGON ARCHITECTURE
221 WEST TENTH STREET
MEDFORD, OREGON 97501
PHONE: 541.772.4372 FAX: 541.499.0329
THOMASFOX PROPERTIES, LLC
6519 WEST PERSHITT CIRCLE - SUITE 400
SALT LAKE CITY, UTAH 84118
PHONE: 801-666-7711 FAX: 801-666-7101
CREEKSIDE CENTER CORVALLIS
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON
REVISIONS
BY
PLOT DATE: 7/30/2010
ISSUE DATE:
DRAWN BY:
JOB NO.: 06-39-09
SHEET
SP1.5
CONCEPTUAL GRADING PLAN
9 OF 22


PATTERN LEGEND
SMALL CANOPY TREES
MEDIUM TREES (2-1/4" CALIPER MIN.) 30'-0" O.C. UNO
LARGE TREES (50'-0" O.C. UNO)
LANDSCAPED/ LAWN AREAS
AREA OF MINIMAL DISTURBANCE/ RESTORED NATURAL LANDSCAPE
EXISTING EVERGREEN TO REMAIN PROTECT IN PLACE
EXISTING DECIDUOUS TO REMAIN PROTECT IN PLACE
EXISTING SANITARY SEWER EASEMENT
EXACT PATH LOCATION T.B.D.
100'-0" CREEK SETBACK
50'-0" CREEK SETBACK
PROVIDE TREE PROTECTION
VISION CLEARANCE AREAS
TOB
DUNAWAY CREEK
TOB
PROPOSED WALGREENS 14,820 SF
PROPOSED RETAIL-C 4,391 SF
PROPOSED RETAIL-D 8,125 SF
PROPOSED RETAIL-E 4,000 SF
PROPOSED RETAIL-F 4,000 SF
PROPOSED RETAIL-G 4,000 SF
PROPOSED RETAIL-H 4,000 SF
PROPOSED RETAIL-I 4,000 SF
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PROPOSED RETAIL-MMMMMM 4,000 SF
PROPOSED RETAIL-NNNNNN 4,000 SF
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PROPOSED RETAIL-PPPPPP 4,000 SF
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PROPOSED RETAIL-RRRRRR 4,000 SF
PROPOSED RETAIL-SSSSSS 4,000 SF
PROPOSED RETAIL-TTTTTT 4,000 SF
PROPOSED RETAIL-UUUUUU 4,000 SF
PROPOSED RETAIL-VVVVVV 4,000 SF
PROPOSED RETAIL-WWWWWW 4,000 SF
PROPOSED RETAIL-XXXXXX 4,000 SF
PROPOSED RETAIL-YYYYYY 4,000 SF
PROPOSED RETAIL-ZZZZZZ 4,000 SF
PROPOSED RETAIL-AAAAAAA 4,000 SF
PROPOSED RETAIL-BBBBBBB 4,000 SF
PROPOSED RETAIL-CCCCCCC 4,000 SF
PROPOSED RETAIL-DDDDDDD 4,000 SF
PROPOSED RETAIL-EEEEEEE 4,000 SF
PROPOSED RETAIL-FFFFFFF 4,000 SF
PROPOSED RETAIL-GGGGGGG 4,000 SF
PROPOSED RETAIL-HHHHHHH 4,000 SF
PROPOSED RETAIL-IIIIIIII 4,000 SF
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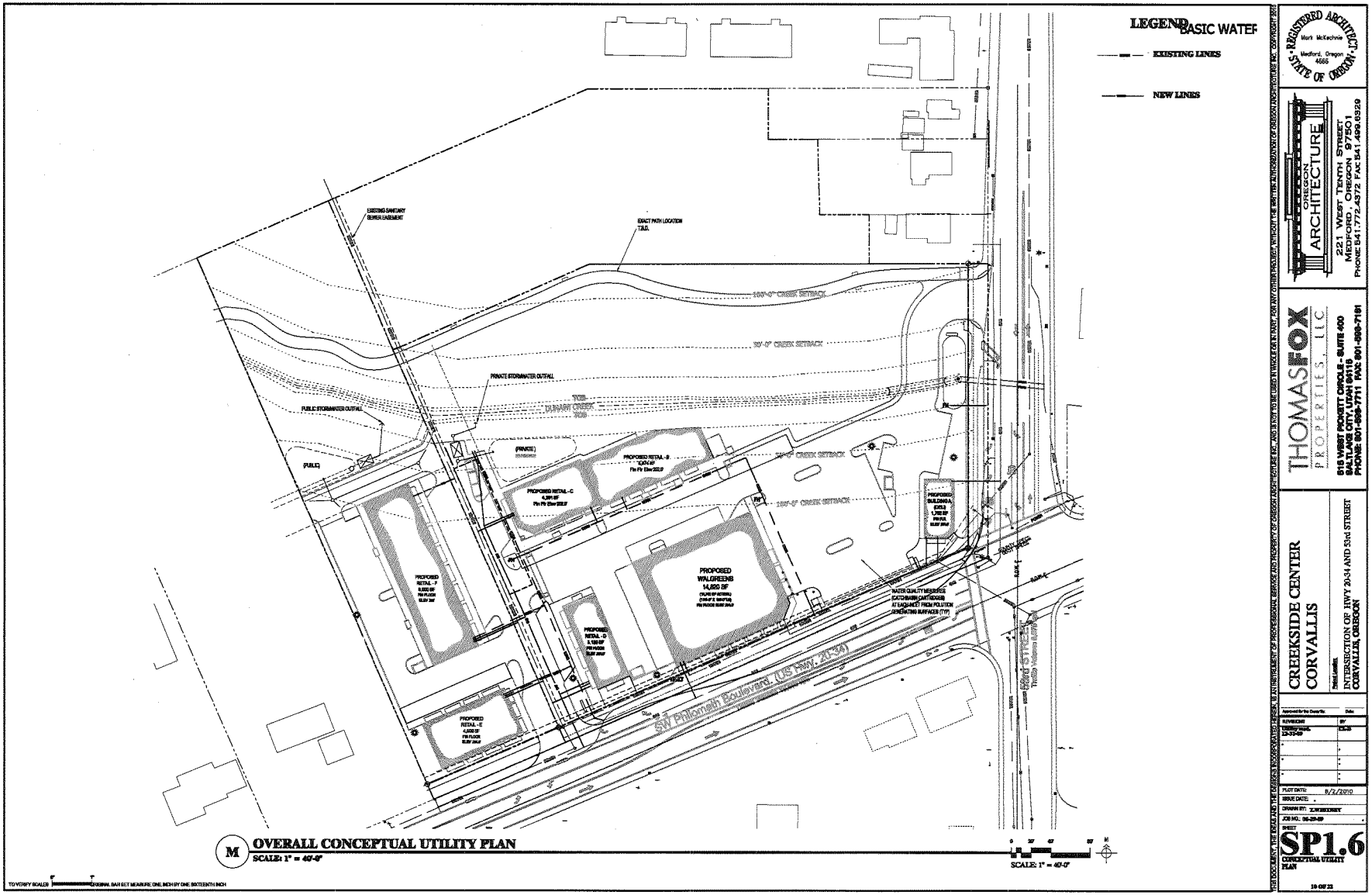

M **OVERALL CONCEPTUAL UTILITY PLAN**
SCALE: 1" = 40'-0"

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Medford, Oregon
4665
STATE OF OREGON

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221 West Tenth Street
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515 West Progress Circle - Suite 400
Salt Lake City, Utah 84116
Phone 801-596-7711 Fax 801-596-7161

CREEKSIDE CENTER
CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner by: Date:

REVISIONS	BY
CONCEPTUAL 2-17-09	CKB

PLOT DATE: 8/2/2010
ISSUE DATE:
DRAWN BY: Z.WEBERBY
JOB NO.: 06-29-09

SHEET
SP1.6
CONCEPTUAL UTILITY PLAN
10 OF 22

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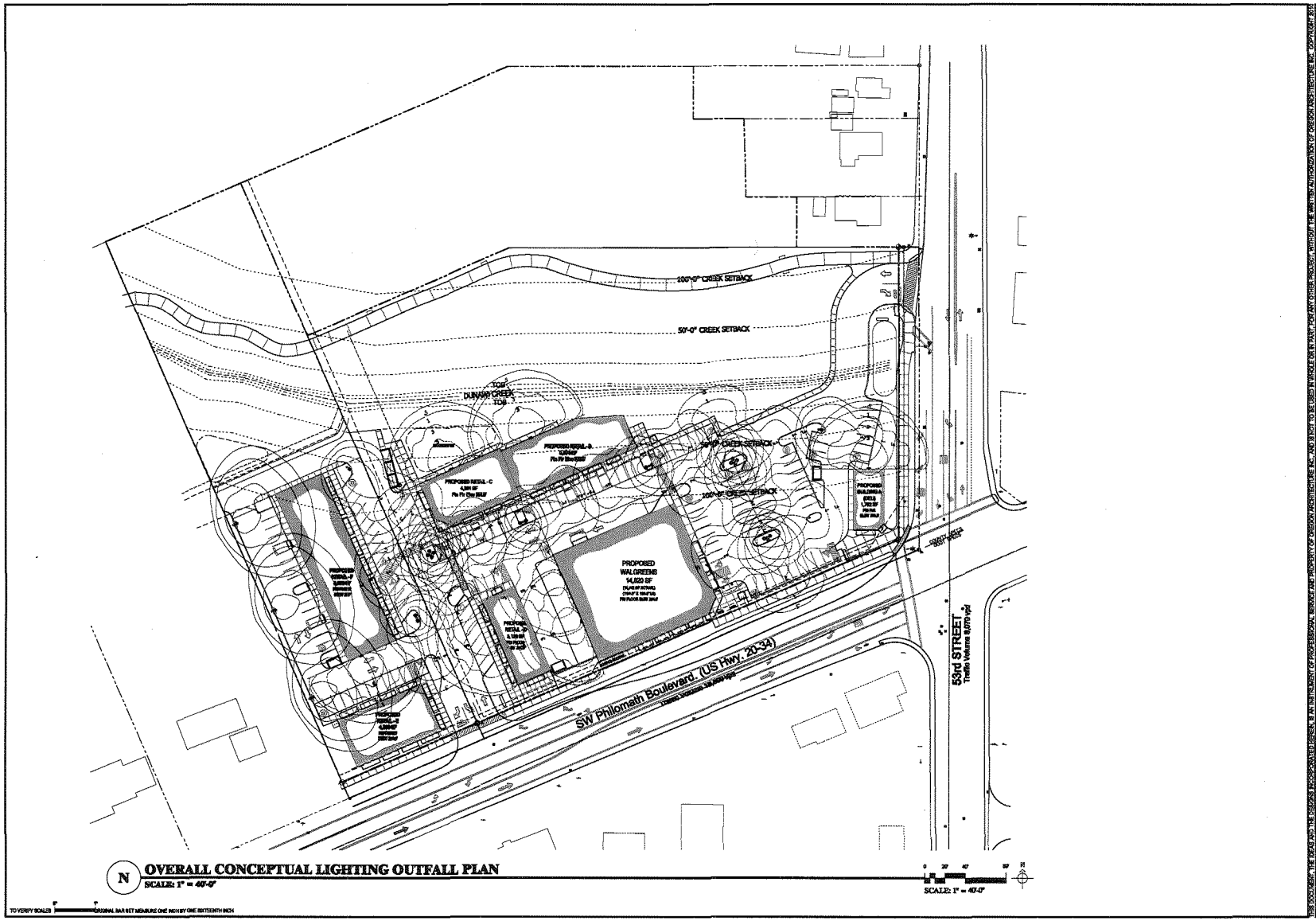

REGISTERED ARCHITECT
Mark McKechnie
Medford, Oregon
4668
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221 WEST TENTH STREET
MEDFORD, OREGON 97501
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515 WEST PIERPOINT CIRCLE - SUITE 400
SALT LAKE CITY, UTAH 84115
PHONE: 801-595-7711 FAX: 801-595-7161

CREEKSIDE CENTER
CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

REVISIONS	BY

PLOT DATE: 8/2/2010
ISSUE DATE:
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CONCEPTUAL LIGHTING PLAN

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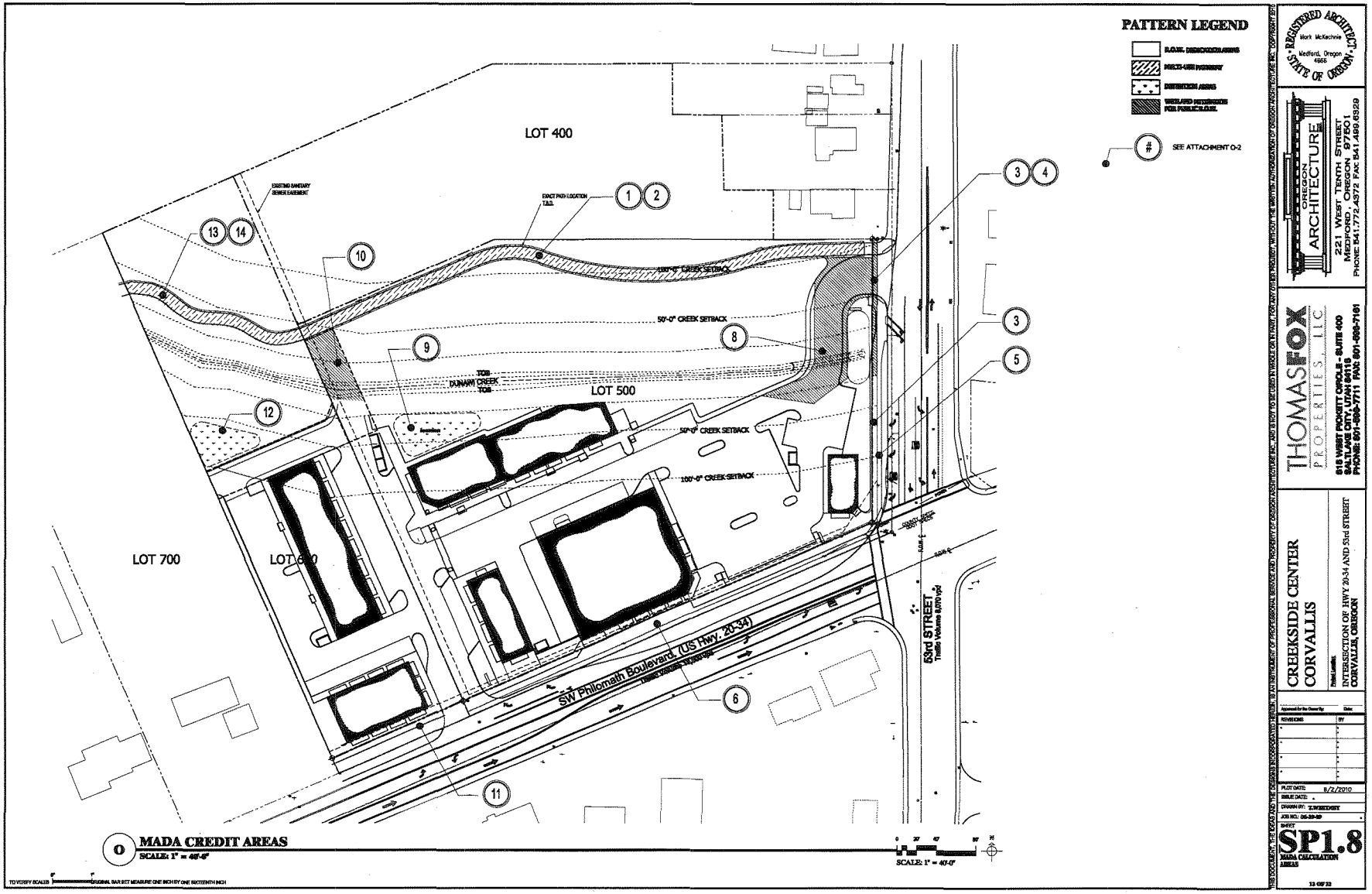
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EXACT PATH LOCATION T.B.D.
100'-0" CREEK SETBACK
50'-0" CREEK SETBACK
TOB
DUNAWI CREEK
TOB
SW Philomath Boulevard (US Hwy. 20-34)
53rd STREET
Traffic Volume 8,070 vpd
MADA CREDIT AREAS
SCALE: 1" = 40'-0"
SCALE: 1" = 40'-0"
TO VERIFY SCALES ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH
REGISTERED ARCHITECT
Mark McKechnie
Medford, Oregon
4866
STATE OF OREGON
OREGON ARCHITECTURE
221 WEST TENTH STREET
MEDFORD, OREGON 97501
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CREEKSIDE CENTER
CORVALLIS
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON
REVISIONS
BY
PLOT DATE: 8/2/2010
ISSUE DATE:
DRAWN BY: Z.WEIDHEIT
JOB NO.: 06-39-00
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SP1.8
MADA CALCULATION AREAS
13 OF 22

OREGON ARCHITECTURE INC.
(541) 772-4372
221 WEST 10TH ST • MEDFORD, OR 97501 • FAX: (541) 499-6329 • WWW.OR-ARCHITECTURE.COM

ATTACHMENT O-2 (Sheet SP 1.8)

MADA CALCULATIONS FOR THE CREEKSIDE I DEVELOPMENT
January 5, 2010
Revised April 2, 2010
FINALIZED June 29, 2010

LOT 500

Site area of lot 4.6412+/- AC x 43,560 sf/AC:	202,170 sf *verified by survey*	
Estimated area of site encumbered with proximal wetlands or Riparian Corridor: (from City of Corvallis and DSL data)	124,425 sf	
Unencumbered land area:		77,745 sf
Minimum Assured Development Area		
4.6412 AC x 19,600 sf/AC	90,968 sf	
Additional MADA Credits		
(Area 1) Multi-Use Path (15' ROW)	9,345 sf	
(Area 2) Mitigation area for Multi-Use Path	9,345 sf	
(Area 3) 5' ROW dedication on 53rd Street	1,517 sf	
(Area 4) Mitigation for ROW through Wetlands	725 sf	
(Area 5) 10' wide Multi-Use Path along 53rd Street	1,517 sf	
(Area 6) 12' ROW dedication on Highway 34	5,416 sf	
(Area 7) Not Used		
(Area 8) Mitigation area for access drive, as approved by DSL	6,345 sf	
(Area 9) Detention Ponds for lot	2,730 sf	
(Area 10) Mitigation area for required local street	3,149 sf	
Total Credits	40,089 sf	
Total MADA + Credits		131,057 sf
Current gross proposed development area (Site + Multi-use path)	127,869 sf	
Additional Development Allowed	3,188 sf	

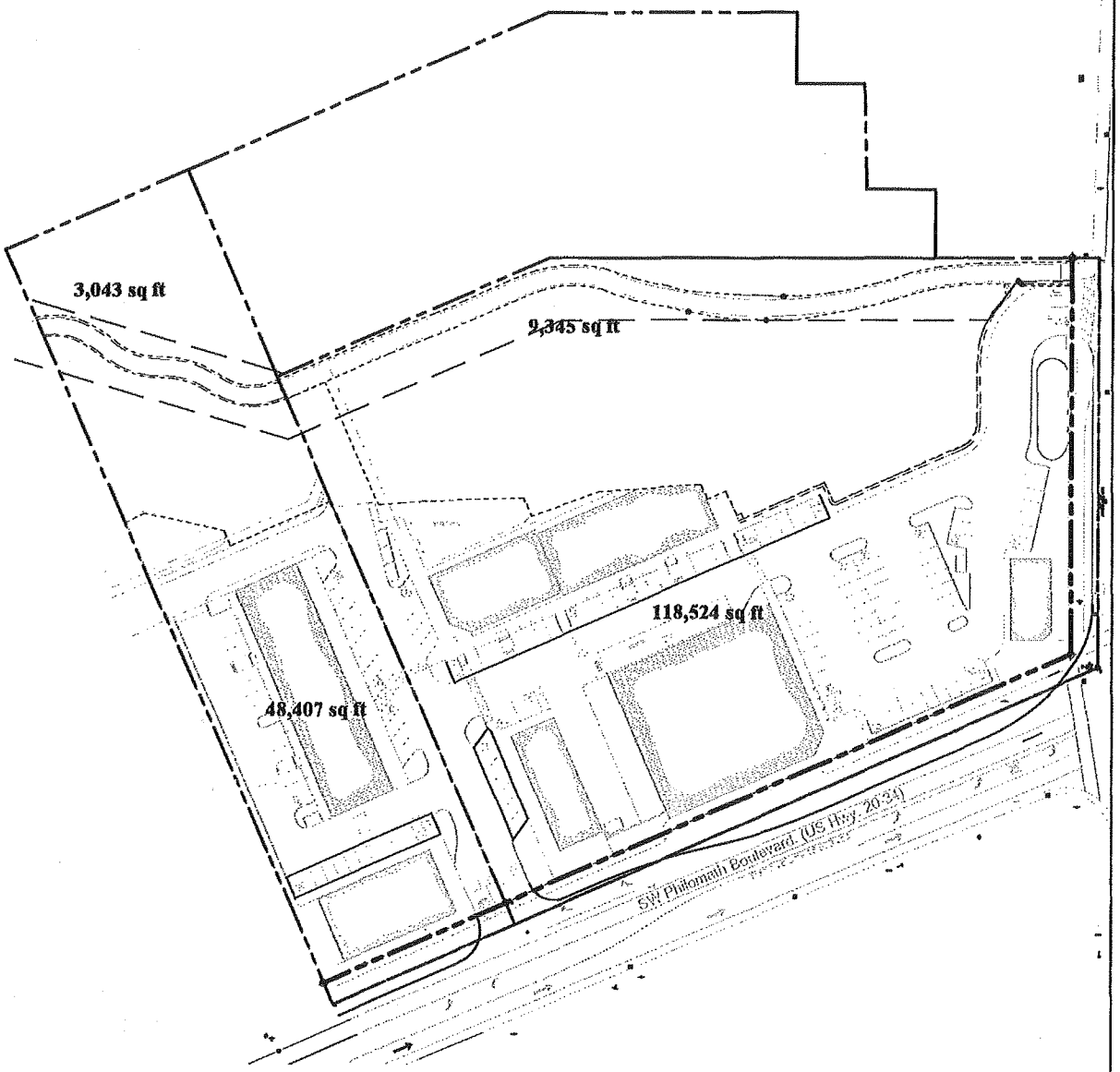
~~Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)~~
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT D (38 of 219)

MADA CALCULATIONS FOR THE CREEKSIDE II DEVELOPMENT
January 5, 2010
Revised February 5, 2010
FINALIZED July 13, 2010

LOT 600

Site area of lot 1.9953+/- AC x 43,560 sf/AC:	86,912 sf *verified by survey*	
Estimated area of site encumbered with proximal wetlands and calculated floodplain: (from City of Corvallis data)	48,393 sf	
Unencumbered land area:		38,519 sf
Minimum Assured Development Area		
1.9953 AC x 19,600 sf/AC	39,108 sf	
Additional MADA Credits		
(Area 11) 17' ROW dedication on Highway 34	2,470 sf	
(Area 12) Detention Pond for lot	2,007 sf	
(Area 13) Multi-Use Path	3,043 sf	
(Area 14) Mitigation area for Multi-Use Path	3,043 sf	
Total Credits	10,563 sf	
Total MADA + Credits		49,671 sf
Current proposed development area (Site + Multi-use path)	51,450 sf	
Additional Development Allowed	(1,779 sf)	

~~Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)~~
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT D (39 of 219)

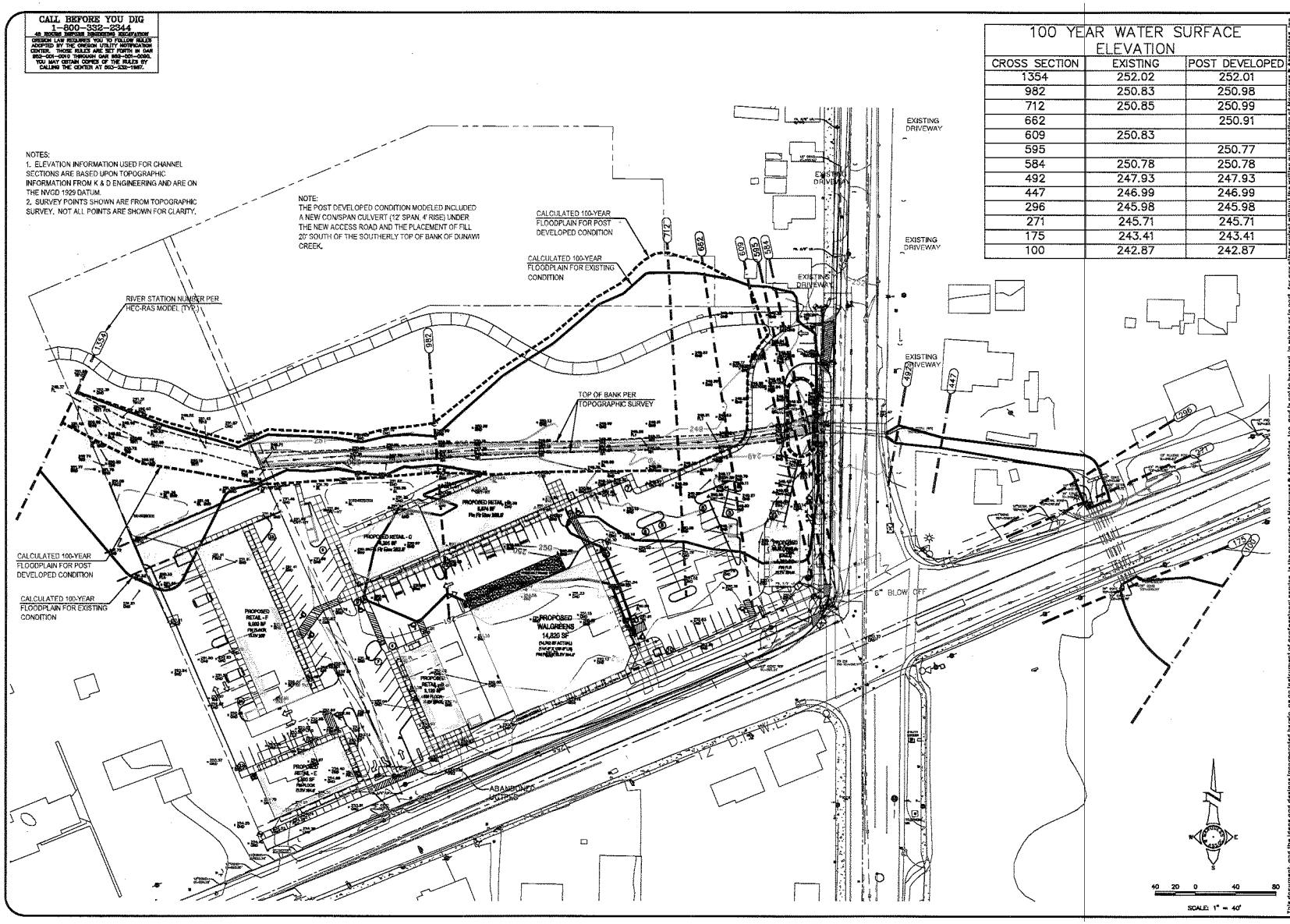


1 Developed Areas

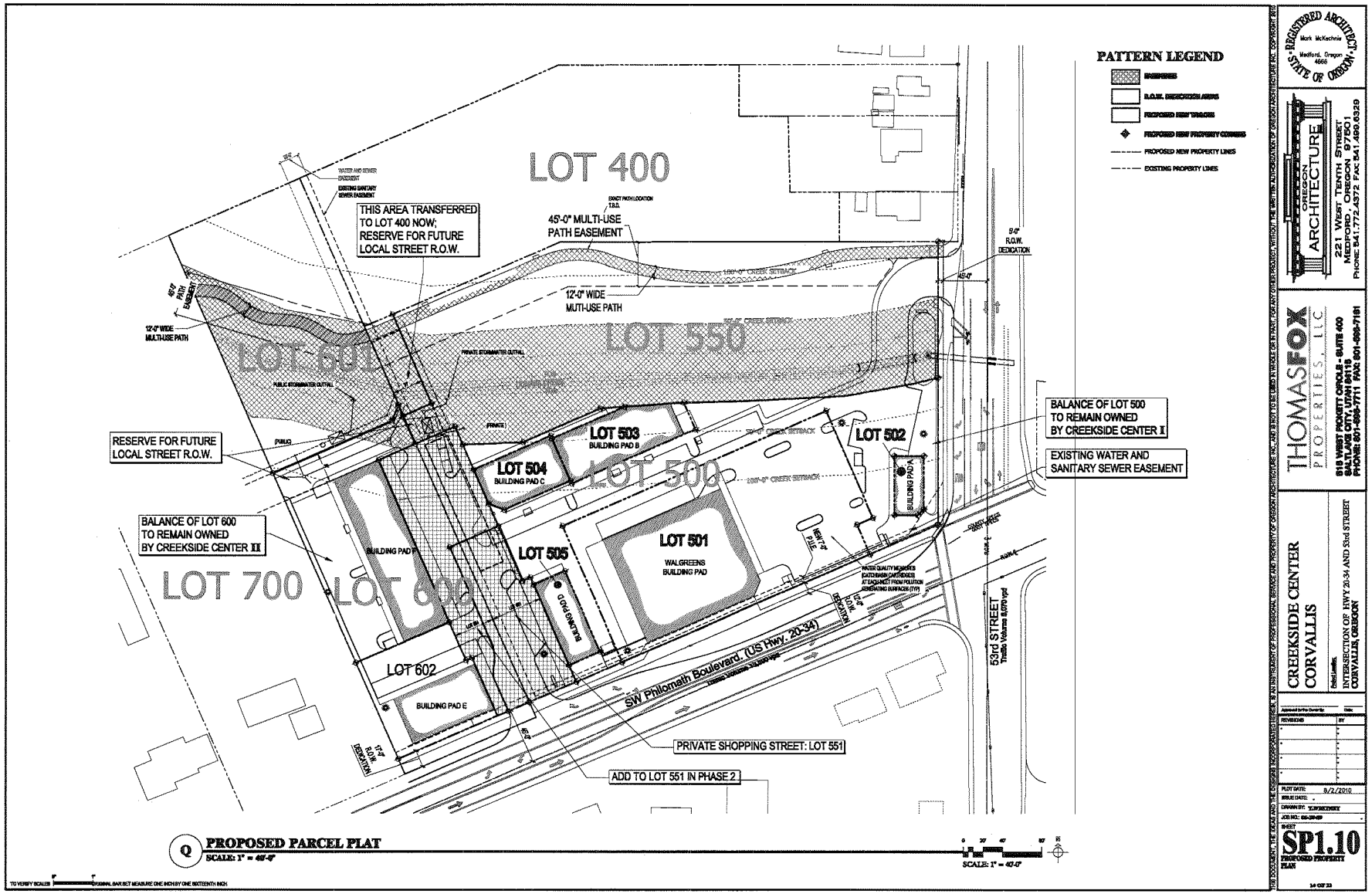
NOT TO SCALE

CREEKSIDE CENTER CORVALLIS Project Location: INTERSECTION OF HWY 20-34 AND 53rd STREET CORVALLIS, OREGON	THOMASFOX PROPERTIES, LLC 515 WEST PICKETT CIRCLE - SUITE 400 SALTLAKE CITY, UTAH 84115 PHONE: 801-596-7711 FAX: 801-596-7161	OREGON ARCHITECTURE 221 WEST TENTH STREET MEDFORD, OREGON 97501 PHONE: 541.772.4372 FAX: 541.499.6329	PLOT DATE 06/07/10 ISSUE DATE: DRAWN BY: JOB NO: ATTACHMENT: O-3

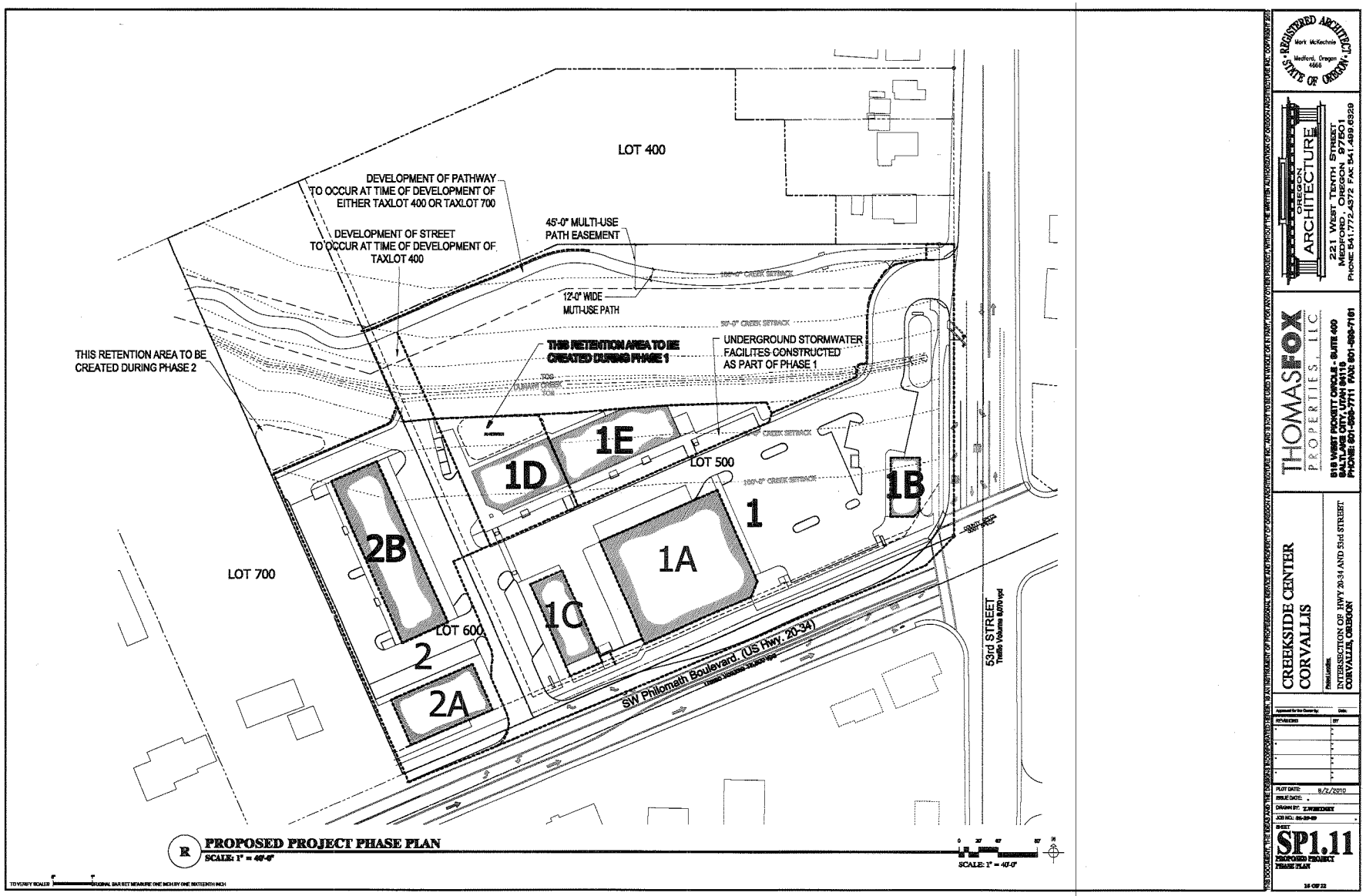
Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT D (40 of 219)

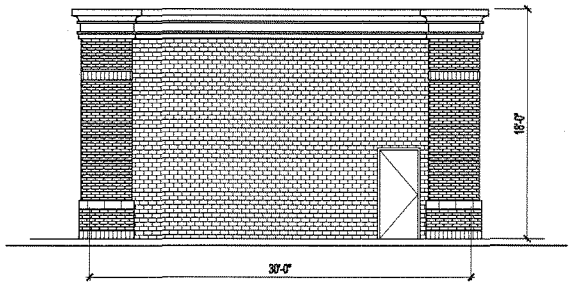


100 YEAR WATER SURFACE ELEVATION		
CROSS SECTION	EXISTING	POST DEVELOPED
1354	252.02	252.01
982	250.83	250.98
712	250.85	250.99
662		250.91
609	250.83	
595		250.77
584	250.78	250.78
492	247.93	247.93
447	246.99	246.99
296	245.98	245.98
271	245.71	245.71
175	243.41	243.41
100	242.87	242.87

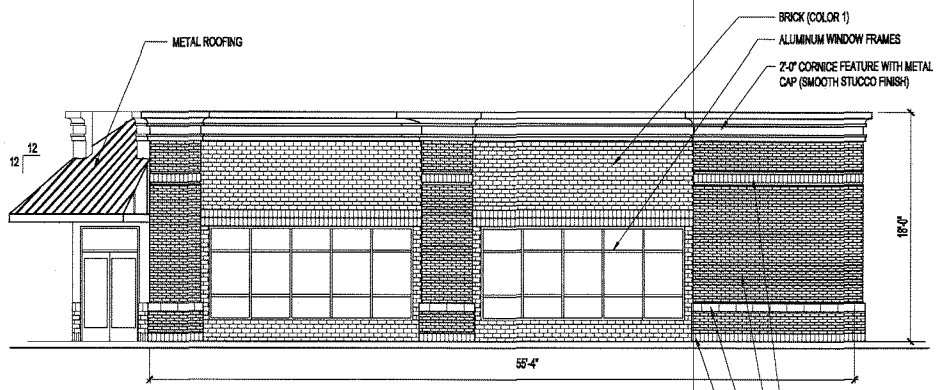


CREEKSIDE CENTER I & II
(PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL NOTICE OF DISPOSITION
ATTACHMENT B - Page 17 of 25

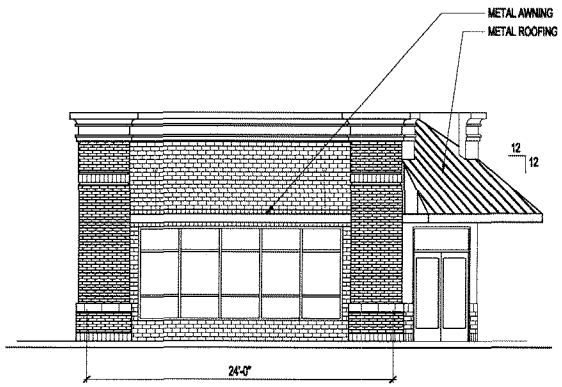

LOT 400
DEVELOPMENT OF PATHWAY TO OCCUR AT TIME OF DEVELOPMENT OF EITHER TAXLOT 400 OR TAXLOT 700
DEVELOPMENT OF STREET TO OCCUR AT TIME OF DEVELOPMENT OF TAXLOT 400
45'-0" MULTI-USE PATH EASEMENT
100'-0" CREEK SETBACK
12'-0" WIDE MUTI-USE PATH
50'-0" CREEK SETBACK
THIS RETENTION AREA TO BE CREATED DURING PHASE 1
UNDERGROUND STORMWATER FACILITES CONSTRUCTED AS PART OF PHASE 1
THIS RETENTION AREA TO BE CREATED DURING PHASE 2
TOP
PLANAR CREEK
TOE
1E
1D
LOT 500
1B
1
2B
1A
LOT 700
1C
LOT 600
2
2A
SW Philomath Boulevard (US Hwy. 20-34)
53rd STREET
Traffic Volume 8,070 vpd
PROPOSED PROJECT PHASE PLAN
SCALE: 1" = 40'-0"
SCALE: 1" = 40'-0"
REGISTERED ARCHITECT
STATE OF OREGON
Mark McKechnie
Medford, Oregon
4666
OREGON ARCHITECTURE
221 WEST TENTH STREET
MEDFORD, OREGON 97501
PHONE: 541.772.4372 FAX: 541.499.0329
THOMAS FOX PROPERTIES, LLC
515 WEST PIONEER CIRCLE - SUITE 400
SALT LAKE CITY, UTAH 84115
PHONE: 801-596-7711 FAX: 801-596-7161
CREEKSIDE CENTER
CORVALLIS
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON
PLOT DATE: 8/2/2010
DRAWN BY: Z.MIKEMEY
SHEET
SP1.11
PROPOSED PROJECT PHASE PLAN
16 OF 22



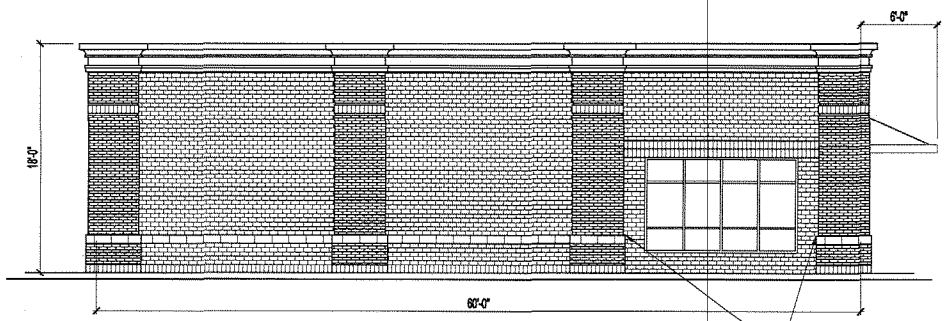
S1.1 BUILDING "A" NORTH ELEVATION
SCALE: 1/4" = 1'-0"



S1.2 BUILDING "A" EAST ELEVATION
SCALE: 1/4" = 1'-0"



S1.3 BUILDING "A" SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



S1.4 BUILDING "A" WEST ELEVATION
SCALE: 1/4" = 1'-0"

TO VERIFY SCALE: ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

REGISTERED ARCHITECT
Mark McKechnie
Medford, Oregon
4668
STATE OF OREGON

OREGON ARCHITECTURE
221 WEST TENTH STREET
MEDFORD, OREGON 97501
PHONE: 541.772.4372 FAX: 541.499.6329

THOMAS FOX PROPERTIES, LLC
518 WEST PICKETT CIRCLE - SUITE 400
SALTLAKE CITY, UTAH 84115
PHONE: 801-868-7711 FAX: 801-868-7161

CREEKSIDE CENTER
CORVALLIS

Site Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for Site Ownership: Date:

REVISIONS	BY
Planning Comments 12-22-09	D.L.B.

PLOT DATE: 7/30/2010
ISSUE DATE:
DRAWN BY: D.M/BRZINSKI
JOB NO.: 08-30-09

SHEET
SP2.1
BUILDING ELEVATION
BUILDING "A"

36 OF 33

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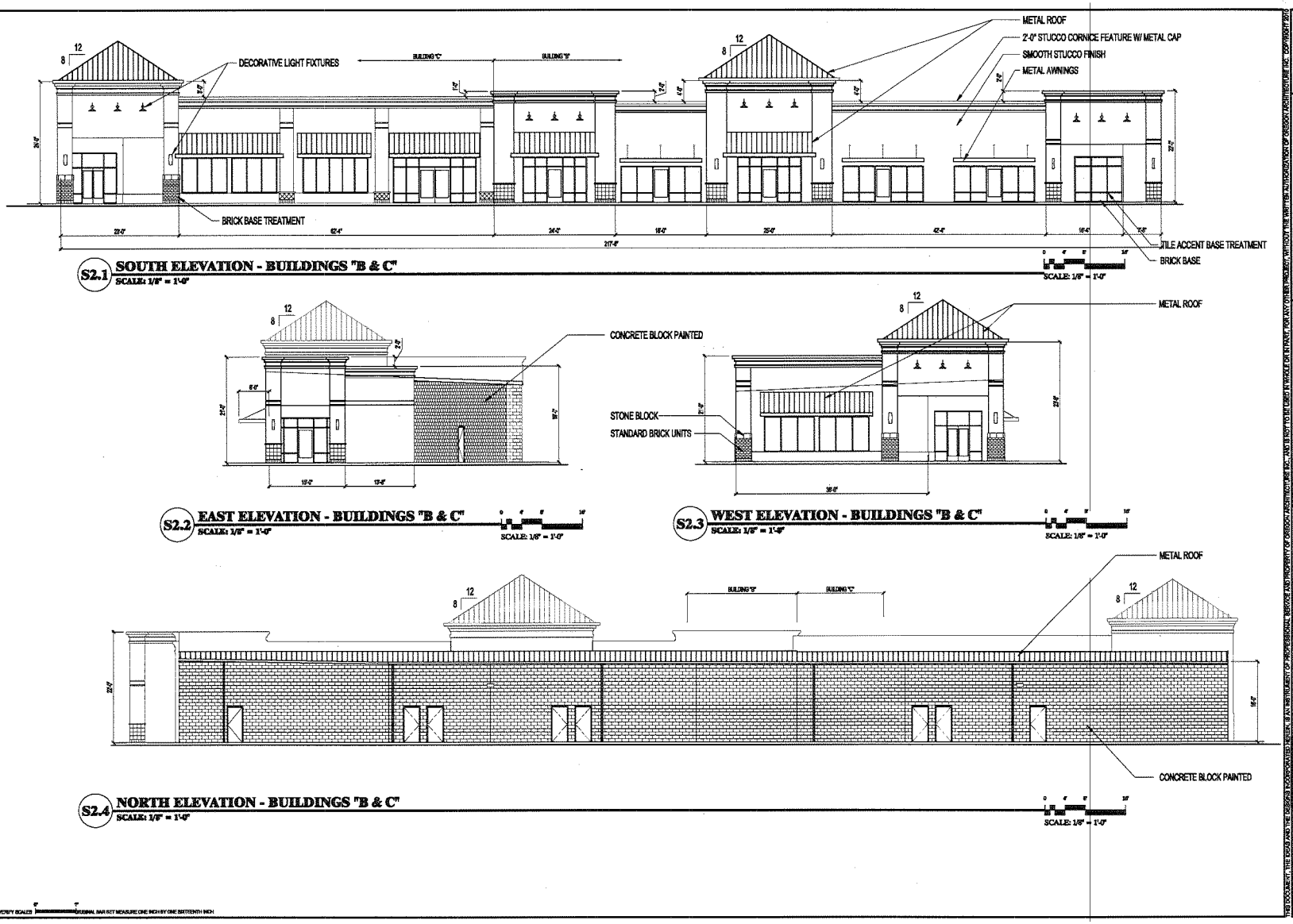
METAL ROOF
2'-0" STUCCO CORNICE FEATURE W/ METAL CAP
SMOOTH STUCCO FINISH
METAL AWNINGS
DECORATIVE LIGHT FIXTURES
BUILDING "C"
BUILDING "B"
BRICK BASE TREATMENT
TILE ACCENT BASE TREATMENT
BRICK BASE
S2.1 SOUTH ELEVATION - BUILDINGS "B & C"
SCALE: 1/8" = 1'-0"
CONCRETE BLOCK PAINTED
S2.2 EAST ELEVATION - BUILDINGS "B & C"
SCALE: 1/8" = 1'-0"
STONE BLOCK
STANDARD BRICK UNITS
S2.3 WEST ELEVATION - BUILDINGS "B & C"
SCALE: 1/8" = 1'-0"
CONCRETE BLOCK PAINTED
S2.4 NORTH ELEVATION - BUILDINGS "B & C"
SCALE: 1/8" = 1'-0"
REGISTERED ARCHITECT
STATE OF OREGON
Mark McKechnie
Medford, Oregon
4666
OREGON ARCHITECTURE
221 West Tenth Street
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Phone: 541.772.4972 Fax: 541.499.6329
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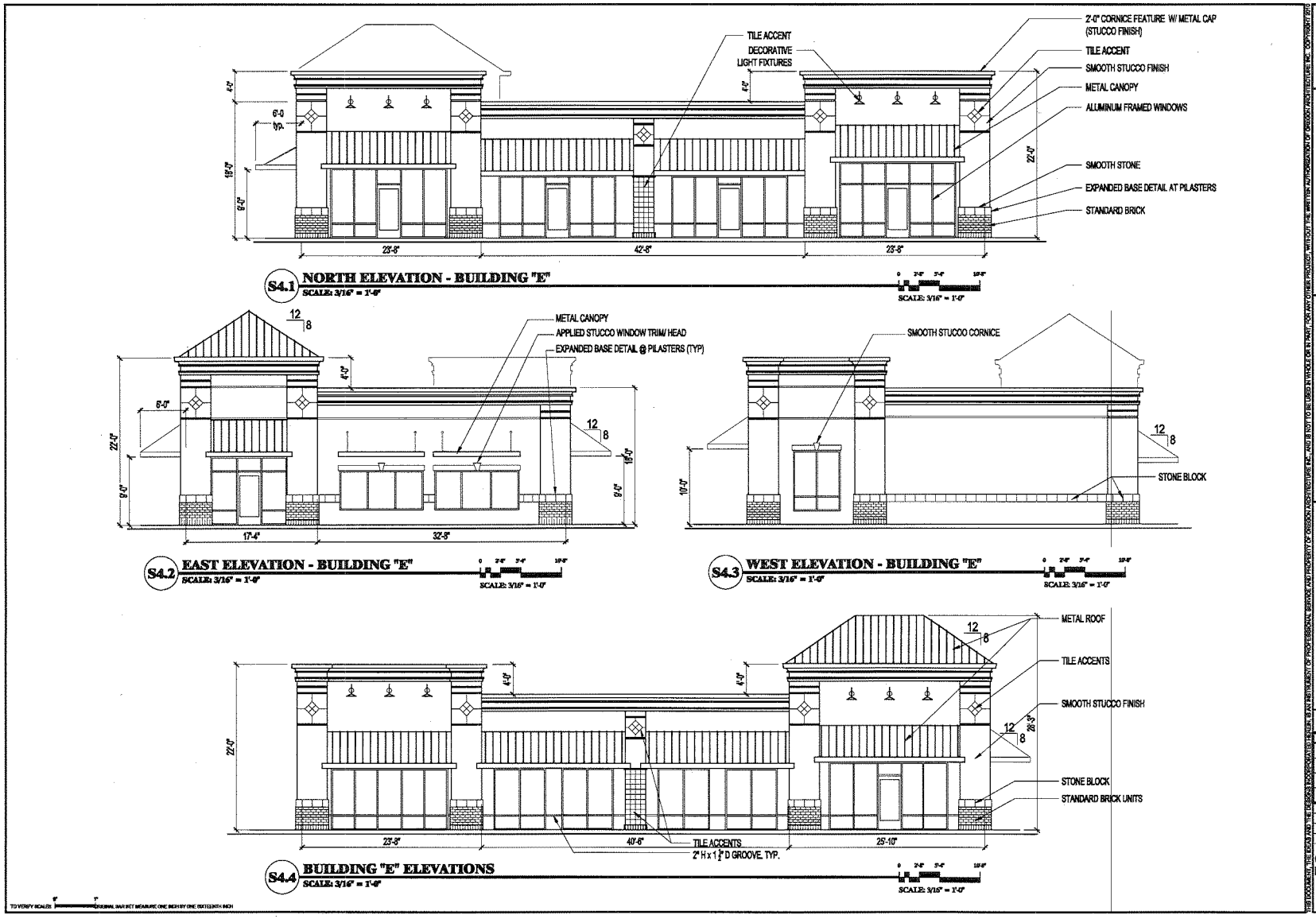
SALT LAKE CITY, UT/841 84115
PHONE: 801-580-7711 FAX: 801-580-7161
CREEKSIDE CENTER
CORVALLIS
Detail Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON
PLOT DATE: 7/30/2010
DRAWN BY: T.W.HERNEY
SP2.2
BUILDING ELEVATIONS
BUILDINGS "B & C"

CREEKSIDE CENTER I & II
(PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL NOTICE OF DISPOSITION
ATTACHMENT B - Page 21 of 25


TILE ACCENT
DECORATIVE LIGHT FIXTURES
2'-0" CORNICE FEATURE W/ METAL CAP (STUCCO FINISH)
TILE ACCENT
SMOOTH STUCCO FINISH
METAL CANOPY
ALUMINUM FRAMED WINDOWS
SMOOTH STONE
EXPANDED BASE DETAIL AT PILASTERS
STANDARD BRICK
S4.1 NORTH ELEVATION - BUILDING "E"
SCALE: 3/16" = 1'-0"
METAL CANOPY
APPLIED STUCCO WINDOW TRIM/ HEAD
EXPANDED BASE DETAIL @ PILASTERS (TYP)
S4.2 EAST ELEVATION - BUILDING "E"
SCALE: 3/16" = 1'-0"
SMOOTH STUCCO CORNICE
STONE BLOCK
S4.3 WEST ELEVATION - BUILDING "E"
SCALE: 3/16" = 1'-0"
METAL ROOF
TILE ACCENTS
SMOOTH STUCCO FINISH
STONE BLOCK
STANDARD BRICK UNITS
TILE ACCENTS
2" H x 1/2" D GROOVE, TYP.
S4.4 BUILDING "E" ELEVATIONS
SCALE: 3/16" = 1'-0"
REGISTERED ARCHITECT
STATE OF OREGON
Mark McKechnie
Medford, Oregon
4666
OREGON ARCHITECTURE
221 West Tenth Street
Medford, Oregon 97501
Phone: 541.772.4372 Fax: 541.499.0329
THOMASFOX PROPERTIES, LLC
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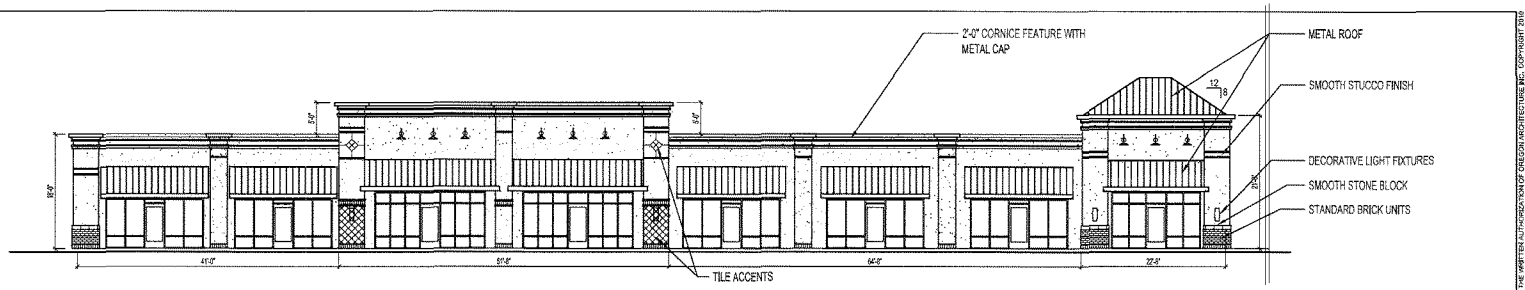
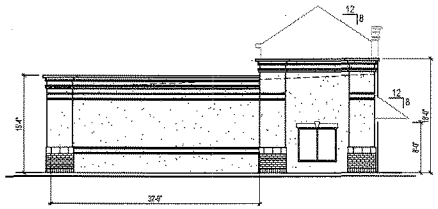
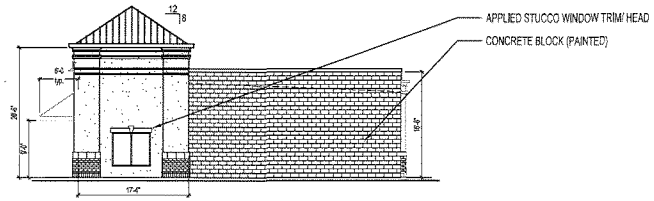
PHONE: 801-580-7711 FAX: 801-580-7161
CREEKSIDE CENTER
CORVALLIS
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON
PLOT DATE: 7/30/2010
SHEET
SP2.4
BUILDING ELEVATIONS
BUILDING "E"
19 OF 22



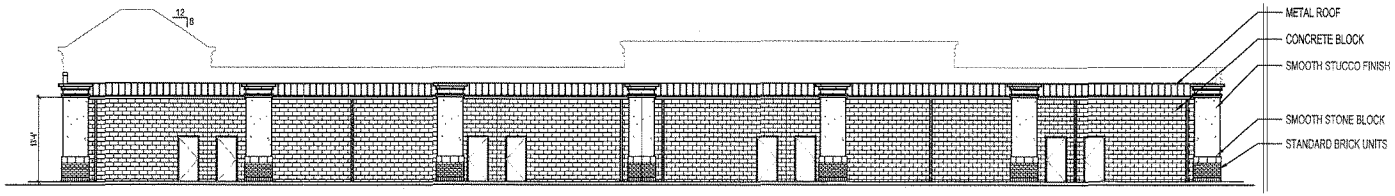
S5.1 EAST ELEVATION - BUILDING "F"
SCALE: 1/8" = 1'-0



S5.2 SOUTH ELEVATION - BUILDING "F"
SCALE: 1/8" = 1'-0



S5.3 NORTH ELEVATION - BUILDING "F"
SCALE: 1/8" = 1'-0



S5.4 WEST ELEVATION - BUILDING "F"
SCALE: 1/8" = 1'-0

TO VERIFY SCALES ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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OREGON ARCHITECTURE
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PHONE: 801-599-7711 FAX: 801-596-7161

CREEKSIDE CENTER
CORVALLIS

Project Location:
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

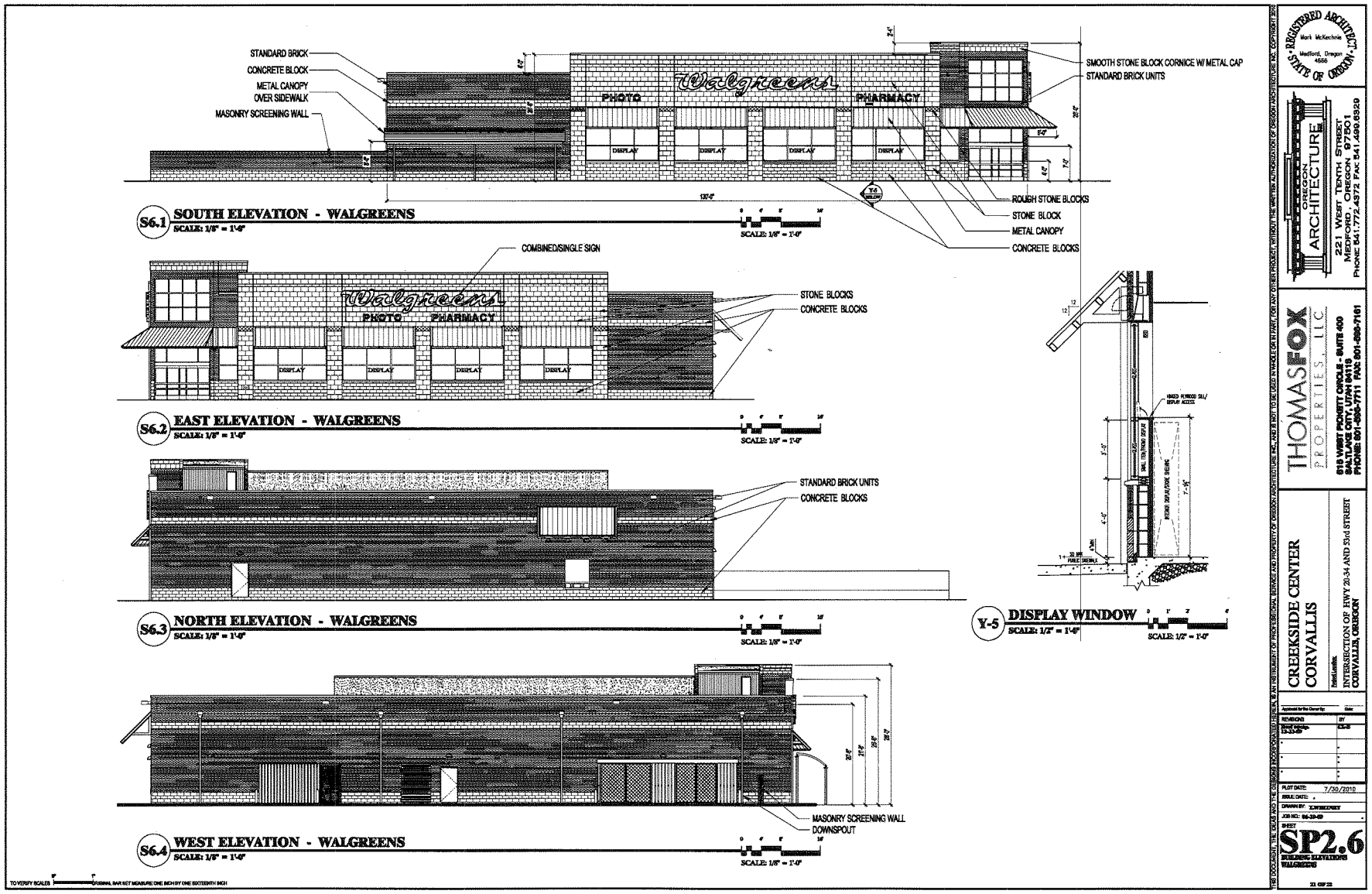
Approved for the Owner By: Date:

REVISIONS	BY

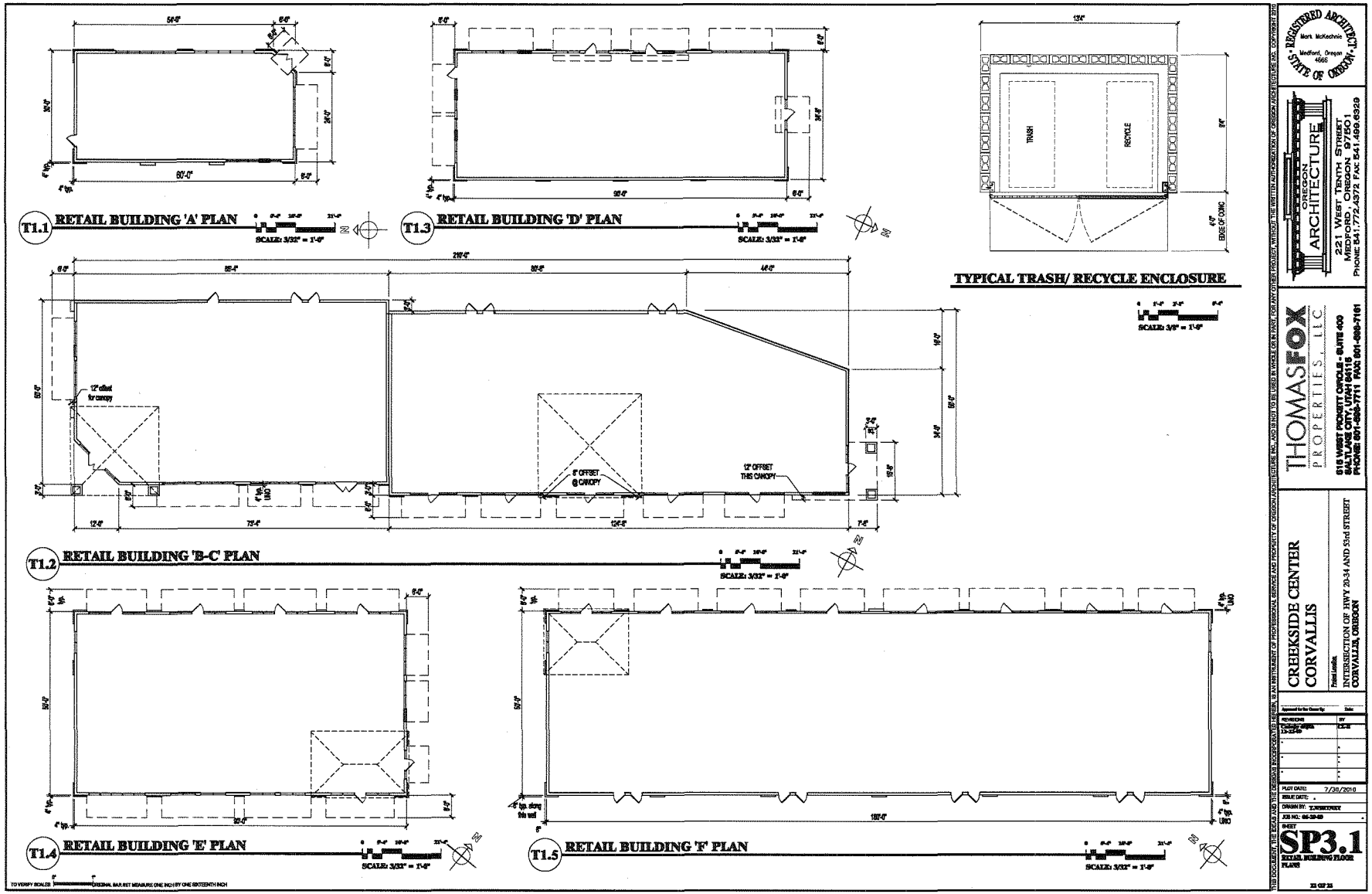
PLOT DATE: 8/10/2010
ISSUE DATE:
DRAWN BY: T.WHITNEY
JOB NO.: 06-29-09

SHEET
SP2.5
BUILDING ELEVATIONS
BUILDING "F"

20 OF 22



CREEKSIDE CENTER I & II
(PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL NOTICE OF DISPOSITION
ATTACHMENT B - Page 24 of 25


T1.1 RETAIL BUILDING 'A' PLAN
SCALE: 3/32" = 1'-0"
T1.3 RETAIL BUILDING 'D' PLAN
SCALE: 3/32" = 1'-0"
TYPICAL TRASH/ RECYCLE ENCLOSURE
SCALE: 3/8" = 1'-0"
TRASH
RECYCLE
T1.2 RETAIL BUILDING 'B-C' PLAN
SCALE: 3/32" = 1'-0"
12' offset for canopy
8' OFFSET @ CANOPY
12' OFFSET THIS CANOPY
T1.4 RETAIL BUILDING 'E' PLAN
SCALE: 3/32" = 1'-0"
T1.5 RETAIL BUILDING 'F' PLAN
SCALE: 3/32" = 1'-0"
REGISTERED ARCHITECT
Mark McKechnie
Medford, Oregon
4668
STATE OF OREGON
OREGON ARCHITECTURE
221 West Tenth Street
Medford, Oregon 97501
Phone 541.772.4372 Fax 541.499.6329
THOMASFOX PROPERTIES, LLC
515 WEST PIERPOINT CIRCLE - SUITE 400
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PHONE: 801-486-7711 FAX: 801-486-7161
CREEKSIDE CENTER
CORVALLIS
INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON
PLOT DATE: 7/30/2010
SHEET
SP3.1
RETAIL BUILDING FLOOR PLANS
23 OF 25

BEFORE THE CITY COUNCIL
OF THE CITY OF CORVALLIS

FINDINGS - CREEKSIDE CENTER I AND II
CONCEPTUAL AND DETAILED DEVELOPMENT PLAN / CONDITIONAL DEVELOPMENT PERMIT / TENTATIVE SUBDIVISION PLAT

In the matter of a City Council decision to **approve a Conceptual and Detailed Development Plan / Conditional Development Permit / Tentative Subdivision Plat**; and to uphold the Planning Commission's decision, subject to conditions; to uphold one appeal; and to deny one appeal.	**PLD09-00004** **CDP09-00003** **SUB09-00002**

PREAMBLE

This matter before the Corvallis City Council ("Council") is a decision regarding two appeals of the Planning Commission's approval of a Conceptual and Detailed Development Plan ("PLD"), a Conditional Development Permit ("CDP"), and a Tentative Subdivision Plat ("SUB") to excavate and grade the subject site, construct utility infrastructure, and to construct seven commercial buildings intended to include 43,000 square feet of retail and restaurant uses on three lots (together, "Project").

The proposed PLD includes associated vehicle parking, landscaping, public and private pedestrian connections, building architecture, bicycle parking, and preservation of approximately 2.52 acres of Locally Protected Wetland, Riparian Corridor, and 100-Year Floodplain within dedicated tracts. The PLD also includes variations to Corvallis' Land Development Code (LDC) standards related to Minimum Assured Development Area (MADA) order of encroachments, an increase in the maximum area of retail use, a reduction in planter strip width for SW 53rd Street, an increase in maximum tree spacing along pedestrian walkways, elimination of a required alley, block perimeter standards, and franchise utility easement location requirements. With the exception of these variations, the approval allows the LDC standards themselves to provide the performance standards for the individual building architecture and site plan elements, such as bicycle parking and pedestrian amenities.

The proposed CDP would allow for construction of a drive-through facility to be attached to one of the commercial retail buildings. The proposed SUB would allow for three lots for the commercial buildings and related site improvements and four tracts to be set aside for

a private Shopping Street to be shared among the lot owners and for open space preservation, drainageway, and public access/utility purposes.

The subject 6.64-acre property ("Property") is located at the northwest corner of the intersection of SW 53rd Street and SW Philomath Boulevard (Highway 20/34). The site is currently undeveloped, with the exception of a single-family residence on Tax Lot 600 and limited amounts of fill and gravel that have been lawfully placed on Tax Lot 500 in past years. Tax Lot 500 has been used on occasion as a temporary outdoor market. Dunawi Creek traverses the northern half of the property. The current property owner is Apple Creek I LLC.

The Corvallis Planning Commission conducted a de novo hearing on the PLD, CDP, and SUB (together, "Application") on September 1, 2010. On September 15, 2010, the Planning Commission deliberated and voted to approve the Application, subject to various conditions of approval. The Vice-Chair of the Planning Commission signed a notice of decision on September 16, 2010 (Order # 2010-056).

Two parties appealed the Planning Commission's decision. On September 28, 2010, Bret Fox ("Fox"), the developer of the Project, appealed the Planning Commission's decision on the grounds that Condition of Approval #41 was overly broad. Also on September 28, 2010, the League of Women Voters of Corvallis ("LWVC") appealed the Planning Commission's decision on the grounds that the proposed multi-use path along the north side of Dunawi Creek ("Trail") adversely impacts mapped natural resources. The LDC specifies that the Council hear appeals of Planning Commission decisions regarding these land use applications.

The Council held a duly advertised de novo public hearing on the Application on November 1, 2010. Mayor Charles Tomlinson and Councilors Mark O'Brien, Richard Hervey, Jeanne Raymond, Hal Brauner, David Hamby, Dan Brown, and Mike Beilstein were in attendance. Councilors Joel Hirsch and Patricia Daniels were absent. No members of the Council declared any conflicts of interest. Councilor Brauner declared that he was approached by a citizen wanting to discuss the Application during a recent Government Comment Corner but that he informed the citizen that he could not discuss the Application. Councilor Brauner stated that he could make a fair and impartial decision. Councilors Beilstein, Brown, Hamby, Brauner, Raymond, and Hervey all declared making site visits. No party challenged the impartiality or jurisdiction of the Council or any of its members to hear and decide the case.

At the appeal hearing, representatives of Fox and LWVC appeared and presented oral and written testimony. Jason Yaich, Associate Planner, presented the City staff report. No one from the public appeared in support of the Application or as a neutral party. Andrea Michalek, Sarah Bice, Greg Bennett, Betty Griffiths, David Eckert, Bob Frenkel, and Brad Upton appeared in opposition. At the close of testimony on November 1, 2010, the Council closed the public hearing; however, the written record was held open for seven additional

days until 5:00pm, November 8, 2010, for all parties and until 5:00pm, November 12, 2010, for the applicants to submit their final written argument. Various parties submitted additional testimony into the record consistent with the deadlines established by Council. Prior to the close of the record, the entire Planning Department file was placed before and not rejected by the Council.

On November 15, 2010, the Council deliberated and reached a tentative decision to approve the Application, subject to conditions set forth in the September 16, 2010, Planning Commission Notice of Disposition, adoption of Formal Findings and Conclusions, and modifying Condition of Approval # 41 to limit the scope of the proposed indemnification consistent with Fox's request. The effect of the Council's final decision is to grant Fox's appeal and deny LWVC's appeal.

Applicable Criteria

All applicable legal criteria governing review of the Application are identified in the public notices for the September 1, 2010, and November 1, 2010, public hearings; the Staff Report to the Planning Commission, dated August 20, 2010; the minutes of the Planning Commission hearing and deliberations held on September 1, 2010, and September 15, 2010; the staff memorandum to the City Council dated October 25, 2010, and the minutes of the City Council public hearing and deliberations dated November 1, 2010, and November 15, 2010, respectively. The cited Corvallis Comprehensive Plan ("Plan") policies are fully implemented by the Land Development Code ("LDC"). Where variations to standards have been requested through the Planned Development process, Plan policies have been utilized to provide direction regarding the requested variations to standards. Similarly, where LDC provisions are ambiguous, Plan policies have been utilized to provide context and to clarify the purpose of ambiguous language.

GENERAL FINDINGS AND CONCLUSIONS RELATED TO THE APPEAL OF CREEKSIDE CENTER I AND II CONCEPTUAL AND DETAILED DEVELOPMENT PLAN / CONDITIONAL DEVELOPMENT PERMIT / TENTATIVE SUBDIVISION PLAT (PLD09-00004 / CDP09-00003 / SUB09-00002)

1. As findings supporting approval of the Application, the Council hereby accepts, adopts, and incorporates within this Decision by reference, in their entirety, the Application filed by Fox and his representatives, dated July 9, 2009, as supplemented and revised through November 12, 2010; the staff report to the Planning Commission, dated August 20, 2010 ("Staff Report"), the staff memoranda to the Planning Commission, dated September 1, 2010, September 9, 2010, September 13, 2010, September 14, 2010, and September 15, 2010; and the staff memoranda to the Council, dated October 26, 2010, October 28, 2010, November 1, 2010, November 10, 2010, and November 12, 2010. The Council also adopts as

findings, those portions of the Minutes of the Council meetings dated November 1, 2010, and November 15, 2010, that demonstrate support for approving the Application, as conditioned. The Council specifically accepts and adopts as findings the rationale given during deliberations in the November 15, 2010, meeting by Council members expressing their support for approving the Application, as conditioned. All of the above-referenced documents shall be referred to in these findings as the "Incorporated Findings". The findings below (the "supplemental findings") supplement and elaborate on the findings contained in the materials noted above, all of which are incorporated herein by reference.

2. The Council finds that Exhibit N of the October 25, 2010, staff memorandum to Council presents information on Pages 120 through 142 regarding pages of the August 20, 2010, staff report to the Planning Commission that contain discussions on the need for imposing Conditions of Approval # 1 through 39-I. The Council further finds that Exhibit H of the October 25, 2010, staff memorandum to Council presents information on pages 1 and 2 that explain the need for imposing Conditions of Approval # 40 and 41. The Council specifically modifies Condition of Approval #41 in the manner and for the reasons set forth below. The Council finds that, as modified, each of these conditions is a reasonable condition that is feasible based upon substantial evidence for the applicant to comply with and is necessary to satisfy the applicable criteria presented in the October 25, 2010, staff memorandum to Council and the supplemental findings presented below.

3. The Council finds that the record contains all evidence and argument needed to evaluate the Application for compliance with the relevant criteria.

4. The Council finds that it considered the grounds of the appeals and other issues raised through public testimony.

5. The Incorporated Findings list all of the applicable approval criteria, and demonstrate compliance with these approval criteria. These supplemental findings elaborate upon and clarify the Incorporated Findings, and primarily address issues raised in opposition to the application. These supplemental findings are grouped into issues, with findings included in response to each issue. The issues are organized in traditional outline format and are assigned chronological numbers and alphabetical letters as appropriate.

SUPPLEMENTAL FINDINGS

I. <u>Issues Raised on Appeal</u>

A. <u>Upholding Fox's Appeal; Modification of Condition of Approval #41.</u>

Fox contended that the City's interpretation of Condition of Approval #41, as set forth in the proposed Indemnification & Release Agreement offered by the City Attorney, was overly broad for two reasons. First, Fox contended it was overly broad and unfair because it asked Fox to assume liability for flooding caused by third parties. Second, Fox contended that it was overly broad because it required Fox to subject twelve (12) different categories of unrelated persons, including predecessors, tenants, and guests, to the terms of the indemnification. As a result, it could be impossible for Fox to comply with the proposed agreement since it was dependent upon matters outside of Fox's control.

Fox presented testimony that, under LDC 4.5.70.04, indemnification is only required when developing in a Landslide Hazard Area, but the LDC did not impose a similar requirement when developing in a floodplain. Further, Fox testified that the indemnity was unnecessary due to Fox's willingness to comply with Condition of Approval #40, which requires Fox to provide a revised floodplain study and site grading plans demonstrating that the post-development floodplain elevation is unchanged and that the floodplain boundary has not expanded horizontally. Finally, Fox expressed willingness to comply with Condition of Approval #41 and execute an Indemnification & Release Agreement, provided the language was narrowed to address Fox's concerns.

In a November 8, 2010, Memorandum to the Council, the City Attorney agreed that the Indemnification & Release Agreement could legally be limited in the manner in the manner consistent with the City Attorney's memorandum. No one rebutted this testimony with reference to a provision of the LDC or other law that required the City to obtain a broader indemnification from Fox. Further, although opponents expressed an interest in requiring that Fox be liable for flooding, none of them explained why it was legally defensible to require Fox to assume liability for flooding caused by third parties.

Based upon the testimony presented by Fox and the City Attorney, the balance of the equities, and the additional protection offered by Condition of Approval #40, the Council finds that Condition of Approval #41 is unnecessarily overly broad and can be narrowed while still protecting the interests and property of the City and its citizens, as Council interprets the guidance of LDC 4.5.30 to require. Accordingly, the Council revises Condition of Approval #41 to read as follows:

> **"Floodplain Impacts Indemnification - Prior to issuance of building permits for structures or grading within floodplain areas, the applicant shall sign an Indemnification and Release Agreement, provided by the City. The Agreement shall indemnify and release the City from potential liability resulting from issuance of this approval and all building permits that result in damage to person or property directly or indirectly related**

to flooding created, caused, or contributed to by his / her / its development activities adjacent to or within the floodplain. This Indemnity and Release Agreement shall be recorded against the property and shall run with the land."

The Council finds that the original Indemnification & Release Agreement proffered by the City and included in the record is not consistent with the modified condition. Accordingly, the City finds that the agreement must be modified to be consistent with the modified condition. The modified form of the agreement is attached as **Exhibit A** and is expressly approved by the Council as part of this decision. The Council's modification of Condition of Approval 41, and the Appellant's agreement to comply with its terms, moots this issue

B. Denial of LWVC's Appeal

1. Multi-Use Trail

LWVC contended that the Council should delete the Trail from the Application plans because it is in conflict with Plan policies, LDC standards, and other city plans.

a. Comprehensive Plan Map

LWVC first contends that the Trail is routed through portions of the Property designated on the City's Plan Map as a Locally Significant (and Highly Protected Proximate) Wetland and a Highly Protected Riparian Corridor and a Highly Protected Floodplain. The Council does not dispute the accuracy of these designations; however, the Council finds that these designations do not prohibit development of the Trail, provided the requirements of LDC 4.13.50.b.2 and 4.13.80.01.c.2 are satisfied, including that the Trail must be "designed and constructed to minimize adverse impacts to Riparian Corridors and Riparian-related Areas." In fact, the Council finds that accepting LWVC's interpretation-that these designations on their face preclude development of the Trail--is inconsistent with the plain language of these provisions of the LDC. For the reasons explained in this decision, the Council finds that the Application satisfies these standards. Therefore, the Council denies LWVC's contention.

b. Plan Policy 3.2.1

LWVC contended that Plan Policy 3.2.1 gives clear direction to preserve natural resources. This policy states as follows:

3.2.1 The desired land use pattern within the Corvallis Urban Growth Boundary will emphasize:

A. **Preservation of significant open space and natural features;**
B. **Efficient use of land;**
C. **Efficient use of energy and other resources;**
D. **Compact urban form;**
E. **Efficient provision of transportation and other public services; and**
F. **Neighborhoods with a mix of uses, diversity of housing types, pedestrian scale, a defined center, and shared public areas.**

The Council finds that this policy is a generally applicable planning directive, and it does not establish an approval criterion applicable to quasi-judicial applications such as the Application. As acknowledged by the Department of Land Conservation and Development (DLCD), the Corvallis Land Development Code fully implements Comprehensive Plan policies. The Council further finds that, contrary to LWVC's contention, this policy also establishes other planning objectives beyond simply preservation of natural resources. Even if this policy was applicable to individual applications, in the instant case, the Council finds that LDC 4.13.50.b.2 requires the Council to consider adopted plan provisions as a guide to determining whether the location and construction of a bicycle and pedestrian facility in a riparian corridor is "necessary to maintain a functional system." This Plan policy is not directed at answering this question. For these reasons, the Council finds this policy to be inapplicable. The Council denies LWVC's contention on this issue.

c. Plan Policy 4.2.2

LWVC further contended that the Trail will conflict with Plan Policy 4.2.2, which states as follows:

4.2.2 Natural features and areas determined to be significant 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.

The Council finds that this policy is a generally applicable planning directive, and it does not establish an approval criterion applicable to quasi-judicial land use applications such as the Application. Moreover, in the instant case, the Council finds that LDC 4.13.50.b.2 requires the Council to consider adopted plan provisions as a guide to determining whether the location and construction of a bicycle and pedestrian facility in a riparian corridor is "necessary to maintain a functional system." This Plan policy is not directed at answering this question. For these reasons, the Council finds this policy to be inapplicable. The Council denies LWVC's contention on this issue.

d. Plan Policy 4.8.2

LWVC further contended that the Trail will conflict with Plan Policy 4.8.2, which

states as follows:

4.8.2 Land designated as 100-year floodplain shall be treated as follows:

A. Development of new buildings on undeveloped lands (where such development does not fall within the definition of infill contained in Article 50) shall be prohibited in the 100-year floodplain of Corvallis streams, with the exception of the Willamette River, the Marys River, and the Millrace. If pre-existing parcels are entirely within the 100- year floodplain or if this policy renders an otherwise buildable parcel unbuildable, exceptions may be considered to allow limited development.

B. Streets, alleys, driveways, and parking lots on undeveloped lands, with the exception of the Willamette River, the Marys River, and the Millrace, should be located outside the 100-year floodplain and wetlands unless it can be demonstrated that they are constructed in a manner that does not restrict or otherwise alter proper floodplain functions, will cause no harm to the properly functioning condition of the stream, and that no other reasonable option is available.

C. Infill and redevelopment in the 100-year floodplain of Corvallis streams , with the exception of the Willamette River, the Marys River, and the Millrace, shall maintain or improve stormwater functions and floodplain functions existing prior to the proposed infill or redevelopment, using techniques such as flow-through designs, more pervious surface area, and reduced building footprints. Development standards shall be created to allow additions to existing structures consistent with those structures' design, provided the additions fall below the threshold of "substantial improvement" contained in the Land Development Code and are constructed consistent with FEMA standards.

D. Area-specific development standards for the 100-year floodplain of the Marys River, the Willamette Rivers, and the Millrace shall be instituted to maintain stormwater functions, be proportional to the impact of the development on the receiving water bodies, and minimize impacts to other properties.

E. New City infrastructure, including streets and sanitary sewers, should be located outside the 100-year floodplain and wetlands unless it can be demonstrated that they will cause no harm to the properly functioning condition of the stream and that no other reasonable option is available.

The Council finds that this policy is not applicable for three reasons. First, it is a generally applicable planning directive, and it does not establish an approval criterion applicable to quasi-judicial applications such as the Application. Second, it is implemented by LDC Chapter 4.5, which does establish applicable approval criteria. As explained in Section 3.K below, the Council finds that there is substantial evidence in the whole record explaining why the Application satisfies the applicable standards of LDC Chapter 4.5. Third, even if this policy was applicable to quasi-judicial applications, in the instant case, the Council finds that LDC 4.13.50.b.2 requires the Council to consider adopted plan provisions as a guide to determining whether the location and construction of a bicycle and pedestrian facility in a riparian corridor is "necessary to maintain a functional system." This Plan policy is not directed at answering this question. For these reasons, the

Council finds that Plan Policy 4.8.2 is inapplicable. The Council denies LWVC's contention on this issue.

e. Plan Policy 4.9.1

LWVC further contended that the Trail will conflict with Plan Policy 4.9.1, which states as follows:

4.9.1 Significant watercourses, lakes, and wetlands shall be preserved, or have their losses mitigated, in order to: maintain clean water, support natural vegetation, protect the aquatic habitat, retain significant public vistas, and provide wildlife habitat and recreation sites. Site-specific buffering and setback requirements may be required, as necessary, to achieve protection.

The Council finds that LWVC has not established that the Property will be developed inconsistent with this policy. The Council finds that Fox will be required to apply for and obtain permits from, as applicable, DSL and the U.S. Army Corps of Engineers, prior to impacting any jurisdictional wetlands. These permits will require mitigation of any impacts as well. Therefore, the Council finds that there is no substantial evidence that, on balance, the Trail will adversely affect wetland features.

In the alternative, the Council finds that this policy is not applicable for three reasons. First, it is a generally applicable planning directive and it does not establish an approval criterion applicable to quasi-judicial applications such as the Application. Second, it is implemented by LDC Chapter 4.13, which does establish approval criteria applicable to the Application. Third, even if this policy was applicable to quasi-judicial applications, in the instant case, the Council finds that LDC 4.13.50.b.2 requires the Council to consider adopted plan provisions as a guide to determining whether the location and construction of a bicycle and pedestrian facility in a riparian corridor is "necessary to maintain a functional system." This Plan policy is not directed at answering this question. For these reasons, the Council finds this policy to be inapplicable. The Council denies LWVC's contention on this issue.

f. Plan Policy 4.10.3

LWVC contended that the Trail will conflict with Plan Policy 4.10.3, which states as follows:

4.10.3 Significant drainageways shall be kept in a natural state to protect tree lines, maintain their natural functions, and enhance native plant species, to the maximum extent practicable.

The Council finds that this policy is not applicable for three reasons. First, it is a

generally applicable planning directive, and it does not establish an approval criterion applicable to quasi-judicial land use applications such as the Application. Second, it is implemented by LDC Chapter 4.13, which does establish applicable approval criteria. Third, even if this policy was applicable to quasi-judicial applications, in the instant case, the Council finds that LDC 4.13.50.b.2 requires the Council to consider adopted plan provisions as a guide to determining whether the location and construction of a bicycle and pedestrian facility in a riparian corridor is "necessary to maintain a functional system." This Plan policy is not directed at answering this question. For these reasons, the Council finds this policy to be inapplicable. The Council denies LWVC's contention on this issue.

g. Plan Policy 4.10.5

LWVC further contends that the Trail will conflict with Plan Policy 4.10.5, which states as follows:

4.10.5 The City shall develop stream corridor width and other standards and programs that preserve the properly functioning condition of streams. These standards can be varied by reach or basin and shall be determined based on functional objectives such as:

- **A. Preservation of the hydrologic conveyance and storage capacity;**
- **B. Allowance for natural channel lateral migration and bank failure;**
- **C. Allowance for channel widening and other channel modification that result from changes in hydrology from future urban development;**
- **D. Proper shading of the stream to maintain or improve water quality;**
- **E. Allowance for a vegetative management strategy that encourages native riparian species;**
- **F. Provision of a pollutant filtering zone for surface runoff;**
- **G. Allowance for natural stream processes to minimize stream channel, bank, and corridor maintenance needs;**
- **H. Buffering of urban uses from stream processes;**
- **I. Provision of a source and delivery of large wood;**
- **J. Preservation of the 0.2-foot floodway; and**
- **K. Preservation or enhancement of habitat."**

The Council finds that this policy is not applicable for four reasons. First, it is a generally applicable planning policy that directs the City to adopt stream corridor standards and programs. The policy does not establish any approval criteria applicable to quasi-judicial land use applications such as the Application. Second, it is implemented by LDC Chapter 4.13, which does establish approval criteria applicable to the Application. Third, even if this policy was applicable to quasi-judicial applications, in the instant case, the Council finds that LDC 4.13.50.b.2 requires the Council to consider adopted plan provisions as a guide to determining whether the location and construction of a bicycle and pedestrian facility in a riparian corridor is "necessary to maintain a functional system." This Plan policy is not directed at answering this question. Fourth, LDC Chapter 4.13 was adopted, in part, per the direction provided by CCP 4.10.5. Therefore, the standards

in LDC Chapter 4.13 implement this Comprehensive Plan policy. For these reasons, the Council finds that Plan Policy 4.10.5 is inapplicable. The Council denies LWVC's contention on this issue.

h. Protection of Proximate Wetlands

LWVC contended that, pursuant to LDC 4.13.40 and 4.13.50, Proximate Wetlands are afforded the same protection as locally Significant Wetlands and Highly Protected Riparian Corridors. The Council finds that, notwithstanding the status of the Proximate Wetlands, LDC 4.13.50.b.2 and 4.13.80.01.c.2 specifically allow development of the Trail in the proposed location, subject to identified standards. For the reasons explained in this decision, the Council finds that the Application satisfies these standards. The Council denies LWVC's contention on this issue.

I. Stormwater Master Plan

LWVC contended that construction of the Trail through the wetland would conflict with the following policies of the Stormwater Master Plan:

"[T]he Corvallis stormwater utility incorporate existing natural features such as streams and wetlands as a means of managing urban run-off." (p. 5-7)

"The City shall place a high level of significance on wetlands that are adjacent to streams." (p. 5-20)

"The public shall only be allowed along stream corridors if they do not impact the properly functioning condition of streams." (p. 5-33)

The Council finds that these are important policies of the Stormwater Master Plan. Moreover, the Council finds that, consistent with these same objectives, it adopted LDC Chapter 4.13 ("Riparian Corridor and Wetland Provisions") to protect and preserve Significant Riparian Corridors and Wetland areas within the City. At the time of adoption, the Council considered whether LDC Chapter 4.13 was consistent with the requirements of the City's adopted plans. In the absence of a code requirement to the contrary, the City is not required to re-apply the policies of individual plans in each and every case. In the instant case, the Council finds that LDC 4.13.50.b.2 requires the Council to consider adopted plan provisions as a guide to determining whether the location and construction of a bicycle and pedestrian facility in a riparian corridor is "necessary to maintain a functional system." The identified Stormwater Master Plan policies are not directed at answering this question. Therefore, the Council finds them to be inapplicable. The Council denies LWVC's contention on this issue.

j. DSL E-mail

LWVC contended that a April 12, 2010 e-mail message from DSL to the City supports its argument. The message in question reads as follows: "[F]orested wetlands are a type of wetland disproportionately lost in the Willamette Valley and should be avoided to the greatest extent possible." The Council finds that the DSL correspondence is not a relevant consideration under the plain language of LDC 4.13.50.b.2, because it is not a provision of the LDC, a Plan, or any other adopted City plan. Therefore, the Council denies this contention.

k. Natural Features Inventory

LWVC contended that a statement from the City's Natural Features Inventory ("NFI") describing the nature of the wetlands located on the Property supports its argument against the Trail. The Council finds that interpreting the NFI to preclude development of the Trail is inconsistent with both the purpose and intent of the LDC. As explained above, LDC 4.13.50.b.2 and 4.13.80.01.c.2 specifically allow development of the Trail in the proposed location, subject to identified standards. For the reasons explained in this decision, the Council finds that the Application satisfies these standards. Finally, the Council finds that it originally adopted the NFI and LDC Chapter 4.13 on the same date (December 13, 2004), providing evidence of the legislative intent that these documents may simultaneously apply and must be construed together. Therefore, the Council denies LWVC's contention.

l. Important Wetland Functions

LWVC offered testimony relating to the functions and values of the Property's wetlands and riparian corridor, including that the wetlands naturally improve water quality and, in turn, save the City infrastructure costs. The Council finds that the portion of LWVC's testimony relating to wetland values and functions is unsubstantiated, not offered by an expert, and apparently not set forth in an adopted City plan or the LDC. As such, the testimony cannot provide a basis for guiding the City's determination under LDC 4.13.50.b.2, which is limited to review of the "Code, Transportation and Utility Master Plans, and other adopted City plans." The Council finds that the portion of LWVC's testimony relating to riparian corridor values does reference the LDC; however, it is not directed at whether the Trail is "necessary to maintain a functional system." Therefore, the Council finds that it is inapplicable. The Council finds that the portion of LWVC's testimony relating to saving City infrastructure costs is speculative. The Council denies this contention.

m. Impacts on Wetland and Riparian Corridor North of Dunawi Creek

LWVC contended that the Trail will adversely impact wetland and riparian corridors north of Dunawi Creek by requiring the removal of several ash trees. The Council finds that Fox will be required to apply for and obtain permits from, as applicable,

DSL and the U.S. Army Corps of Engineers, prior to impacting any jurisdictional wetlands. These permits will require mitigation of any impacts as well. Therefore, the Council finds that there is no evidence that, on balance, the Trail will adversely affect wetland features. Further, the Council finds that LWVC again does not explain how the existence of these natural features prevents routing a Trail through this location under LDC 4.13.50.b.2. The Council denies this contention.

n. Impacts on Riparian Corridor South of Dunawi Creek

LWVC contended that the Trail should be disallowed because its construction will generate MADA credits for Fox, who can then utilize these credits to further develop the Property, theoretically causing additional encroachment into the riparian corridor on the south side of Dunawi Creek. The Council cannot dispute that additional development is a potential consequence of obtaining additional MADA credits; however, the Council finds that it is a product of the MADA credit system itself, which is independent of the question at hand. Furthermore, LWVC has not explained how the City can legally deny Fox an award of MADA credits that otherwise satisfies the applicable LDC prerequisites. The Council further finds that the impact of a trail on MADA credits is not a valid consideration under the LDC for determining whether the trail is "necessary to maintain a functional system." The Council denies LWVC's contention on this issue.

o. Trail Location in City Plans

LWVC contended that the proposed Trail location is not required by any City plans in this specific location, especially not at the expense of the existing natural features. LDC 4.13.50.b.2 allows the location and construction of bicycle and pedestrian facilities within Highly Protected Riparian Corridors and Riparian-related Areas if the City Engineer deems them "necessary to maintain a functional system." Further, this provision states that the LDC, "City Transportation and Utility Master Plans, and other adopted City plans shall guide this determination."

Fox testified in the Application that it was required to provide a trail in this location in order to comply with the block perimeter and pedestrian connection standards of the LDC. LWVC contended that the City could grant a variation to these standards; however, LWVC did not present substantial evidence to establish that these standards could be satisfied. The Council finds that the LDC requirement supports a determination that the Trail is "necessary to maintain a functional system."

LWVC conceded that both the City's Trails Master Plan and Parks & Recreation Facility Plan depict a trail in this general location; however, LWVC contends that this trail is conceptual only and was adopted prior to adoption of the NFI. As such, LWVC contends that the trail designation did not take into account the wetlands identified on the Property in the NFI. City staff responded by testifying that another

adopted plan, the West Corvallis/North Philomath Plan ("WCNPP"), identifies the Trail location inside of the natural features, thus showing a clear intent to route the Trail there notwithstanding the existence of the resources. Further, City staff cited to specific WCNPP policies that support Trail location in stream corridors as follows:

OS-I-1:
Work with private landowners to obtain dedications of open space lands for trails and preservation of natural systems.

OS-I-7:
Where feasible, incorporate trails as part of stream corridors as identified on the Circulation Plan, Figure VI-1.

OS-I-9:
Locate trails at the edge of riparian buffer zones to minimize impacts on the natural functioning of the stream corridor and to preserve stream capacity

The Council concurs with the LWVC that standing alone, the conceptual trails depicted in the Trails Master Plan and the Parks & Recreation Facility Plan may not justify this location for the Trail. However, the Council finds that there is additional substantial evidence in the record that supports the proposed Trail location as set forth in the WCNPP.

The Council concurs with City staff findings that the Trail is "necessary" in this location to "maintain a functional trail system" as depicted in the adopted WCNPP and as further conceptually depicted in the Trails Master Plan and the Parks & Recreation Facility Plan. The Council further finds that each of the cited plans was approved by the Council through a public process.

Notwithstanding the status of the Trail in the plans, LWVC contends that the Trail is not "necessary to maintain a functional trail system" because superior alternative locations are available that do not cause direct impacts to the wetland and riparian corridors. Specifically, LWVC contends that as proposed to the Planning Commission, a proposed trail alignment that would commence at the west end of Helen Avenue (one block north of the Property) and proceed generally south and west along the north side of the riparian corridor will cause fewer adverse effects to natural resources. City staff rejected this alternative because lots along Helen Avenue are substantially developed; thus, there is inadequate right-of-way available to construct a path to City standards. LWVC did not rebut this testimony or offer any other alternatives. Based upon the testimony of City staff, there are no superior alternatives to the proposed Trail route.

Accordingly, the City finds that the Trail location satisfies LDC 4.13.50.b.2.

p. Multi-Modal Nature of Trail

LWVC further contended that the proposed Trail location is inappropriate for multi-modal transportation. Specifically, LWVC contends that the wetland location would likely require a design that would be dysfunctional as a multi-modal path. LWVC suggests that a surface path would be flooded, a path on fill would impede the flow of water, and a boardwalk design would likely be too slick for bicycles in the winter. City staff responded that although "multi-use" paths in the City typically require a 12-wide concrete standard, there are alternative standards available. The Council finds that the precise design and materials for the Trail are not at issue in this Application; therefore, the Council expressly does not approve or deny same in this decision. However, the Council does find that LDC 4.13.50.b.2, which requires that any pedestrian or bicycle facility in a designated riparian area "minimize the impact to the subject area," supports the concept of alternative designs in order to lessen adverse effects on natural resources. For this reason, the Council denies LWVC's contention.

q. Intersection with Shared-Use Sidewalk Near 53rd Street Driveway

LWVC further contended that the proposed intersection of the Trail with the shared-use sidewalk north of the 53rd Street access driveway will increase the amount of bicycle and pedestrian traffic crossing the driveway, which as explained below, opponents contend is already unsafe. For the reasons explained below in response to Section 3.B of these supplemental findings, the Council finds that the driveway crossing, as conditioned, is safe. Moreover, the Council finds that the increased use of the crossing will actually alert more drivers and Trail users alike to the need for caution at this location. The Council denies LWVC"s contention.

2. Above-Ground Stormwater Facilities

LWVC further contended that the Council should delete Fox's two above-ground stormwater facilities from the proposed site plan on the grounds that they were inconsistent with various provisions of the LDC, the Plan, and the Stormwater Master Plan and that they would negatively impact the Highly Protected Riparian Corridor and Highly Protected 100-Year Floodplain. In place of these facilities, LWVC requested that the Council require expanded underground stormwater detention. In support of its contention, LWVC cited various provisions of the Plan and LDC.

Jason Yaich, Associate City Planner, testified that the policies cited by LWVC encouraging protection of natural features must be balanced with the need to provide adequate public facilities. Further, Mr. Yaich stated that the MADA helps implement the balance of allowing development to occur and minimize impacts to natural resource areas. Mr. Gibb submitted additional written testimony elaborating

on this point. He noted that LDC 4.0.130.b requires that detention facilities "be designed to maximize stormwater infiltration." Mark McKechnie, AIA, of Oregon Architecture, testified that the proposed ponds are the best alternative for handling stormwater detention and quality.

The Application includes substantial evidence explaining how the proposed stormwater facilities are consistent with applicable provisions of the LDC, including LDC 4.0.130. At the hearing, Mr. McKechnie testified for the applicant that the above-ground facilities in question would only handle a small portion of the runoff for the Property. According to Mr. McKechnie, the facility on Tax Lot 600 is intended to process water from the public right-of-way on that lot, while the other facility on Tax Lot 500 filters mostly roof water runoff from Buildings B and C. The balance of the stormwater runoff will be collected in underground piping under the parking lot. Thus, the Council finds that the size and use of these facilities will be limited in scope, thus reducing the extent of the impacts associated with same.

The Council denies LWVC's appeal on this issue.

C. Additional Issues Raised Before the Council.

1. Traffic Congestion and Mitigation Measures

Multiple opponents expressed generalized concerns that the proposed development would worsen traffic congestion in the area. The Council finds that these concerns are unsubstantiated, and there is substantial evidence in the record to the contrary.

As required by LDC 4.0.60.a, JRH Transportation Engineering ("JRH"), Fox's traffic consultant, prepared a detailed Traffic Impact Analysis update for the Application dated April 5, 2010 ("TIA"). In the TIA, JRH's professional traffic engineers analyzed existing traffic safety and operational conditions and then applied industry standard models to project the likely traffic conditions in the year of development opening (2012) under a scenario where both the development and related traffic mitigation were built. JRH determined that the intersection of SW 53rd Street and SW Philomath Boulevard will operate in 2012 within applicable ODOT and City standards. In fact, JRH concluded that the intersection would actually operate better under the "build" condition (with mitigation) than under the "no build" condition.

The TIA assumed completion of the following roadway improvements to mitigate the traffic impacts of the development: (1) on SW Philomath Boulevard, extending the eastbound left-turn lane at SW 53rd Street to the maximum length possible while accommodating the full-movement access in the location shown in the site plan and required deceleration distances and associated striping transitions; (2) widening SW Philomath Boulevard to accommodate a right-turn deceleration lane and a two-way

left-turn lane for traffic entering the full movement access to the Property; and (3) widening (and realigning as necessary) SW 53rd Street to accommodate an exclusive southbound right-turn lane at SW Philomath Boulevard and the County's ultimate desired roadway cross section and align through lanes across the intersection.

City staff reviewed the TIA and agency comments and concluded that, as conditioned, "the anticipated development-related trips are expected to be accommodated by the proposed and existing street network."

The Council finds that the mitigation measures in the TIA are consistent with comments made by ODOT and the County, which have jurisdiction over SW Philomath Boulevard and SW 53rd Street, respectively. Conditions of Approval 20-23 require that Fox install or secure these required roadway improvements prior to approval of the final plat for the Property. The Council finds that imposing these conditions will ensure that these roadway facilities will be completed as required.

The Council finds that opponents did not link their traffic congestion concerns to any applicable approval criteria. Moreover, no opponents presented substantial evidence, such as the testimony or report of an expert traffic consultant, to rebut the testimony presented by JRH and City staff on this issue or to explain why the proposed conditions of approval were infeasible or otherwise ineffective to assure compliance with applicable standards. Thus, the Council finds that, as conditioned, development of the Property will satisfy LDC 4.0.60 related to traffic impacts. The Council denies opponents' traffic contentions.

2. Location of Access Driveways; Bicycle and Pedestrian Safety

Various opponents contended that the location, design, and allowed movements for the proposed access driveways were unsafe. The Council finds that these contentions are not supported by substantial evidence and should be denied.

The plans in the Application depict two access driveways to the Property: (1) a right in/right-out private driveway access on SW 53rd Street with a center median to discourage left turns into the Property ("Street Access"); and (2) a full movement access driveway between the Property and SW Philomath Boulevard ("Highway Access"). As stated above, the City does not have roadway jurisdiction over either SW 53rd Street or SW Philomath Boulevard.

First, opponents contended that the Street Access and the Highway Access are too close to the intersection of SW 53rd Street and SW Philomath Boulevard. According to the November 8, 2010 letter from JRH, the Street Access was placed as far north from the intersection of SW 53rd Street and SW Philomath Boulevard as the Property frontage would allow (approximately 235 feet). Both ODOT and the

County reviewed and approved the location of the Street Access. As to the location of the Highway Access, according to JRH, Fox preferred this location for several reasons: (1) ODOT previously requested that the access driveway be placed at this location; (2) no wetlands exist in the location of the Highway Access; (3) the Highway Access would be co-located with an existing sanitary sewer easement (where building a structure would be prohibited); and (4) shifting the Highway Access to be shared between Tax Lot 600 and the off-site lot to the west could create conflicts, as it would require sharing among residential and commercial uses. Further, ODOT (re-)approved the Highway Access in this location as part of its review of the Application. Opponents have not offered any substantial evidence, such as the testimony of a qualified traffic safety expert, to rebut the expert opinions of JRH, ODOT, or the County.

Second, opponents contended that the Street Access would be unsafe for bicyclists, who would be forced to cross the Street Access on a shared use off-street path on the west side of SW 53rd Street. According to opponents, this crossing is unsafe because it will force many bicyclists to travel on a sidewalk and, in many cases, counter to the direction of passing cars. As JRH explained in its November 8, 2010 letter, Fox will be completing frontage improvements that include a traditional bicycle lane in this location. The County has simply required that Fox construct the shared use path in addition to the bike lane in order to maintain existing conditions. The County has recommended that the Street Access be developed with a stop bar and stop sign and that both the Street Access and shared use path include signage warning of the crossing. The Council has incorporated the signage requirements as well as a requirement for contrasting paving materials into Condition of Approval #26. The Council further finds that this condition allows City and County staff to require truncated domes at the Street Access and for the shared use path to maintain a consistent grade through the driveway if such measures are determined to optimize safety at the intersection. Opponents have not submitted substantial evidence, such as testimony from a traffic safety expert that explains why the proposed improvements will be unsafe, as conditioned, or that proposes a superior alternative. The Council denies the opponents' contention on this issue.

Finally, opponent Andrea Michalek objected to the median barrier being installed in conjunction with the Street Access. According to Ms. Michalek, the median will only allow her to make a right turn out of her driveway and will require that she take a completely different route home. According to the Staff Report, there may be some queueing from the SW 53rd Street/SW Philomath Boulevard intersection that extends back to the Street Access. Accordingly, the County and ODOT limited the Street Access to right in/right out only with a median barrier to discourage left turns to and from the Street Access in order to avoid conflicts between turning traffic and queued traffic. Ms. Michalek does not present any substantial evidence rebutting the proposed configuration or proposing a superior alternative. Although the Council finds that this arrangement may create some inconvenience for the traveling

public, the Council finds that it is an appropriate safety measure that has been reviewed and approved by the agencies with jurisdiction over same.

In sum, the Council rejects the opponents' contentions relating to the access driveways.

3. Ongoing Grading Activities

An opponent, Betty Griffiths, complained that there were ongoing excavation and pre-construction activities occurring on the Property. She contended that these activities were either illegal or at least inconsistent with the ongoing review of a development application relating to the Property. Staff explained, in their November 1, 2010, Memorandum to City Council, that the City had issued an excavation permit allowing certain activities on the Property (Permit #EXC09-00086). The City issued the permit because there is no provision in the LDC or elsewhere that directs staff not to issue a permit that otherwise meets applicable requirements simply because there is a pending land use application in process. In addition, the permit was not predicated upon approval of the Application. Further, the City advised the applicant that if he chose to proceed under the permit, he would do so at his own risk. Finally, staff deemed the proposed activities consistent with the MADA encroachment hierarchy, consistent with the applicant's state-issued wetland fill permit, and outside the delineated wetlands on the Property.

The Council rejects Ms. Griffiths' complaint for two reasons. First, it is outside the scope of the Application and is not directed at any applicable approval criteria. Therefore, there is no basis for the Council to deny (or approve or condition) the Application based upon her complaint. Second, the Council finds that, for the reasons set forth in the staff testimony, the City has authorized certain on-site activities by issuing a permit, and to the extent the ongoing activities are consistent with such permit, they are permissible.

4. Developer Payment for Offsite Flood Insurance

Andrea Michalek contended that Dunawi Creek routinely floods and that development of a road on the Property will likely exacerbate flooding concerns. She further contended that the increased risk would require her to obtain flood insurance. She requested that Council require Fox to pay for her flood insurance. Ms. Michalek did not submit evidence, such as a study prepared by an expert, to support her contentions. For the applicant, Mr. McKechnie stated in rebuttal, with reference to attachment G-16 of the Application, that development of the Property would pull the floodway away from Ms. Michael's house. No one presented testimony to challenge this statement.

The Council finds that, based upon the testimony of Mr. McKechnie, Fox will not increase the flooding risk to Ms. Michalek's property. Moreover, the Council finds that in response to the concerns raised by Ms. Michalek and others, the Planning Commission and City staff created Condition of Approval #40. The Council ratifies this action and upholds the Planning Commission's adopted condition, which reads as follows:

> **"40. Additional Floodplain Study and Revisions to Detailed Development Plan - With submittal of the site excavation and grading permit application, where grading is proposed within the pre-development floodway fringe, the applicant shall provide a revised floodplain study and site grading plans which demonstrates that the post-development floodplain elevation on adjacent properties is no greater than the pre-development condition. The post-development floodplain boundary shall not expand horizontally beyond the limits of the pre-development floodplain boundary as it currently exists on adjacent properties. The applicant may choose to reduce or eliminate building area associated with Phases 1D (Building C), 1E (Building B), and Phase 2, as well as associated vehicle parking, if it is necessary to accommodate flood water volume and meet this condition of approval. The Planning Commission finds that if building area is reduced in order to comply with this condition, the minimum Floor Area Ratio (FAR) requirement of 0.25, as specified in LDC § 3.19.40.03, may be reduced below 0.25. If this occurs, the Planning Commission finds that a compensating benefit has been provided for the variation to FAR in the form of no net impact upon adjacent properties due to development within the floodway fringe."**

The Council finds that imposing, and as needed, enforcing, Condition of Approval #40, as modified, fully addresses Ms. Michalek's concern. As a result, the Council finds that there is no basis to require Fox to pay for Ms. Michalek's flood insurance as a condition of developing the Property.

5. Drive-Through Pharmacy

Sarah Bice raised various contentions about the proposed drive-through pharmacy. First, Ms. Bice contended that the existence of the drive-through will pollute the creek with petroleum. Ms. Bice has not offered a more complete explanation of how these facts are causally related. Moreover, Ms. Bice has not offered any substantial evidence, such as testimony from an environmental consultant, that supports this conclusion with a study and/or expert opinion. Ms. Bice has also not directed this contention at any applicable approval criterion.

Second, Ms. Bice contended that a drive-though pharmacy was unnecessary on the Property and would lead to development of three pharmacies at the same intersection. Ms. Bice did not link these contentions to applicable approval criteria. As a result, the Council cannot deny (or approve or condition) the Application based upon these factors. Instead, as set forth in the Staff Report, the drive-through pharmacy is allowed subject to obtaining a Conditional Development Permit. Further, for the reasons explained in the Application and on pages 104-110 of the Staff Report, there is substantial evidence to find that, as conditioned, the CDP Application satisfies all applicable approval criteria. Therefore, the Council denies Ms. Bice's contentions on this issue.

6. Applicant's DSL Permits

Various opponents contended that Fox had not obtained permits from DSL authorizing impacts to natural resources on all areas of the Property. These opponents contended that the City should limit approval to those portions of the Property where Fox has obtained and maintained a DSL permit authorizing impacts to natural resources. City staff testified that Fox has obtained an active fill permit from DSL, which permits development between SW Philomath Boulevard and within 25 feet of the top-of-bank on the south side of Dunawi Creek. The active DSL permit also permits development associated with the eastern stream crossing and the driveway construction on the north side of Dunawi Creek at 53rd Street, near the northeast corner of the Property. The DSL permit does not authorize construction of the Trail or the proposed development of Lot 600, and DSL staff have advised that a second fill permit will be necessary to allow this additional development. LDC 4.13.80.01.e requires DSL concurrence prior to City issuance of site development permits.

The Council finds that Condition of Approval #4 addresses opponents' concerns by limiting the City to issuing development permits for only those portions of the Property that fall within the scope of active DSL fill permits. The Council finds that this condition is consistent with the LDC and balances the interests of the parties. Ms. Griffiths objected that this condition "leaves too much up in the air for both the developer and the community." The Council finds that it does not leave "too much up in the air," as the complete development plan has been subject to a noticed public hearing, and the condition establishes clear and objective standards for when development can proceed. The Council denies the opponents' contention.

7. Whether the Number and Extent of MADA Credits are Consistent with Intent of the LDC

Ms. Griffiths contended that the number and extent of MADA credits associated with the development was "especially troubling" and not consistent with the intent of the LDC. The Council finds that Fox presented substantial evidence in the Application

that the Project qualified for MADA credits. The Council further finds that City staff properly applied the provisions of the LDC in calculating credits. The Council denies Ms. Griffiths' contention on this issue.

8. Salmon Response Plan

Ms. Griffiths contended that the encroachment of the development on the riparian corridor and adjacent wetlands may violate the City's Salmon Response Plan ("SRP") . The Council finds that the SRP was adopted in 2004 to comply with federal regulations following the designation of the Chinook salmon as a threatened species under the Federal Endangered Species Act. The SRP states that as "Next Steps," the City should incorporate relevant provisions of the SRP and/or implementing policies into the Plan or LDC. To the extent the City has done so, City staff considered and applied the applicable incorporated provisions during the review of the Application. To the extent the City has not so incorporated these provisions, the Council finds that the SRP itself does not establish any independent approval criteria that apply to the Application.

9. TMDL Requirements and Temperature Load on River

Ms. Griffiths further contended that, if approved, the Project "may create additional problems in meeting the TMDL requirements of DEQ." Ms. Griffiths does not offer any explanation, justification, or substantial evidence whatsoever in support of this statement. Further, she does not direct this contention at any approval criterion applicable to the Application. Accordingly, the Council denies this contention.

10. Floodplain Development Standards

Ms. Griffiths also contended that the Application violates LDC 4.5.50.02 and 4.5.50.07 regarding development in areas of Special Flood Hazard. Pages 59 and 60 of the Application narrative explain why the Project satisfies the applicable standards of LDC Chapter 4.5. In addition, Marquess & Associates, Inc., a professional engineering firm, submitted a flood study documenting that the proposed improvements would not cause more than a 0.2' rise in the 100-year water surface elevation. At pages 91-103, City staff opined that, as conditioned, the Application would satisfy the applicable floodplain standards. The Council finds that Ms. Griffiths' comments are conclusory and do not adequately explain why the Application fails to meet the applicable standards. The Council denies Ms. Griffiths' contention.

II. Land Uses

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan, Conditional Development Permit, and Tentative Subdivision Plat. The Council notes that the applicant's responses to the applicable criteria cited above are found on Page 192 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that the subject site is designated on the Corvallis Comprehensive Map for MUC (Mixed Use Commercial) and C (Open Space - Conservation) land uses, as shown on Page 146 of Exhibit N of the October 25, 2010, staff memorandum to Council. The Council also notes that the site is zoned MUCS (Mixed-Use Community Shopping), consistent with the Comprehensive Plan Map Designation of MUC for the site, as shown on Page 147 of Exhibit N of the October 25, 2010 staff memorandum to Council.

3. The City Council notes that findings in response to the applicable criteria cited above are presented in the October 25, 2010, staff memorandum to Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions on Pages 24 through 26 of Exhibit N of the October 25, 2010, staff memorandum to the City Council. The Council finds that the proposed uses are consistent with those listed in LDC Section 3.19.30.

III. Natural Resources and Natural Hazards

A. General

1. The City Council notes that the applicant responded to the applicable criteria cited above as part of a complete application submitted for the Conceptual and Detailed Development Plan, Conditional Development Permit, and Tentative Subdivision Plat. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 235 through 247, Page 271, and Page 273 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Pages 8 through 15, Pages 84 through 103, Pages 109 through 110, and Pages 117 through 118, of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council, the portions of the minutes from the September 15, 2010, Planning

Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The City Council notes that the Incorporated Findings are supplemented by Findings III.A.3 through III.A.4, and all of Findings III.B, III.C, III.D, and III.E below.

3. The Council notes that the LDC provisions for protecting natural resources were completed as directed by the State Department of Land Conservation and Development (DLCD), in compliance with Statewide Goal 5 requirements. The Council notes that Phase III of the Land Development Code Update, which included the relevant natural resource and natural hazard protections, was approved by the DLCD and approved on appeal to the Land Conservation and Development Commission (LCDC). The Council notes that that decision was subsequently upheld on appeal to the Oregon Court of Appeals.

4. The City Council notes that Article IV of the Land Development Code, as amended through the Phase III Update, contains provisions for protection of Natural Hazards and Natural Resources, and that the review criteria for Conceptual and Detailed Development Plans, Conditional Development Permits, and Tentative Subdivision Plats reference these Natural Features protections. The Council notes that the Findings in subsections IV.N and VII below (Findings on Compatibility and Natural Features Factors and Tentative Subdivision Plat) below address all applicable review criteria related to Natural Features protections.

B. Natural Hazards

1. The City Council notes that, as part of a complete application submitted for the Conceptual and Detailed Development Plan, Conditional Development Permit, and Tentative Subdivision Plat, the applicant has provided data which shows that the subject development site is constrained by a Highly-Protected 100-Year Floodplain, including the 0.2-ft. Floodway. As discussed on Pages 8 through 14, and Pages 99 through 100 of Exhibit N of the October 25, 2010, staff memorandum to City Council, the applicable floodplain development criteria have been satisfied. City Council note that Condition # 40, as discussed in Findings I.A and I.C.4, above, has been imposed to ensure that the compatibility criterion specified in LDC 2.5.40.04.a.2 is satisfied, and to ensure that the development permissible within the Highly-Protected 100-Year Floodplain does not exacerbate existing flooding conditions on adjacent properties.

C. Natural Resources

1. The City Council notes that the subject site contains a Highly-Protected Riparian Corridor, and associated Proximate Wetland, which has a Locally Protected status. Council notes that in 2004, the applicant applied for and received approval of a wetland fill permit from the Department of State Lands, as discussed in Finding I.C.6, and that the subject DSL fill permit is still active. Council notes that the active DSL fill permit does not include within its scope, development of the proposed public multi-use path located north of Dunawi Creek nor the development of Tax Lot 600, noted as Phase 2 of the subject Conceptual and Detailed Development Plan. The Council notes that the active DSL fill permit was acquired prior to implementation of Phase III of the Land Development Code Update, and prior to application for a land use approval on the subject site. The Council notes that LDC 4.13.80.01.e requires the applicant to provide supplemental documentation indicating that DSL has approved development not otherwise contained within the scope of the 2004 fill permit, and that this requirement has been captured in Condition # 4. Council finds that the applicable criteria for development within the Natural Resource areas have been satisfied.

D. Minimum Assured Development Area

1. The City Council notes that, as part of a complete application submitted for the Conceptual and Detailed Development Plan, Conditional Development Permit, and Tentative Subdivision Plat, the applicant has provided data which shows that the subject development site is constrained to such a degree by the Natural Features and Natural Hazards identified in Findings III.B and III.C above, that the provisions for Minimum Assured Development Area (MADA) outlined in LDC Chapter 4.11, apply to the site. The Council notes that, as part of the complete land use applications filed, the applicant has provided calculations which indicate that the base MADA permitted in the underlying Mixed-Use Community Shopping zone, as well as the additional MADA credits warranted under LDC 4.11.50.02.c., contribute to a total MADA allowance of approximately 180,728 square feet, and that the proposed development plan impacts approximately 179,319 square feet of the development site. The Council finds that the proposed development area falls within the MADA allowance for the site. The Council notes that calculations for MADA, as provided in the application, are subject to change due to the way that MADA credits are applied based on the scope of impacts inherent in the construction permit drawings, and that Condition # 7 has been imposed to ensure that MADA provisions are satisfied according to the final construction drawings and site work.

E. Conclusion

1. As discussed in the Incorporated Findings and the supplemental findings, the Council finds that the proposal, as conditioned, is consistent with the applicable criteria related to Natural Resources and Natural Hazards category cited above.

IV. Compatibility

A. Compensating Benefits

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 188 through 271 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Pages 8 through 24 (compensating benefits criteria), of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The City Council notes that the Incorporated Findings are supplemented by Findings IV.A.3 through IV.A.9, below. The Council finds that the proposal is consistent with the applicable criteria cited above, or is conditioned to that effect.

3. The Council notes that the applicant requested to vary from LDC Section 4.11.50.04.c, which prescribes the allowable and preferred order of encroachments into areas of Natural Features, as discussed on Page 8 and Pages 12 through 15 of Exhibit N of the October 25, 2010, staff memorandum to Council. The Council notes that the applicant proposed to compensate for the noted variations to the order of encroachments by concentrating development on the south side of Dunawi Creek. The Council notes that LDC 4.11.50.04.c would require development to occur on the north side of Dunawi Creek, north of the delineation of the 100-ft. Highly Protected Riparian Corridor, prior to encroaching within the 100-ft. Highly Protected Riparian Corridor on either side of the creek. Therefore, the

Council finds that the Natural Resources and Natural Hazards on the north side of Dunawi Creek are better protected, as compared to impacts on Natural Features that would occur had the applicant followed the prescribed MADA order of encroachments. The Council finds that the proposed compensating benefits are sufficient to achieve the intent of LDC Section 2.5.40.04.a.1. for the following reasons:

a. Concentrating development on the south side of Dunawi Creek makes efficient use of land that has already experienced some development impacts in the form of a single-family development and compacted fill, and better protects areas on the north side of Dunawi Creek that have not experienced similar urban development pressures.

b. Allowing the variation provides the proper balance of preserving significant open space and natural features, and making efficient use of land, which is consistent with CCP Policy 3.2.1.

Given these considerations, the Council finds that it is reasonable to allow the requested variance.

4. The City Council notes that the applicant requested to vary from LDC Section 4.0.60.n.2, to allow an increase in the maximum distance prescribed for block faces from 400 feet to 442 feet, as discussed on Page 9 and Pages 15 through 17 of Exhibit N of the October 25, 2010, staff memorandum to Council. The Council notes that the need for the requested variance is the result of the public street network approved for the subject site through the Comprehensive Plan functional classification system, Corvallis Transportation Plan, and Land Development Code provisions related to access restrictions on Highway 20/34 (LDC § 4.0.60.o), which precludes the extension of a new public street at the prescribed distance of 400 feet. The Council notes that access control provisions on Page 3-80 of the City's adopted Corvallis Transportation Plan discourage creation of driveway access points on Arterial highways. The Council notes that staff analysis of the request to vary from LDC Section 4.0.60.n.2, to increase the spacing between the spacing of the Shopping Street entrance on SW Philomath Boulevard and SW 53rd Street is supported by Transportation Plan Policy 3-80. Additionally, Council notes that strict application of the 400-foot spacing requirement for a pedestrian block perimeter connection would have required the applicant to construct a north-south pedestrian path across Dunawi Creek, in order to connect to the proposed Dunawi Creek multi-use path. The Council notes that the applicant has cited, as one of the compensating benefits of the requested variation to the block face standard, increased protection of the subject site's Natural Features. The Council notes that the applicant could potentially achieve consistency with LDC § 4.0.60.n.2 by

proposing to construct a new public street through the site at the prescribed distance of 400 feet west of the intersection of Highway 20/34 and SW 53rd Street. However, meeting this standard would be inconsistent with LDC 4.0.60.o, which requires new development to have access to a Local street wherever practicable, and which requires new development. The Council notes that the applicant proposed to compensate for the requested variance by noting the following:

a. The proposed network of on-site pedestrian facilities connects most of the building sites to one another via the most efficient routes possible.

b. The proposed network of on-site pedestrian facilities is designed so that multiple points of connection are made with the public sidewalk system abutting the site so that pedestrians may access the buildings and pass through the site via more than one route.

c. The proposed network of on-site pedestrian facilities provides more opportunities for accessing and passing through the site than would have occurred if the referenced criterion were satisfied by extending one or more public streets through the site.

d. The proposed network of on-site pedestrian facilities is designed to facilitate handicapped access through the site and to each of the proposed buildings.

As a result, the Council finds that compensating benefits have been provided for the requested variation, and that it is reasonable to allow the requested variance.

5. The City Council notes that the applicant requested to vary from LDC Section 3.19.30.f.25, to allow an increase in the maximum area of an individual retail sales use, as discussed on Page 9 and Pages 15 through 17 of Exhibit N of the October 25, 2010, staff memorandum to Council. The Council notes that LDC 3.19.40.02 requires that areas set aside for automobile circulation associated with drive-through facilities are to be included the floor area calculation subject to the maximum 15,000 sq. ft. specified in LDC 3.19.30.f.25. The Council also notes that LDC 2.5.10.b.2.c prescribes that variations to the maximum area of an individual retail sales use, in excess of the 15,000 sq. ft. limit, shall be reviewed through the Conceptual and Detailed Development Plan process. The City Council notes that the applicant has proposed, as a compensating benefit, constructing the drive-through queing lane with pervious pavement, and that other than the drive-through facility itself, the subject retail sales use within the walls of the

applicable Walgreen's building has less than 15,000 square feet of floor area. The Council notes the following CCP Policies that support the proposed compensating benefit, and that it is reasonable to allow the requested variation, based on the applicable criteria for compensating benefits:

Applicable Comprehensive Plan Policies

4.10.6 In order to reduce peak runoff from impervious areas and maintain pre-development flow regimes, the City shall work to adopt standards such as the following:

- **C. Use pervious materials and alternative designs where applicable, such as infiltration systems.**
- **H. Pursue the use of retention and infiltration facilities where the soils are suitable to control runoff volume, peak flow and promote dry season base flows in streams.**
- **I. Develop sub-surface storage as well as surface detention facilities.**

4.12.9 The City shall encourage practices that enhance groundwater recharge to maintain or increase stream flow during dry periods. (QN-10)

4.12.10 The City shall encourage parking lots to be constructed of stable pervious surfaces that do not degrade groundwater quality. (QN-18)

14.4.2 Design elements shall provide transitions between various land uses and intensities where necessary to improve compatibility.

6. The City Council notes that the applicant requested to vary from LDC Section 4.0.30.a.2, 4.0.60.e.1, and 4.0.60.k.8, to allow a decrease in the width of the required street tree planter strip along the site's SW 53rd Street frontage. The Council notes that LDC 4.0.30.a.2 requires a planter strip width of 12 feet, and that the applicant proposed a width of 6 feet. The Council also notes that SW 53rd Street is an Arterial street under Benton County jurisdiction. As discussed on Page 18 and Pages 61 through 62 of Exhibit N of the October 25, 2010, staff memorandum to Council, Benton County participated in the review of the development application and has mandated that the park strip width be no more than 6 feet in width, based on right-of-way limitations, and the necessity for street widening improvements along the site's 53rd Street frontage. The Council notes the following compensating benefits provided for in the application:

- enhanced landscaping treatment along the SW 53rd Street frontage; and

- increased width of the pedestrian sidewalk along the SW 53rd Street frontage due to its multi-use path status

The Council finds that Condition # 36-j implements the applicant's proposed compensating benefit of enhanced landscaping. The City Council finds that given the jurisdictional requirements of Benton County, and the proposed compensating benefits, that the proposed variation is justified.

7. The City Council notes that the applicant requested to vary from LDC Section 4.2.40.c, to allow an increase in the maximum distance prescribed for shade trees along a pedestrian walkway, as discussed on Page 10 and Pages 18 through 19 of Exhibit N of the October 25, 2010, staff memorandum to Council. The Council notes that the LDC standard specifies a maximum spacing of 40 feet, and the applicant is proposing 50 feet. The Council also notes that the applicant has cited, as a compensating benefit, provision of large canopy trees. The Council notes that large canopy trees provide additional shade to pedestrians due to the relative size of the mature tree canopy, and trees of medium canopy stature are typically provided along pedestrian walkways. The Council finds that the proposed large canopy trees meet the intent of the LDC 4.2.40.c, and that the compensating benefits criterion has been satisfied.

8. The City Council notes that the applicant requested to vary from LDC Section 3.19.40.06.a, to eliminate a required alley, as discussed on Page 10 and Pages 20 through 22 of Exhibit N of the October 25, 2010, staff memorandum to Council. The Council notes that LDC 3.19.40.06.a restricts vehicle parking along alleys such that parking is only permitted on one side of the alley. The Council notes that a private driveway has been provided through the center of the developed portion of the site that contains many of the features of an alley, as prescribed in LDC 3.19.40.06.a, with the exception that the applicant proposes to construct vehicle parking on both sides of the private driveway, and is not proposing to provide a public access easement over the private driveway. The City Council finds, as a compensating benefit, enhanced protection of Natural Features, since the design makes efficient use of land. The Council finds this to be consistent with CCP 3.2.1.

9. The City Council notes that the applicant requested to vary from LDC Section 4.0.100.b, to eliminate a required 7-foot franchise utility easement along one side of the proposed local street bisecting Tax Lot 600, as discussed on Page 11 and Pages 23 of Exhibit N of the October 25, 2010, staff memorandum to Council. The Council notes, as compensating benefits, enhanced Natural Features protection, by making efficient use of land. The Council also notes that Conditions # 35 and # 39-e require that the applicant

provide franchise utilities to and through the development site, which is otherwise consistent with LDC 4.0.100.b. The Council notes that the proposed variation is justified based on continued provision of franchise utilities.

10. As discussed in the Incorporated Findings and the supplemental findings provided above, with the associated Conditions of Approval, the City Council finds that the proposal is consistent with the compensating benefits criterion.

B. Basic Site Design

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 194 through 200 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on pages 24 through 30, of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Council finds that the proposal is consistent with the applicable criteria cited above, or is conditioned to that effect.

3. The City Council notes that Condition of Approval #12 requires street address signage to be posted on certain buildings on the site. Additionally, the Council notes that Condition of Approval #13 specifies that the water supply for the required fire suppression systems shall be in-service prior to building construction proceeding above the level of the foundation. The Council notes that these Conditions were imposed to inform the applicant of these requirements, as set forth in the Oregon Fire Code, specifically sections 501.4 and 505.1. The Council finds that the Condition adequately ensures consistency with the referenced criteria.

C. Visual Elements

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed

Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 194 through 200 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on pages 30 through 35, of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Council finds that the proposal is consistent with the applicable criteria cited above.

D. Noise Attenuation

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 200 through 201 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on page 35 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Council finds that the proposal is consistent with the applicable criteria cited above.

E. Odors and Emissions

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found

on Page 201 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on page 35 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Council finds that the proposal is consistent with the applicable criteria cited above.

F. Lighting

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 201 through 202 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on page 35 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Council finds that the proposal is consistent with the applicable criteria cited above.

G. Signage

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Tentative Subdivision Plat. The Council notes that the applicant's responses to the applicable criteria cited above are found on

Pages 203 through 204 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Page 36 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Council finds that the proposal is consistent with the applicable criteria cited above.

H. Landscaping for Buffering and Screening

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 204 through 212 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Pages 36 through 46 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Incorporated Findings are supplemented by Findings IV.H.3 and IV.H.4, below. The Council finds that the proposal is consistent with the applicable criteria cited above, or is conditioned to that effect.

3. The City Council notes that the applicant submitted a conceptual landscape plan that generally demonstrates consistency with the applicable LDC criteria cited in the incorporated findings. The Council notes that Condition of Approval #36 was imposed to ensure that the final landscaping plans submitted to the City for review and approval demonstrate consistency with these criteria as well. The Council finds that the Condition of Approval adequately addresses site landscaping requirements and ensures consistency with the referenced LDC criteria.

4. As discussed in the Incorporated Findings and the supplemental findings provided above, with the associated Condition of Approval, the City Council finds that the proposal is consistent with the criteria applicable to the Landscaping for Buffering and Screening subcategory.

I. Transportation Facilities

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 212 through 213 and Pages 247 through 260 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Pages 47 through 67 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Incorporated Findings are supplemented by Findings IV.I.3 - IV.I.4, below. The Council finds that the proposal is consistent with the applicable criteria cited above, or is conditioned to that effect.

3. Findings V.A.1 through V.A.6 (Vehicular Circulation), V.B.1 through V.B.6 (Pedestrian and Bicycle Circulation), and V.C.1 through V.C.3 (Transit) are incorporated here by reference as findings under the Transportation Facilities subcategory.

4. As discussed in the Incorporated Findings and the supplemental findings provided above, with the associated Conditions of Approval, the City Council finds that the proposal is consistent with the criteria applicable to the Transportation Facilities subcategory.

J. Traffic and Off-site Parking Impacts

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found

on Pages 213 through 221 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Pages 67 through 70 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Council finds that the proposal is consistent with the applicable criteria cited above, or is conditioned to that effect.

K. Utility Infrastructure

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 221 through 222 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Pages 70 through 77 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Incorporated Findings are supplemented by Findings IV.K.3 - IV.K.4, below. The Council finds that the proposal is consistent with the applicable criteria cited above, or is conditioned to that effect.

3. Findings VI.1 through VI.10 (Public Facilities and Services) are incorporated here by reference as findings under the Utility Infrastructure subcategory.

4. As discussed in the Incorporated Findings and the supplemental findings provided above, with the associated Condition of Approval, the City Council finds that the proposal is consistent with the criteria applicable to the Utility Infrastructure subcategory.

L. Effects on Air and Water Quality

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 222 through 223 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Page 77 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Council finds that the proposal is consistent with the applicable criteria cited above, or is conditioned to that effect.

M. Pedestrian Oriented Design Standards

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on pages 223 through 235 and Pages 270 through 271 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Pages 78 through 83 and Pages 108 through 109 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Incorporated Findings are supplemented by Finding IV.M.3, below. The Council finds that the proposal is consistent with the applicable criteria cited above, or is conditioned to that effect.

3. The City Council notes that the applicant proposes to construct seven buildings on the site, some of which are required to provide weather protection (canopies or awnings) along facades that serve as customer entrance points, consistent with LDC 4.10.70.05.a.1. The LDC specifies that required weather protection be at least 8-feet above the adjacent sidewalk and extend from the building face a minimum of 6 feet. Council recognizes that the applicant has not proposed to vary from these standards. However, Council also notes that the application drawings illustrated on Page 27 and Pages 43 through 49 of Exhibit F of the October 25, 2010, staff memorandum to City Council do not clearly show that these standard will be satisfied. The Council notes that Condition of Approval #11 was imposed to ensure that the ultimate design of the buildings comply with LDC Section 4.10.70.05.a.1. The Council finds that the Condition adequately addresses the weather protection pedestrian design standard and ensures that the design will satisfy criteria referenced herein and cited above.
4. As discussed in the Incorporated Findings and the supplemental findings provided above, with the associated Condition of Approval, the City Council finds that the proposal is consistent with the criteria applicable to the Pedestrian Oriented Design Standards subcategory.

N. Natural Resources and Natural Hazards

1. The City Council notes that the applicant responded to the applicable criteria cited above as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 235 through 247 and Page 271 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Pages 84 through 103 and Pages 109 through 110 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council cited above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The City Council notes that the Incorporated Findings are supplemented by Findings IV.N.3 through IV.N.5, below.

3. Findings III.A through III.E, and IV.A.3 are incorporated here by reference as findings under the Natural Resources and Natural Hazards subcategory.

4. As discussed in the Incorporated Findings and the supplemental findings provided above, with the associated Conditions of Approval, the City Council finds that the proposal is consistent with the criteria applicable to the Natural Resources and Natural Hazards subcategory.

V. Circulation

A. Vehicular Circulation

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 212 through 213, Pages 247 through 256, and Page 269 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Pages 58 through 64 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Incorporated Findings are supplemented by Findings V.A.3 - V.A.5, below. The Council finds that the proposal is consistent with the applicable criteria cited above, or is conditioned to that effect.

3. The City Council notes that SW Philomath Boulevard (Highway 20/34) is designated as an Arterial Highway in the Corvallis Transportation Master Plan, as discussed on Page 58 of Exhibit N of the October 25, 2010, staff memorandum to Council. Council notes that SW Philomath Blvd. is a public right-of-way under Oregon Department of Transportation (ODOT) jurisdiction, and that ODOT maintains design and construction standards for highways under its control. The City Council notes that the applicant proposes to improve the SW Philomath Boulevard frontage for the site consistent with design standards for an Arterial Highway, as required by LDC Section 4.0.60.e.1, and as mandated by ODOT through its review of the project's Traffic Impact Analysis. The Council notes that in order for these improvements to be made, additional public right-of-way must be dedicated by the applicant. The Council notes that Condition of Approval #22 was imposed to ensure that the required improvements are constructed or

financially secured prior to recordation of the final plat approved through SUB09-00002, that the appropriate right-of-way is dedicated for public use, and to ensure that an environmental assessment is performed for land dedicated to the City as public right-of-way, consistent with LDC Section 4.0.100.g. The Council also notes that Condition # 23 was imposed to ensure that the development complies with applicable ODOT permit requirements for highway construction and development access. The Council finds that the Conditions adequately address the provision of required street improvements and dedication of public right-of-way, and additional requirements imposed by ODOT, as required by the criteria referenced herein and cited above.

4. The City Council notes that SW 53rd Street is designated as an Arterial street in the Corvallis Transportation Master Plan, as discussed on Page 58 of Exhibit N of the October 25, 2010, staff memorandum to Council. Council notes that SW 53rd Street is a public right-of-way under Benton County jurisdiction, and that Benton County maintains design and construction standards for roadways under its control. The City Council notes that the applicant proposes to improve the SW 53rd Street frontage for the site consistent with design standards for an Arterial street, as required by LDC Section 4.0.60.e.1, and as mandated by Benton County through its review of the project's Traffic Impact Analysis. The Council notes that in order for these improvements to be made, additional public right-of-way must be dedicated by the applicant. The Council notes that Condition of Approval #20 was imposed to ensure that the required improvements are constructed or financially secured prior to recordation of the final plat approved through SUB09-00002, that the appropriate right-of-way is dedicated for public use, and to ensure that an environmental assessment is performed for land dedicated to Benton County as public right-of-way, consistent with LDC Section 4.0.100.g. The Council also notes that Condition # 21 was imposed to ensure that the development complies with applicable Benton County permit requirements for roadway construction and development access. The Council finds that the Conditions adequately address the provision of required street improvements and dedication of public right-of-way, and additional requirements imposed by Benton County, as required by the criteria referenced herein and cited above.

5. The City Council notes that the Corvallis Transportation Master Plan, Figure A-1, provides for a conceptual street network in the West Corvallis area, known as the West Corvallis Access Strategy. Council notes that LDC Section 4.0.60.o implements the conceptual street network illustrated in the Corvallis Transportation Master Plan, by requiring subject development sites to provide local street rights-of-way along the alignments illustrated in Figure A-1, and improve those rights-of-way to local street standards, as discussed

on Page 64 of Exhibit N of the October 25, 2010, staff memorandum to Council. The City Council notes that the applicant proposes to improve the proposed local street attributed to the West Corvallis Access Strategy, consistent with design standards for a local street, as required by LDC Section 4.0.60.g. The Council notes that in order for these improvements to be made, additional public right-of-way must be dedicated by the applicant, on Tax Lots 500 and 600. The Council notes that Condition of Approval #24 was imposed to ensure that the required improvements are constructed or financially secured consistent with the approved phasing plan, that the appropriate right-of-way is dedicated for public use, and to ensure that an environmental assessment is performed for land dedicated to the City as public right-of-way, consistent with LDC Section 4.0.100.g. The Council finds that the Conditions adequately address the provision of required street improvements and dedication of public right-of-way, as required by the criteria referenced herein and cited above.

6. As discussed in the Incorporated Findings and the supplemental findings provided above, with the associated Conditions of Approval, the Council finds that the proposal is consistent with the criteria applicable to the Vehicular Circulation subcategory.

B. Pedestrian and Bicycle Circulation

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 212 through 213 and Pages 257 through 260 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Pages 64 through 67 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Incorporated Findings are supplemented by Findings V.B.3 through V.B.6, below. The Council finds that the proposal is consistent with the applicable criteria cited above, or is conditioned to that effect.

3. The Council notes that the applicant proposed to re-construct an existing public multi-use path along the development site's SW 53rd Street frontage, to account for roadway improvements to SW 53rd Street, as noted in finding V.A.4, above. Council notes that the subject public multi-use path is part of the City's Trails Master Plan, identified on Figure A-4 of the Corvallis Transportation Plan, and that LDC Section 4.0.40.c specifies improvement standards for the subject multi-use path. The Council notes that Condition of Approval #26 was imposed to ensure that the 53rd Street multi-use path is constructed to standards specified in the LDC and other adopted facilities standards. The Council finds that the Condition adequately addresses the provision of safe and convenient pedestrian and bicycle facilities, consistent with LDC Sections 4.0.30.b and 4.0.40.b.

4. The Council notes that the applicant proposed to comply with Section 4.0.60.n of the LDC (Block Perimeter Standards) by providing pedestrian amenities that will facilitate the circulation of pedestrians through the site, as illustrated on the applicant's site plan (Page 27 of Exhibit F of the October 25, 2010, staff memorandum to Council.) The Council notes that because these facilities are intended for the use of the general public, public access easements must be dedicated for all facilities proposed to function as block perimeter sidewalks, as required per LDC Section 4.10.70.05.a.4. The Council notes that Condition of Approval #39-b was imposed to ensure that the required access easements are secured through recordation of the final plat approved through SUB09-00002. The Council finds that the Condition adequately addresses the provision of the required easements consistent with the criteria referenced herein and cited above.

5. The City Council notes that Finding I.B.1 (Dunawi Creek Multi-Use Path), above, is incorporated, by reference, in this discussion for bicycle and pedestrian circulation.

6. As discussed in the Incorporated Findings and the supplemental findings provided above, with the associated Conditions of Approval, the Council finds that the proposal is consistent with the criteria applicable to the Pedestrian and Bicycle Circulation subcategory.

C. <u>Transit Facilities</u>

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 212 through 213 and Page 260 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Page 67 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Council finds that the proposal is consistent with the applicable criteria cited above, and that no additional improvements to the Corvallis transit system are required.

3. As discussed in the Incorporated Findings and the supplemental findings provided above, the Council finds that the proposal is consistent with the criteria applicable to the Transit Facilities subcategory.

VI. Public Facilities and Services

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Conceptual and Detailed Development Plan and Conditional Development Permit. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 260 through 263 and Page 270 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Pages 70 through 77 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The Incorporated Findings are supplemented by Findings VI.3 through VI.9, below. The Council finds that the proposal is consistent with the applicable criteria cited above, or is conditioned to that effect.

3. The City Council notes that the applicant proposed to install public waterline to provide water service to each of the future buildings, as well as a new public sanitary sewer line that will allow for private sanitary service connections to each future building, and allow for service to abutting properties that are currently not served by public sewer and water services,

as discussed on Pages 73 through 74 of Exhibit N of the October 25, 2010, staff memorandum to Council. The Council notes that the approved alignment of these public utility lines results in their passage through private property. The Council notes that LDC Section 4.0.100.a requires public water lines installed outside of dedicated public right-of-way to be centered within a dedicated public easement. The Council notes that Conditions of Approval #24 and #27 address the requirements to extend public water services, Condition # 28 addresses the requirements for extension of public sewer services, and Conditions #39-a, #39-e, #39-g and # 39-h address the minimum required widths for public easements dedicated by the applicant to contain public water lines, public sanitary sewer lines, and other public utilities. The Council finds that the Conditions of Approval adequately describes the these minimum required widths and ensures consistency with the applicable criteria cited above.

4. The City Council notes that, under the terms of LDC 4.0.70.e, all public utility installations required with development must conform to the City's adopted facilities master plans. The Council notes that the relevant facility master plan that addresses drainage and storm water is the 2002 Corvallis Storm Water Master Plan. The Council notes that the 2002 Corvallis Storm Water Master Plan was adopted by the City Council as a supporting document for the Comprehensive Plan. The Council notes that the 2002 Corvallis Storm Water Master Plan is referenced in Comprehensive Plan Article 10, Section 10.9 – Supporting Documents. The Council notes that Appendix 'F' of the Storm Water Master Plan is a technical memorandum that updated the City's stormwater development standards and provides the design standards for dealing with stormwater quantity and quality. The Council notes that facilities intended to capture, treat, or transmit stormwater to the public system must meet these design standards. The Council notes that LDC 4.0.130(b) references the Corvallis Design Criteria Manual. The Council notes that, Appendix 'F' specifically modifies the City of Corvallis Design Criteria Manual for Storm Drainage. The Council notes that within the standards, the design professional is also directed to the criteria established in the most recent version of the King County, Washington Surface Water Design Manual. The Council notes that Conditions of Approval #30 through #33 require the applicant to design stormwater detention and treatment facilities consistent with both criteria outlined in Appendix 'F' of the Storm Water Master Plan, and criteria outlined in the most recent version of the King County, Washington, Surface Water Design Manual. The Council finds that the Conditions of Approval adequately addresses the design of stormwater detention and treatment facilities and ensure consistency with the applicable criteria referenced herein and cited above.

5. The City Council notes that the subject proposal will create more than 25,000 square feet of impervious surfaces, as discussed on Page 76 of Exhibit N of the October 25, 2010, staff memorandum to Council. The Council notes that LDC Section 4.1.30.b.1 requires that stormwater detention facilities be provided in any new development that creates 25,000 square feet or more of impervious surfaces, and that the facilities are designed to maximize infiltration of detained stormwater. The Council notes that while open, above ground detention facilities are the preferred alternative for reasons described on Page 76 of Exhibit N of the October 25, 2010, staff memorandum to Council, other types of detention facilities are permitted in order to address site characteristics. The Council notes that the applicant has proposed to construct a combination of subsurface detention facilities and above-ground detention facilities, as described on Page 32 and Pages 401 through 439 of Exhibit N of the October 25, 2010, staff memorandum to Council. The Council finds that, given the characteristics of the subject site, the proposed subsurface and above-ground detention facilities are consistent with the goal of maximizing infiltration while achieving the pre-development stormwater flow rates set forth in Appendix 'F' of the Corvallis Storm Water Master Plan, as discussed at Pages 75 and 76 of the October 25, 2010, staff memorandum to Council.

6. The City Council notes that the proposed development will create more than 5,000 square feet of new pollution generating impervious surface area. The Council notes that the Corvallis Off-street Parking and Access Standards require the implementation of stormwater quality facilities when more than 5,000 square feet of new pollution generating impervious surface area is constructed on a site, as described on Page 76 of Exhibit N of the October 25, 2010, staff memorandum to Council. The Council notes that the Corvallis Off street Parking and Access Standards require that water quality facilities are designed consistent with criteria contained in the most recent version of the King County Washington Surface Water Design Manual. The Council notes that Conditions of Approval #29 and #30 were imposed to address consistency with the Corvallis Off-street Parking and Access Standards and applicable LDC criteria cited above. The Council finds that the Condition of Approval adequately addresses the provision of stormwater quality facilities and ensures consistency with the Corvallis Off-street Parking and Access Standards and applicable LDC criteria.

7. The City Council notes that the subject site has frontage on three public streets; SW Philomath Boulevard, SW 53rd Street, and a new local street constructed in accordance with the West Corvallis Access Strategy. The Council notes that LDC 4.0.60.q and 4.0.70.a requires installation of new street lights where none exist. The Council notes that Condition # 25 addresses provision of street lights, which will be reviewed through the Public

Improvement by Private Contract (PIPC) permit process. The Council finds that the installation of additional street lights along the public street frontage of the subject site is necessary to achieve consistency with the applicable criteria cited above.

8. The City Council notes that existing franchise utilities (e.g., gas, electric, and telephone lines) are located within the immediate vicinity of the subject site. The Council notes that the applicant has proposed to construct public waterlines and storm sewer facilities located within private property. The Council notes that LDC Section 4.0.100.b requires the granting of utility easements when either public utility lines or franchise utility lines will cross private property. The Council notes that Conditions of Approval #39-a and # 39-e require the applicant to dedicate such easements through the proposed Tentative Subdivision Plat. The Council finds that the Condition of Approval adequately addresses the provision of utility easements and ensures consistency with the applicable criteria referenced herein and cited above.

9. Finding IV.A.9 is incorporated here by reference as findings under the Public Facilities and Services subcategory.

10. As discussed in the Incorporated Findings and the supplemental findings provided above, with the associated Conditions of Approval, the City Council finds that the proposal is consistent with the criteria applicable to the Public Facilities and Services category.

VII. Tentative Subdivision Plat

1. The City Council notes that the applicant responded to the applicable criteria as part of a complete application submitted for the Tentative Subdivision Plat. The Council notes that the applicant's responses to the applicable criteria cited above are found on Pages 272 through 274 of Exhibit N of the October 25, 2010, staff memorandum to Council.

2. The City Council notes that findings in response to the applicable criteria cited above are presented on Pages 111 through 118 of Exhibit N of the October 25, 2010, staff memorandum to City Council. The Council adopts the Incorporated Findings, including (but not limited to) the findings and conclusions in the October 25, 2010, staff memorandum to the City Council noted above, as well as the portions of the minutes from the September 15, 2010, Planning Commission deliberations that demonstrate support for the proposal, and the portions of the minutes from the November 15, 2010, City Council deliberations that demonstrate support for the proposal. The

Incorporated Findings are supplemented by Findings VII.3 through VII.5, below. The Council finds that the proposal is consistent with the applicable criteria cited above, or is conditioned to that effect.

3. The City Council notes that the applicant requested to vary from LDC Section 4.0.60.n (Block Perimeter standards), a criterion that is referenced in LDC Section 4.4.20.02, as described on Page 11 and Pages 23 through 23 of Exhibit N of the October 25, 2010, staff memorandum to Council. As noted above in Finding IV.A.4, the inability of the proposed design to comply with block perimeter standards is due to access restrictions imposed by ODOT and the Highway 20/34 access restrictions outlined in LDC 4.0.60.o. The Council notes that the applicant proposed alternate means for satisfying the intent of LDC Section 4.0.60.n through the use of pedestrian walkways and other pedestrian amenities, as described above in Finding IV.A.4, and has noted as a compensating benefit, increased protection of Natural Features by not constructing a north-south pedestrian connection between SW Philomath Boulevard and the multi-use path on the north side of Dunawi Creek. The Council finds that the request to vary from LDC Section 4.0.60.n and, consequently, from LDC Section 4.4.20.02 is warranted for these reasons.

4. The City Council notes that the applicant proposed to create three (3) buildable lots and four (4) tracts through the approved Tentative Subdivision Plat, as shown on Page 41 of Exhibit F of the October 25, 2010, staff memorandum to Council. The Council notes that each of the proposed lots is configured to include at least 25 feet of frontage along at least one public street, as required by LDC Section 4.4.20.03.b. The Council notes that the applicant proposed to establish vehicular access to each of the buildable lots from SW Philomath Boulevard, SW 53rd Street, and the new local street. The Council notes that vehicular access to each lot will be achieved from one of four common driveways that intersect the abutting public streets. The Council notes that Condition of Approval #39-f was imposed to require the applicant to record a private reciprocal access easement in conjunction with the final subdivision plat approved through SUB09-00002 to ensure that vehicular access is maintained within and between all lots that share the common driveways. The Council finds that Condition of Approval adequately addresses the requirement of providing access to each buildable lot and is necessary to achieve consistency with the criteria referenced herein and cited above.

5. As discussed in the Incorporated Findings and the supplemental findings provided above, with the associated Condition of Approval, the City Council finds that the proposal is consistent with the criteria applicable to the Tentative Subdivision Plat category.

SUMMARY AND CONCLUSION

As the body charged with hearing appeals of a PLD, CDP, and SUB decision made by the Planning Commission, the City Council, having reviewed the record associated with Application, considered evidence and argument in the record supporting and opposing the Application and finds that the proposal, as conditioned, adequately addresses the review criteria and is found to be consistent with the Plan, applicable sections of the LDC, and other applicable approval criteria. The City Council finds that Conditions of Approval are necessary to achieve compliance with the applicable criteria, and, as modified by this decision, the feasible conditions adequately address impacts related to the development. Therefore, the City Council denies the LWVC's appeal, upholds Fox's appeal, and approves the Application, subject to the conditions as amended, and findings and conclusions set forth above.

Charles C. Tomlinson

Dated:
Charles C. Tomlinson, MAYOR

Creekside Center I & II (PLD09-00004 / CDP09-00003 / SUB09-00002)
CITY COUNCIL LUBA REMAND HEARING
EXHIBIT D (98 of 219)

AFTER RECORDING RETURN TO:
City Recorder, City of Corvallis
PO Box 1083
Corvallis OR 97339-1083

TAX DOCUMENTS TO:
No change.

INDEMNIFICATION & RELEASE AGREEMENT

This agreement is made this ___th day of ____, 20__, between _____, (Indemnitor), and the City of Corvallis, a municipal corporation, (Indemnitee).

WHEREAS, Indemnitor desires a building permit for a structure or other development within or abutting a floodplain area within the corporate limits of the City; and

WHEREAS, City desires complete protection from any and all potential liability which may arise from granting a permit for development in such area; and

WHEREAS, City is authorized to grant necessary building permits sought by Indemnitor, and

WHEREAS, City's local ordinance and condition of approval _____ requires Indemnitor, prior to permit approval, release and indemnify City from potential liability which may result from damage to life or property resulting from flooding;

THEREFORE, in consideration of City's applicable code, and Indemnitor's acquisition of the permit, Indemnitor its agents, employees, contractors and representatives covenant and agree that he/she/it shall release the City from any and all claims, demands, actions, suits, costs, losses, expenses or proceedings of any kind, whether known or unknown which may arise from or arising out of the issuance of these building permits resulting in damage to person or property directly or indirectly related to flooding created, caused or contributed to by his/her/its development activities adjacent to or within the floodplain.

Further, Indemnitor covenants and agrees to indemnify and defend the City against any and all claims, demands, actions, suits, costs, losses, expenses or proceedings of any kind, whether known or unknown which may directly or indirectly arise from or arise out of the issuance of any building permits and land use approvals alleging or resulting in damage to person or property directly or indirectly related to flooding created, caused or contributed to by Indemnitor.

The undersigned intend for this agreement to run with the land, and it shall have the effect of benefiting the City and burdening Indemnitor, his/her/its agents, associates, guests, invitees, representatives, heirs, predecessors, successors and assigns, tenants, co-tenants of any kind, and partners. This instrument shall be recorded against the property in the land records of Benton County, Oregon providing to any person or entity acquiring any interest in the land notice of the burdens and obligations the covenants and agreements set forth herein provide. The property is commonly known as:

_____, Corvallis, Oregon, and more fully described (legal description) on Exhibit A, which by this reference is incorporated herein.

The undersigned do not intend for this agreement to be or be considered as a "construction agreement" as that term is or may be construed under ORS 30.140.

SEVERABILITY. If any portion, provision or phrase of this agreement is for any reason held invalid, void, unenforceable, unconstitutional or construed against the express language and intent of this agreement, then, the undersigned agree that such holding shall not affect the validity, enforceability, constitutionality or construction of the remaining portions thereof.

IN WITNESS WHEREOF, the undersigned has executed this agreement on the date and year first above written; if a corporate Indemnitor, it has caused its name to be signed and its seal affixed by an officer or other person duly authorized to do so by order of its board of directors.

INDEMNITOR:

_____ _____

STATE OF OREGON)
County of Benton)

This instrument was acknowledged before me on _____, 20__, by _____ as _____ of _____.

_____
Notary Public for Oregon
My Commission Expires:_____

INDEMNITEE

_____
City of Corvallis, by Building Official, or designee

Corvallis Planning Division
Staff Report to the Planning Commission
PC Hearing: September 1, 2010
Report to Copier: August 20, 2010
Staff: Jason Yaich, Associate Planner

TOPIC: **Conceptual & Detailed Development Plan, Conditional Development Permit and Tentative Subdivision Plat**

CASE: **Creekside Center I & II (PLD09-00004, CDP09-00003, SUB09-00002)**

REQUEST: Review and approval of a Conceptual & Detailed Development Plan for a commercial (retail and restaurant) development on 6.64 acres. The development plans include approximately 43,000 sq. ft. of commercial floor area divided among seven buildings. The request includes approval of a Conditional Development Permit to allow a drive-thru conditional use adjoining one of the buildings. The request also includes a commercial Tentative Subdivision Plat, creating 3 Lots and 4 Tracts. The Planned Development request also includes variations to Land Development Code (LDC) standards.

APPLICANT: Oregon Architecture
Attn: Mark McKechnie
221 W 10th St
Medford, OR 97501

OWNER: Apple Creek I LLC
PO Box 4460
Medford, OR 97501

LOCATION: The site is located at the northwest corner of SW 53rd Street and Highway 20/34 (Philomath Boulevard). The site is illustrated on the Benton County Assessor's Map # 12-5-05 DD, as Tax Lots 500 and 600.

LOT SIZES: Seven commercial lots / tracts; range in size from 0.41 acre to 1.77 acres - Total site area: 6.64 acres

COMPREHENSIVE PLAN DESIGNATION: MUC (Mixed Use Commercial) and C (Open Space - Conservation)

ZONE: MUCS (Mixed-Use Community Shopping)

PUBLIC COMMENT: As of August 20, 2010, no public comment has been received.

ATTACHMENTS:

A. Existing Conditions - Aerial Photograph
B. Comprehensive Plan Map
C. Zoning Map
D. Natural Hazards Map
E. Natural Resources Map
F. City of Corvallis Master Plans
   1. Corvallis Transportation Plan - Appendix A
   2. Parks & Recreation Plan - Trails Plan Excerpt
G. Conceptual & Detailed Development Plans, Conditional Development Permit and Tentative Subdivision Plat
H. Project Narrative and Exhibits
   1. Narrative
   2. Traffic Impact Analysis
   3. Active Department of State Lands (DSL) Fill Permit
   4. Supplemental Studies (Vehicle Parking, Light Fixtures, Public Street Cross-sections, Archaeological Research)
   5. Floodplain Study
   6. Corvallis Master Plans
   7. Tree Survey / Protection Plan
   8. Construction Detail Near Limits of Construction
   9. Stormwater Design Study
I. Staff-identified Applicable Review Criteria
J. Correspondence from ODOT
K. Correspondence from Benton County Public Works
L. DSL Fill Permit, Wetland Delineation, Mitigation Credits and Correspondence
M. Corvallis Bicycle and Pedestrian Advisory Committee Minutes

SITE & VICINITY

Existing Conditions

The subject 6.64 acre property (**see Figure 1**) is located at the northwest corner of SW 53rd Street and Highway 20/34 (SW Philomath Boulevard). The site is currently undeveloped, with the exception of a single-family home on Tax Lot 600 and limited amounts of fill and gravel that have been placed on Tax Lot 500 in past years. Tax Lot 500 has been used on occasion as a temporary outdoor market. Dunawi Creek traverses the northern half of the property.

Sunset Shopping Center is located to the southeast across the intersection of 53rd Street and Philomath Boulevard (**see Attachment A**). Single-family residences line 53rd Street to the north of the subject site and the north side of Philomath Blvd., immediately west of the subject site. Properties on the south side of the highway have a mix of commercial land uses.

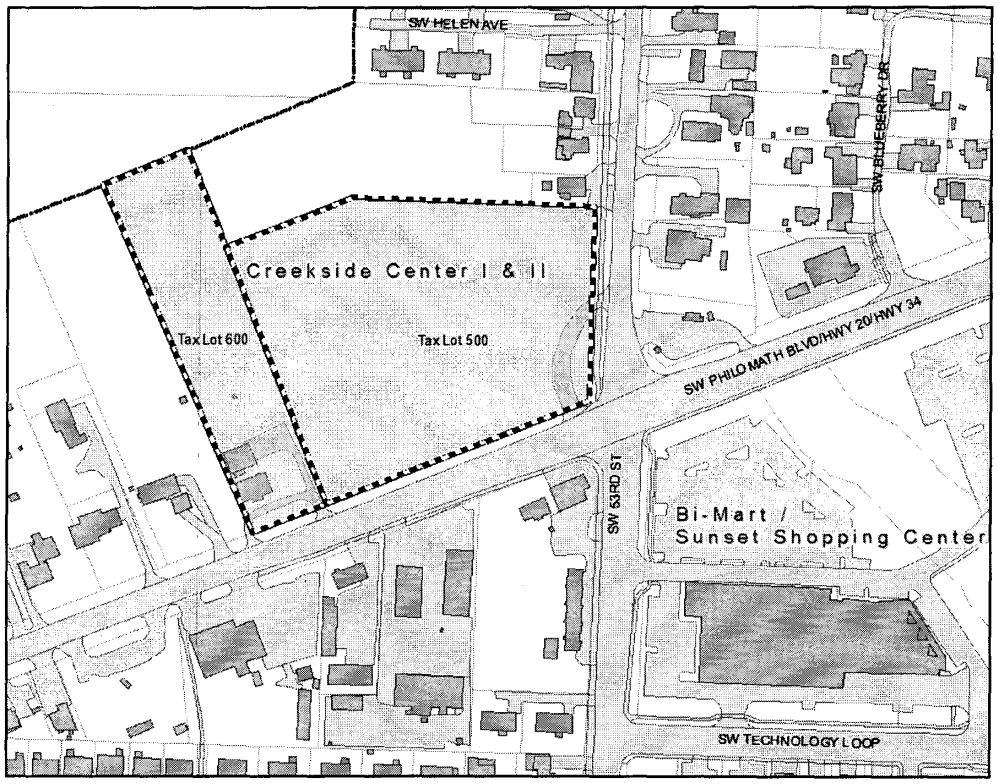


Figure 1 - Vicinity Map

Comprehensive Plan Designations

The subject site is designated as MUC (Mixed Use Commercial) and C (Open Space - Conservation) on the Comprehensive Plan Map (**see Attachment B**). Properties to the west of the site are designated Residential - Low Density (LD). Properties to the north have a

designation of Residential - Medium High Density (MHD). Properties on the east side of SW 53rd Street have a mix of LD and MUC designations.

Zones
The subject site has a MUCS (Mixed-Use Community Shopping) zone (**see Attachment C**). Property immediately to the west is zoned RS-5 (Low Density Residential). Properties to the north are zoned RS-12 (Medium High Density Residential). Properties on the east side of SW 53rd Street have a mix of RS-5 and MUCS zone designations.

Natural Hazards
The subject site is traversed by Dunawi Creek. Dunawi Creek forms a floodplain which includes a mapped 0.2-ft. Rise Floodway, and a 100-Year Floodway Fringe, which is not identified on the City's Natural Hazards Map (**see Attachment D**). The applicant has provided a supplemental floodplain study (**see Attachment H-4**), which identifies the limits of the pre- and post-development floodplain. There are no other mapped Natural Hazards on the subject property.

Natural Resources
The subject site contains mapped Riparian Corridor and Locally-Protected Wetlands, both of which are associated with Dunawi Creek (**see Attachment E**). The Riparian Corridor has a High Protection status. The Wetland is identified as a Proximate Wetland and is Locally Significant. The applicant has provided a copy of an active DSL fill permit for development related activities on Tax Lot 500 (**see Attachment H-2**). A wetland delineation has not been prepared for Tax Lot 600 as of the date of this staff report. There are no other mapped Natural Resources on the property.

PREVIOUS LAND USE APPROVALS

1980 (**A-78-7 / ZM-80-2**) - Southwest Corvallis Health Hazard Annexation. Subject property and additional 147 acres annexed into City limits by Ordinance 80-90. A zone of C-2 (Limited Commercial) was applied to the subject property at that time.

1981 **Ordinance 80-100**: C-2 zone converted to SA (Shopping Area) as part of City-wide zoning ordinance update.

2006 **LDC Phase I Implementation**: The existing SA zone changed to Mixed-Use Community Shopping (MUCS) zone as part of the Land Development Code - Phase I implementation.

PROPOSALS :

The applicant is requesting approval of three land use actions, as follows :

1. **CONCEPTUAL & DETAILED DEVELOPMENT PLAN (PART I)**
The applicant is requesting approval of a Conceptual & Detailed Development Plan (CDP/DDP). The CDP/DDP includes development of approximately 43,000 sq. ft. of commercial tenant space divided among seven buildings, associated vehicle and bicycle parking, service areas, a drive-thru facility (see Part II - Conditional Development Permit), pedestrian amenities, landscaping, stormwater bio-retention facilities, a public multi-use path, and preservation of approximately 2.52 acres (109,763 sq. ft.) of Natural Features-related open space. The DDP also includes proposed improvements to the properties' frontages along SW Philomath Boulevard and SW 53rd Street, as well as a new local public street bisecting Tax Lot 600. The Planned Development request also includes (7) variations to the following Land Development Code (LDC) standards:

- Order of allowed encroachments into Natural Resources and Natural Hazards areas (**LDC § 4.11.50.04.c**)
- Increase in maximum floor area for a retail use associated with the proposed Walgreen's drive-thru facility (**LDC § 3.19.30.f.25**)
- Reduction in required Arterial street planter strip widths for SW 53rd Street (**LDC § 4.0.30.a.2, 4.0.60.e.1, and 4.0.60.k.8**)
- Increase in maximum distance between required trees located along pedestrian walkways (**LDC § 4.2.40.c**)
- Elimination of alleys required in the MUCS zone (**LDC § 3.19.40.06.a**)
- Variation to commercial block face standards (**LDC § 4.0.60.n**)
- Modification to franchise utility easement locations abutting new local public street (**LDC § 4.0.100.b**)

The CDP/DDP includes phasing, landscaping, grading, lighting, and utilities plans, as well as architectural elevations for all seven buildings. Future uses of the buildings are proposed to be consistent with those uses permitted outright in the MUCS zone. Uses in the MUCS zone are primarily oriented toward commercial uses.

2. **CONDITIONAL DEVELOPMENT PERMIT (PART II)**
The applicant is requesting approval of a Conditional Development Permit, to allow for construction of a drive-through facility, to be attached to the Walgreen's building. The MUCS zone requires a Conditional Development Permit approval for drive-through facilities.

3. **TENTATIVE SUBDIVISION PLAT APPROVAL (PART III)**
The subject property consists of two parcels. The applicant is requesting approval to divide the parent parcels into seven Lots or Tracts. Three Lots will be developed with commercial buildings and related site improvements. Four Tracts will be set aside for a private Shopping Street, to be shared among the lot owners, and for open space preservation, drainageway, and public access / utility purposes.

STAFF REPORT FORMAT, ANALYSES, AND REQUIRED ACTION

Creekside Center I & II is a proposed Planned Development and all deviations from Land Development Code standards are subject to applicable LDC chapters, as well as Policies of the Corvallis Comprehensive Plan.

There are three land use actions to consider in this application as described in the Proposals above. **Part I** of this staff report will consider the Conceptual & Detailed Development Plan, including site development plans and requested LDC variations, **Part II** will discuss the proposed Conditional Development Permit request, which is related to the drive-through facility attached to the Walgreen's building, and **Part III** discusses the proposed tentative Subdivision plat.

Discussion will be based on the merits of the application relative to applicable Comprehensive Plan policies and LDC standards. The Planning Commission may decide to approve, modify, or deny the applicant's request regarding any or all of the land use actions proposed in the application. **Part IV** of this staff report lists staff conclusions and recommendations to the Planning Commission.

PART I
PLANNED DEVELOPMENT

A. CONCEPTUAL & DETAILED DEVELOPMENT PLAN REVIEW CRITERIA DISCUSSION

Conceptual and Detailed Development Plan Review Criteria

The Conceptual and Detailed Development Plan (CDP/DDP) request is subject to the review criteria in **LDC § 2.5.40.04** and **LDC § 2.5.50.04.** Where the proposed CDP/DDP is consistent with LDC provisions, discussion is minimized. The applicant is proposing variations to specific LDC standards. Discussion concerning the specific LDC variations is more extensive, and supplemented by information in the table presented below.

Applicable LDC Review Criteria

Section 2.5.40.04 - Conceptual Development Plan Review Criteria
Requests for the approval of a Conceptual Development Plan shall be reviewed to ensure consistency with the purposes of this Chapter, policies and density requirements of the Comprehensive Plan, and any other applicable policies and standards adopted by the City Council. The application shall demonstrate compatibility in the areas in "a," below, as applicable, and shall meet the Natural Resource and Natural Hazard criteria in "b," below:

Section 2.5.50.04 - Detailed Development Plan Review Criteria
Request for approval of a Detailed Development Plan shall be reviewed to determine whether it is in compliance with the Conceptual Development Plan. The Detailed Development Plan shall be deemed to be in conformance with the Conceptual Development Plan and may be approved provided it is consistent with the review criteria in Section 2.5.40.04 above, provides a clear and objective set of development standards for residential Detailed Development Plans (considering the Detailed Development Plan proposal, required adherence to this Code, and Conditions of Approval), and does not involve any of the factors that constitute a major change in the Planned Development. See Section 2.5.60.02 - Thresholds that Separate a Minor Planned Development Modification from a Major Planned Development Modification.

Per **LDC § 2.5.20**, the purposes of a Planned Development are listed below. The Creekside Center I & II CDP/DDP does not include proposed residential uses. Therefore, the density requirements of the Comprehensive Plan do not apply to the review of this application. Where applicable to the specific review criteria in **LDC § 2.5.40.04**, additional discussion will be provided concerning how the proposal is or is not consistent with the Purposes of **LDC § 2.5.20** and Policies of the Comprehensive Plan and other City standards.

Section 2.5.20 - PURPOSES
Planned Development review procedures are established in this Chapter for the following purposes:

- **a. Promote flexibility in design and permit diversification in location of structures;**
- **b. Promote efficient use of land and energy, and facilitate a more economical arrangement of buildings, circulation systems, land uses, and utilities;**
- **c. Preserve, to the greatest extent possible, existing Significant Natural Features and landscape features and amenities, and use such features in a harmonious fashion;**
- **d. Provide for more usable and suitably located pedestrian and/or recreational facilities and other public and/or common facilities than would otherwise be provided under conventional land development procedures;**

e. **Combine and coordinate architectural styles, building forms, and building relationships within the Planned Development;**
f. **Provide the applicant with reasonable assurance of ultimate approval before expenditure of complete design monies, while providing the City with assurances that the project will retain the character envisioned at the time of approval;**
g. **Provide greater compatibility with surrounding land uses than would otherwise be provided under conventional land development procedures; and**
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 CDP/DDP application is required to demonstrate compatibility with the following applicable criteria in LDC § 2.5.40.04.a.

Requested Variations and Compensating Benefits

Applicable LDC Review Criteria - LDC 2.5.40.04.a
1. Compensating benefits for the variations being requested;

The CDP/DDP includes the following proposed variations to LDC standards. A more in depth discussion of each variation is provided following Table A:

TABLE A:
Proposed LDC Variations & Compensating Benefits

LDC Standard	Proposed Variation	Compensating Benefit
# 1: LDC § 4.11.50.04.c - MADA / Order of Encroachments Applicable Order for Creekside Center I & II: 1. Highly Protected 100-Year Floodway Fringe 2. Proximate Wetlands 3. Protected Locally Significant Wetlands 4. 100-ft. Highly Protected Riparian Corridor 5. 50-ft. Riparian Corridor / Drainageway Easement	The applicant requests a variation to the prescribed order of development encroachments, by proposing encroachments into the 100-ft. Highly Protected Riparian Corridor prior to the Locally Protected Wetland, and by allowing development to occur within the 50-ft. base Riparian Corridor (drainageway easement) prior to using all allowable encroachments into the Locally Protected Wetland and 100-ft. Highly Protected Riparian Corridor.	The applicant is proposing a development plan which concentrates development on the south side of Dunawi Creek. Following the prescribed order of encroachments would require that the area in between the 100-ft. Highly Protected Riparian Corridor / Locally Protected Wetland and 50-ft. drainageway easement north of Dunawi Creek be developed first. Development north of Dunawi Creek would degrade a forested wetland of high value, and is inconsistent with a previously approved DSL wetland fill permit.

LDC Standard	Proposed Variation	Compensating Benefit
# 2: LDC § 3.19.30.f.25 - Maximum Area of Individual Retail Sales use is limited to 15,000 sq. ft. Per 3.19.40.02, for the purposes of the MUCS Zone, floor area also includes unenclosed areas needed for automobile circulation for Car Washes; Fuel Sales, and Drive-through Facilities Uses. For these specific Uses, these unenclosed areas include those needed for operational use, queuing, and service areas, with the exception of areas needed for customer and employee parking, as defined in Chapter 3.0 - Use Classifications.	The proposed Walgreen's store is classified as a Retail Sales use. The applicant is proposing a drive-through facility as part of the Walgreen's store. As required per **LDC § 3.19.40.02**, the drive-through and associated vehicle queing lane is required to be included in the calculation of the floor area for the Retail Sales use. The total floor area proposed for the Walgreen's store, including drive-through facility is approximately 16,673 sq. ft.	In support of this variance, the applicant is proposing to construct the drive-through queing lane with permeable pavement, to promote infiltration of rain water. The proposed area of the drive-through permeable pavement is approximately 1,700 sq. ft.
# 3: LDC § 4.0.30.a.2, 4.0.60.e.1, 4.0.60.k.8 Planter Strip Requirements for Arterial Street right-of-way A 12-ft. wide planter strip is required between the curb and sidewalk on the west side of the site's SW 53rd Street frontage.	The applicant is proposing to reduce the planter strip width from 12 feet to 6 feet, as specified by Benton County. The reduced planter strip width is consistent with the adopted Benton County transportation plan and findings from a Corvallis Area Metropolitan Planning Organization (CAMPO) analysis.	The applicant proposes additional shrub and groundcover plantings to compensate for the loss of width of planter strip along the street. Street trees will still be provided, along with the 10-ft. wide multi-use path.

LDC Standard	Proposed Variation	Compensating Benefit
# 4: LDC § 4.2.40.c Tree spacing for connecting walkways through parking lots 1 tree per 40 linear feet	The applicant is proposing to vary this standard by increasing the width of the spacing between Buildings C and D to approximately 50 feet.	The applicant is proposing to compensate for the variation by increasing the size of trees to large canopy species, which when mature, would have similar shading characteristics as compared to the medium canopy trees that would otherwise be required.
LDC § 4.2.30.a.1.a - Street tree requirements along Arterial Highway Street trees are required within the planter strip on the site's SW Philomath Blvd. Frontage (Hwy. 20/34) at a spacing of 30-ft. on-center, or 50-ft. on-center, depending on species selected.	NOTE: The applicant originally proposed not to provide street trees within the ODOT right-of-way, as directed by ODOT. However, just prior to publication of this staff report, ODOT has indicated that the street trees required by LDC provisions would be permissible in the ODOT right-of-way, along the site's Hwy 20/34 frontage. The applicant has indicated they are willing to provide the required street trees, as conditioned in this staff report.	**No variation requested - see Condition of Approval # 36.**
# 5: LDC § 3.19.40.06.a - The MUCS zone requires alleys to be constructed with development.	The applicant proposes to not provide the required alley.	The applicant notes that the functional aspects of an alley have been provided through the private internal driveway. Compensating benefits of not providing the alley include natural features protections, by providing a more compact site design.

LDC Standard	Proposed Variation	Compensating Benefit
# 6: LDC § 4.0.60.n Commercial Block Perimeter Standards Block Perimeter: 1,500 ft. Block Face: 400 ft. LDC § 4.0.60.n.2.a allows Block Perimeter connections to be satisfied by pedestrian connections alone when necessary to minimize impacts to wetlands and other Significant Natural Features.	The proposed CDP/DDP includes Block Perimeter connections for pedestrians that exceed the maximum block face of 400 ft.	A compensating benefit is protection of Natural Features. Pedestrian and vehicle connections that meet block perimeter standards are satisfied by the combination of public multi-use paths, and private vehicle driveways and pedestrian connections.
# 7: LDC § 4.0.100.b Utility easements with a minimum width of seven ft. shall be granted to the public adjacent to all street rights-of-way for franchise utility installations.	The applicant is proposing to not provide the required utility easement in certain locations along the newly created local street in the western portion of the development site.	A compensating benefit is minimizing disruptions to adjacent Natural Features.

Since the applicant is proposing variations to specific LDC standards, Comprehensive Plan Policies may assist in the consideration of proposed variations, per **LDC § 2.5.40.04**. Comprehensive Plan Policies that apply generally to all requested variations are noted below. Additional Comprehensive Plan Policies that are specifically related to individual requested variations are noted in the sections below that discuss each requested variation.

Applicable Comprehensive Plan Policies - General Compatibility for all requested variations

3.2.1 The desired land use pattern within the Corvallis Urban Growth Boundary will emphasize:

A. Preservation of significant open space and natural features;
B. Efficient use of land;
C. Efficient use of energy and other resources;
D. Compact urban form;
E. Efficient provision of transportation and other public services; and
F. Neighborhoods with a mix of uses, diversity of housing types, pedestrian scale, a defined center, and shared public areas.

3.2.7 All special developments, lot development options, intensifications, changes or modifications of nonconforming uses, Comprehensive Plan changes, and district changes shall be reviewed to assure compatibility with less intensive uses and

potential uses on surrounding lands. Impacts of the following factors shall be considered:

A. Basic site design (i.e., the organization of uses on a site and its relationship to neighboring properties);
B. Visual elements (i.e., scale, structural design and form, materials, etc.);
C. Noise attenuation;
D. Odors and emissions;
E. Lighting;
F. Signage;
G. Landscaping for buffering and screening;
H. Transportation facilities; and
I. Traffic and off-site parking impacts.

The subject site is zoned MUCS and the proposal does not constitute a residential Detailed Development Plan. The review criteria in Section 2.5.40.04.a.1, and a discussion of the proposal's consistency with the criteria and compensating benefits, are as follows:

Variation #1: LDC § 4.11.50.04.c - MADA / Order of Encroachments-

LDC Chapter 4.11 contains provisions that ensure a minimum level of development on sites that have protected Natural Features, based on the underlying zone and on a priority of encroachments. This is known as Minimum Assured Development Area (MADA). Each zone allows a certain percentage of the site area to be developed, regardless of the percentage of the site that is encumbered by protected Natural Features. In some cases, MADA will not apply to a development site because the unconstrained areas exceed the area of development ensured through MADA.

The Creekside Center site is subject to the MADA provisions, because the area that is considered unconstrained does not exceed the minimum assured development area prescribed for the MUCS zone. Refer to **Attachment G (Pages 12 through 15)** and the discussion below under the Natural Features protections criteria, for a detailed MADA calculation analysis. Out of the 6.64 acre site, approximately 4.15 acres (or 62% of the site area) are considered developable based on MADA allowances and credits.

Chapter 4.11 outlines where and how encroachments may occur within the identified Natural Features. Certain Natural Hazards and Natural Resources have been given a higher protection status than others, and **LDC § 4.11.50.04** outlines this prioritization of encroachment. These provisions also require that all unconstrained lands be developed prior to encroachment into constrained areas.

The following Natural Features have been identified on the subject Creekside Center site, and are listed in the order in which encroachments may occur, according to **LDC § 4.11.50.04**:

Applicable LDC Standards
4.11.50.04 – Priority of Encroachments into Protected Natural Resource and Natural Hazard Areas

c. Order of Encroachments - Encroachments shall occur sequentially into the areas of protected Natural Resources and Protected Natural Hazards based upon the

priorities presented below, with encroachments into areas identified in Section 4.11.50.04.c.1 first, and Section 4.11.50.04.c.2.l last. Encroachments into areas described in each subsection shall also occur in the order presented, starting from the top of each list.

1. Access Encroachments - Encroachments are allowed to provide access to areas that do not contain Natural Resources and Natural Hazards as defined in Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.12 - Significant Vegetation Protection Provisions and Chapter 4.13 - Riparian Corridor and Wetland Provisions, where such areas cannot be accessed and/or served with public utilities without encroaching into or crossing over the protected Natural Resources and Natural Hazards. Such access encroachments shall meet the following standards:

a) The access encroachment area shall be less than 25 percent of the non-constrained area being accessed via the access encroachment, unless "b," below applies;
b) The access encroachment area for an access driveway/roadway may be increased to 35 percent of the non constrained area being accessed, if necessary to meet the maximum slope standards listed in Chapter 4.5 - Natural Hazard and Hillside Development Provisions;
c) Access roadways/driveways shall provide shared access to the lots/parcels being developed; and
d) The access roadway serving four or more residential lots/parcels, six or more dwelling units, and/or any nonresidential sites shall use the minimum allowed street width with sidewalks on both sides, no landscape strips, and no onstreet parking.

2. Development Encroachments -

c) Highly Protected 100-yr. Floodway Fringe areas;
d) Proximate Wetlands - Jurisdictional Wetlands associated with Riparian Corridors, including Wetlands not determined to be Locally Significant;
e) Protected Locally Significant Wetlands;

h) Riparian Corridors of local Streams with a corridor width of 100 ft. from Top-of-bank on each side of the stream, as shown on the Riparian Corridors and Wetlands Map;

LDC 4.13.70.02.d.4

4. If, through the provisions of Chapter 4.11 - Minimum Assured Development Area (MADA), it is determined that encroachment into a Riparian Corridor area is necessary to allow for utilization of the Minimum Assured Development Area, any associated easement requirement shall be relaxed to the extent necessary to allow for the minimum necessary encroachment into the resource area.

The applicant is proposing to vary from the order of encroachments for specific elements of the CDP/DDP. In particular, Buildings B and C, a portion of Building A, and a portion of the parking lot and pedestrian walkways are located within the 100-ft. Highly Protected Riparian Corridor setback (**LDC § 4.11.50.04.c.2.h**), located on the south side of Dunawi Creek. The encroachments occur prior to full utilization of the encroachment allowed into the 100-Year

Floodplain (**LDC § 4.11.50.04.c.2.c**), Proximate Wetlands **(LDC § 4.11.50.04.c.2.d)** and Locally Protected Wetlands **LDC § 4.11.50.04.c.2.e),** on the north side of Dunawi Creek.

Additionally, the applicant is proposing to encroach into the 50-ft. drainageway easement area on the south side of Dunawi Creek. The 50-ft. drainageway easement, which is required to be dedicated by the applicant as part of the land division (**see Condition # 39-d**) requested and discussed in Part III of this staff report, is required to be protected per **LDC § 4.13.70.02.d.** The order of encroachments prescribed in **LDC § 4.11.50.04.c** do not address specifically whether or not the 50-ft. drainageway is a separate area for encroachment, or if it is contained within the encroachments permitted within the entire 100-ft. Highly Protected Riparian Corridor. However, **LDC § 4.13.70.02.d.4** indicates that the 50-ft. drainageway easement is an area that is of concern regarding encroachments, but also that encroachments are permissible under the MADA provisions of Chapter 4.11.

If the applicant were to adhere to the prescribed order of encroachments, and fully utilize MADA, development is required to occur on the north side of Dunawi Creek, in the area north of the 100-ft. Highly Protected Riparian Corridor setback, within the Locally Protected Wetlands and 100-Year Floodplain. The applicant is proposing this variation in order to concentrate the impacts of development on the south side of Dunawi Creek, and to preserve a greater area of the Highly Protected Riparian Corridor, Locally Significant Wetland, and 100-Year Floodplain on the north side of Dunawi Creek. Development north of Dunawi Creek consists of the access driveway on SW 53rd Street, a sidewalk, and public multi-use path.

After full utilization of the 2.67 acres that are considered unconstrained, MADA provides for an additional 1.5 acres of site development. The applicant is proposing to concentrate most of this additional 1.5 acres on the south side of Dunawi Creek, as opposed to developing 1.5 acres north of the 100-ft. Highly Protected Riparian Corridor setback line that lies north of Dunawi Creek.

Applicable Comprehensive Plan Policies

3.2.1 The desired land use pattern within the Corvallis Urban Growth Boundary will emphasize:

- **A. Preservation of significant open space and natural features;**
- **B. Efficient use of land;**
- **C. Efficient use of energy and other resources;**
- **D. Compact urban form;**
- **E. Efficient provision of transportation and other public services;and**
- **F. Neighborhoods with a mix of uses, diversity of housing types, pedestrian scale, a defined center, and shared public areas**

4.2.2 Natural features and areas determined to be significant 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.

A compensating benefit of applying the requested variation is that development of 1.5 acres north of Dunawi Creek would amount to greater degradation of a highly valued forested wetland

and riparian corridor. By concentrating development on the south side of the creek, these impacts are minimized. Non-development of 1.5 acres on the north side of Dunawi Creek is consistent with the active wetland fill permit issued by the Department of State Lands (DSL), with the exception that the proposed public multi-use path is not identified on the active DSL fill permit. Consistency with the DSL fill permit aligns with Comprehensive Plan policy 4.2.2, because wetland mitigation credits have already been purchased by the developer, thus mitigating the loss of a portion of the wetland. The remaining wetland and riparian corridor will be preserved on-site.

In considering variations to the MADA provisions, it is important to balance the sometimes competing objectives of the Land Development Code and Comprehensive Plan. The MUCS zone requires a minimum level of commercial development (floor area ratio), and the subject site contains Natural Resources and Natural Hazards that are required to be protected. The MADA provisions in LDC Chapter 4.11 provide a means to balance Natural Features protection requirements and objectives of the LDC that encourage a certain minimum level of urbanized development. In the case of the Creekside Center, the minimum floor area ratio (see discussion below under Basic Site Design and MUCS standards) requirement is exceeded by approximately 1,500 square feet. Staff find that the requested variation effectively balances Natural Features protections and provision of commercial land uses consistent with the MUCS zone, while enhancing Natural Resource protection on the north side of Dunawi Creek, where the LDC would otherwise allow for greater impacts to this area. This is consistent with the purposes of a Planned Development, identified in LDC § 2.5.20, in that allowing the variation permits flexibility in design and more efficient use of land.

An additional benefit of concentrating development is that the combined riparian corridor, proximate wetland and 100-Year Floodplain are better preserved as a holistic functioning system, because the development is not encroaching into the natural area from the north. This promotes efficient use of land and resources, and leads to a more compact urban form. These concepts are supported by Comprehensive Plan policy 3.2.1. Based on the cited compensating benefits, the requested variation is supported by the criterion in **LDC § 2.5.40.04.a.1**.

Variation #2: LDC § 3.19.30.f.25 - Maximum Area of Retail Sales use = 15,000 sq. ft.

Applicable LDC Standards
Section 3.19.30 - PERMITTED USES
Land use in the MUCS Zone shall conform to the list of Permitted Use Types in Table 3.19-1 - Permitted Uses. Ministerial Development involving Use Types permitted outright are identified with a P. General Development involving Use Types subject to Chapter 2.13 - Plan Compatibility Review are identified with a PC. Special Development involving Use Types subject to Chapter 2.3 - Conditional Development Review are identified with a CD. Uses identified with an N are not permitted.

Table 3.19-1 Permitted Use Types P = Use Types Permitted Outright PC = Use Types Subject to Chapter 2.13 - Plan Compatibility Review CD = Use Types Subject to Review of Chapter 2.3 - Conditional Development PD = Use Types Subject to Review of Chapter 2.5 - Planned Development N = Not Permitted			
Use Types	*Permit Procedure*		
	No Use Size Limitation	Up to 7,500 sq. ft.	> 7,500 sq. ft.
f. Commercial Use Types - contained within enclosed building4			
25. Retail Sales -15,000 sq. ft. maximum Use size		P	PC (15,000 sq. ft. max. Use size)

4 All Commercial Use Types shall comply with the provisions of Section 3.19.40.02 - Thresholds for Determining the Applicable Review Procedure.

Section 3.19.40 - DEVELOPMENT STANDARDS
3.19.40.01 - Use and Building Size

a. The maximum size of a Use is established in Table 3.19-1 - Permitted Use Types.

3.19.40.02 - Thresholds for Determining the Applicable Review Procedure - Commercial Uses
The permit procedures for Commercial Uses in the MUCS Zone shall be as identified in Table 3.19-1 - Permitted Use Types. The size of each Use is determined based on the total gross floor area of the Use. For the purposes of the MUCS Zone, floor area also includes unenclosed areas needed for automobile circulation for Car Washes, Fuel Sales, and Drive-through Facilities Uses. For these specific Uses, these unenclosed areas include those needed for operational use, queuing, and service areas, with the exception of areas needed for customer and employee parking, as defined in Chapter 3.0 - Use Classifications.

Section 2.5.10 - BACKGROUND
b. Restrictions on Variations -
2. Uses -
c) The Conceptual and Detailed Development Plan process may also be used to modify the Use size limitations contained in Chapter 3.19 - Mixed Use Community Shopping (MUCS) Zone.

The proposed Walgreen's building includes a drive-through facility. Per **LDC § 3.19.40.02**, the MUCS zone specifies that automobile circulation areas associated with drive-through facilities are to be included in the floor area limited by Table 3.19-1 and **LDC § 3.19.40.01.a**. The gross floor area of the building is 14,742 square feet and the drive-through adds approximately 1,854 square feet, for a total floor area of approximately 16,596 square feet. This exceeds the 15,000 square foot maximum use size prescribed in Table 3.19-1 by approximately 1,596 square feet.

The variation in use size can be directly attributed to the drive-through facility and the requirement that this area be included in the floor area calculation.

As specified in the Background statements for a CDP / DDP (**LDC § 2.5.10.b.2.c**), the Planned Development process may be used to modify the 15,000 sq. ft. use size limitation for an individual retail sales use. The applicant has provided compensating benefits in the form of permeable pavement, which covers the entire area associated with the drive-through facility. Where applicable, Comprehensive Plan policies may be weighed in order to provide additional support for requested variations, and in order to evaluate proposed compensating benefits.

Applicable Comprehensive Plan Policies

4.10.6 In order to reduce peak runoff from impervious areas and maintain pre-development flow regimes, the City shall work to adopt standards such as the following:
C. Use pervious materials and alternative designs where applicable, such as infiltration systems.
H. Pursue the use of retention and infiltration facilities where the soils are suitable to control runoff volume, peak flow and promote dry season base flows in streams.
I. Develop sub-surface storage as well as surface detention facilities.

4.12.9 The City shall encourage practices that enhance groundwater recharge to maintain or increase stream flow during dry periods. (QN-10)

4.12.10 The City shall encourage parking lots to be constructed of stable pervious surfaces that do not degrade groundwater quality. (QN-18)

14.4.2 Design elements shall provide transitions between various land uses and intensities where necessary to improve compatibility.

Limitations on the square footage of individual uses or tenants as outlined in LDC Table 3.19-1 have impacts on visual elements (affecting building architecture). In this case, the proposal to exceed the 15,000 square foot limitation for an individual use involves the drive-through facility component of the Walgreen's retail sales use, which is not by itself, a major component of the building architecture. The drive-through lane which has no vertical relief above grade accounts for 11% of the total floor area. The drive-through facility includes a drive-up window and awning, which provides some visual relief to the building's north facade, which is one form of compensating benefit. These architectural elements account for less than 1% of the total floor area.

The proposal to construct the drive-through lane with pervious materials accomplishes the goal set forth in Comprehensive Plan policy 4.10.6, of encouraging pervious materials and infiltration of rainwater. The amount of pervious pavement proposed is approximately 1,700 square feet, which is approximately the same area of retail use attributed to the variation request. Based on the Comprehensive Plan policies noted above and the amount of the square footage increase, compensating benefits have been provided which justify the variation being requested.

Variation #3: LDC § 4.0.30.a.2, 4.0.60.e.1, 4.0.60.k.8 - Planter Strip Width / 53rd Street

Applicable LDC Standards

Section 4.0.30 - PEDESTRIAN REQUIREMENTS
a. Sidewalks shall be required along both sides of all streets, as follows:

> **2. Sidewalks on Arterial, Collector, and Neighborhood Collector Streets - Sidewalks along Arterial, Collector, and Neighborhood Collector Streets shall be separated from curbs by a planted area. The planted area shall be a minimum of 12 ft. wide and landscaped with trees and plant materials approved by the City. The sidewalks shall be a minimum of five ft. wide. An exception to these provisions is that this separated tree planting area shall not be provided adjacent to sidewalks where they are allowed to be located within Natural Resource areas governed by Chapter 4.12 - Significant Vegetation Protection Provisions and Chapter 4.13 - Riparian Corridor and Wetland Provisions. This separated tree planting area shall also not be provided adjacent to sidewalks where they are allowed to be located within drainageway areas governed by regulations in Chapter 4.5 - Natural Hazard and Hillside Development Provisions.**

As specified in **LDC § 4.0.30.a.2**, sidewalks along Arterial Streets are required to be separated from the curb by a minimum 12-ft. wide landscape planter. SW 53rd Street is classified as an Arterial Street, and ownership and maintenance of the right-of-way belongs to Benton County. The applicant is proposing to reduce the planter strip width from 12 feet to 6 feet, to fulfill the requirements of Benton County and the approved cross-section for this portion of SW 53rd Street (**see Attachment H - page 163 and Attachment K**). Refer to the discussion below under Circulation, for greater detail surrounding Benton County's requirements for SW 53rd Street.

Compensating benefits proposed by the applicant include provision of enhanced landscaping within the 6-ft. parkway (**see Condition # 36-j**), as well as a wider than normal sidewalk, attributed to the multi-use path re-construction.

The purposes of planter strips include providing an added level of safety for pedestrians walking adjacent to busy urban streets, by increasing the separation between pedestrians and vehicles, and to allow for aesthetic enhancement to the pedestrian environment adjacent to the roadway by providing a space for tree plantings. Those elements will remain with approval of the requested variation. Given the requirements of Benton County and the noted compensating benefits, the criterion in **LDC § 2.5.40.04.a.1** has been satisfied for this requested variation.

Variation #4: LDC § 4.2.40.c - Increase Spacing Between Trees Along Walkways

Applicable LDC Standards
Section 4.2.40 - BUFFER PLANTINGS
Parking, Loading, and Vehicle Maneuvering Areas -

> **c. Connecting walkways through parking lots shall have one or more canopy shade tree per 40 linear ft. Driveways to or through parking lots shall have one or more canopy shade tree per 40 linear ft. on each side. These trees shall be planted in landscape areas within five ft. of the walkways and driveways, respectively.**

The applicant is proposing to vary the standard in **LDC § 4.2.40.c**, by increasing the distance

between two trees, which are located along a connecting walkway between Buildings C and D. The LDC standard requires a maximum spacing of 40 feet. The distance between the proposed trees is 50 feet. The applicant has provided a compensating benefit by increasing the size of the tree planter and providing large canopy trees in these planters, as opposed to small or medium canopy trees. The increase in canopy size will offset the increased distance between trees by meeting the intent of shading along the pedestrian path. An additional benefit is that the two large canopy trees form a visual entryway into the east half of the Creekside Center site and provide additional buffering of the hardscape and parking areas. As proposed, the compensating benefits criterion has been satisfied for the requested variation.

Withdrawn Variation: LDC § 4.2.30.a.1.a - Street tree requirements along Arterial Highway

> **Applicable LDC Standards**
> **Section 4.2.30 - REQUIRED TREE PLANTINGS AND MAINTENANCE**
> **a. Tree Plantings -**
> **Tree plantings in accordance with this Section are required for all landscape areas, including but not limited to parking lots for four or more cars, public street frontages, private streets, multi-use paths, sidewalks that are not located along streets, alleys, and along private drives more than 150 ft. long.**
>
> > **1. Street Trees -**
> > **a) Along streets, trees shall be planted in designated landscape parkway areas or within areas specified in a City-adopted street tree plan. Where there is no designated landscape parkway area, street trees shall be planted in yard areas adjacent to the street, except as allowed elsewhere by "d," below;**
>
> **Section 4.2.40 - BUFFER PLANTINGS**
> **Buffer plantings are used to reduce apparent building scale, provide a transition between contrasting architectural styles, and generally mitigate incompatible or undesirable views. They are used to soften rather than block viewing. Where required, a mix of plant materials shall be used to achieve the desired buffering effect. At minimum, this mix shall consist of trees, shrubs, and ground cover, and may also consist of existing vegetation, such as natural areas that will be preserved.**
> **At minimum, buffering is required in areas identified through Conditions of Approval, in areas required by other provisions within this Code, and in Through Lot areas, and as required below.**

As noted in Table A above, this variation request has been withdrawn. The applicant intends to provide street trees along the site's SW Philomath Boulevard frontage. SW Philomath Boulevard is classified as an Arterial Highway. Street trees are required to be planted within the parkway along the SW Philomath Boulevard frontage per **LDC § 4.2.30.a.1.a**. In response to comments from ODOT (**see Attachment J**), street trees were originally not provided as required. Just prior to publication of this staff report, ODOT has indicated that street trees are permissible within the highway right-of-way.

The applicant has been made aware of ODOT's position on the required street trees, and has agreed to a condition of approval which provides guidance on complying with the LDC

requirements (**see Condition # 36-i**). As proposed and conditioned, the criterion in **LDC § 2.5.40.04.a.1** has been satisfied.

Variation # 5: LDC § 3.19.40.06.a - Alleys Required per MUCS zone

The MUCS zone requires alleys to be constructed with development as follows:

> **Applicable LDC standards**
> **3.19.40.06 - Alleys and Access Consolidation**
>
> **a. Alleys shall be required for all newly created blocks in the MUCS Zone and provided in accordance with the standards in Chapter 4.0 - Improvements Required with Development. This standard is intended to apply to undeveloped sites that can accommodate new blocks developed in accordance with block standards in Chapter 4.0 - Improvements Required with Development. Although adherence to this standard is encouraged, it is not necessarily intended to apply to redevelopment of or intensification of Uses on developed sites.**
>
> **b. With development, access consolidation, particularly along Arterial Streets, shall be required to the maximum extent practicable. Access consolidation shall be accomplished as approved by the City Engineer, and/or as required by applicable access control plans approved by the City Council. Connectivity between adjacent parking and vehicle circulation areas, internal to development sites, shall be implemented where practicable.**

The applicant is proposing to not provide an alley within the Creekside Center. The application narrative notes that the functional aspects of an alley have been provided within the development in the form of an internal access driveway, which separates Buildings B and C from Walgreen's and Building D. Alleys provided consistent with **LDC § 3.19.40.06** require the following construction standards, as outlined in **LDC § 4.0.60(l)** and **(j)**:

> **Applicable LDC Standards for Commercial Alleys:**
> **Section 4.0.60 - PUBLIC AND PRIVATE STREET REQUIREMENTS**
>
> **l. To provide off-street loading and/or access to parking areas, alleys shall be provided in Commercial and Industrial zones to serve abutting properties unless other permanent provisions are approved by the Planning Commission or Director.**
>
> **j. Alley standards shall be as follows -**
>
> **1. Standards for Alleys Serving both Residential and Nonresidential Use Types**
>
> **a) Alleys serving Residential Use Types shall be privately owned, with the exception of existing publicly owned alleys. Alleys serving nonresidential Use Types may be private, but are strongly encouraged to be public;**
>
> **b) Alleys shall be concrete and designed consistent with City Engineering Standards;**
>
> **c) Alleys shall be clearly marked to prohibit parking, unless designed to accommodate it;**
>
> **d) An alley serving six or more dwelling units shall be contained within a separate, privately owned tract of land, and required setbacks shall be measured from the tract property lines of the alley;**

e) **Alleys shall be unobstructed at least to their minimum required width. Service areas provided adjacent to alleys shall not encroach into the alleys;**

f) **Site layouts of alleys may include, but are not limited to, straight alleys, T-shaped alleys, L-shaped alleys, etc.;**

g) **Although emergency access to structures is provided via streets the majority of the time, in cases where an alley provides required emergency access to a structure(s), the alley shall be a minimum of 20 ft. wide and have adequate turning radii on curves, Ts, and Ls, where needed, to accommodate emergency vehicles;**

h) **Developments that intend to have garbage pick-up services and/or loading facilities from alleys shall have adequate turning radii on curves, Ts, and Ls, where needed, to accommodate service vehicles and large trucks;**

l) **Public access easements shall be provided for all private alleys;**

j) **Private alleys shall be maintained by adjacent property owners, a property owners' association, or through a privately administered arrangement instituted by the developer. Maintenance responsibilities for private alleys shall be identified in deed restrictions filed with the Final Plat or prior to the issuance of final occupancy permits in cases where there is no plat to be filed; and**

k) **Utilities within alleys shall be placed underground.**

3. Additional Standards for Alleys Serving Nonresidential Use Types -Unless Specified Differently By the Underlying Zone -

a) **One-way alleys shall have a minimum width of 12 ft., and two-way alleys a minimum width of 20 ft. One-way alleys shall be clearly designed as one-way alleys and shall be signed accordingly;**

b) **Parking may be provided on one side of an alley, but not on both sides. Where parking is provided on one side of a one-way alley, the alley shall be a minimum width of 14 ft., exclusive of parking;**

c) **Where parking is provided, it shall not interfere with service areas, utilities, or pedestrian facilities. Such parking may be 45-degree angled parking, parallel parking, or 90-degree parking, provided the parking stalls and related back-up areas are designed consistent with the City's Off-street Parking and Access Standards, established by and available through the City Engineer and amended over time. Rather than widen alleys to allow for adequate back-up areas for 90- degree parking stalls, applicants are encouraged to provide longer parking stalls; and**

d) **Where alleys provide access to parking lots or parking structures with 15 or more spaces, the alleys shall be a minimum of 20 ft. wide.**

With the exception of the limitation on vehicle parking within the alley per **LDC § 4.0.60.j.3.b,** the requirement that the alley be constructed of concrete per **LDC § 4.0.60.j.1.b,** and the requirement that a public access easement be provided over the alley per **LDC 4.0.60.j.1.i,** the proposed private driveway is otherwise consistent with the alley construction standards outlined above.

The applicant cites, as compensating benefits, that the functional aspects of an alley have otherwise been provided. Additional compensating benefits include the ability to provide off-street parking on both sides of the alley, where it is normally not required, and therefore making

efficient use of space on a site that is heavily constrained by Natural Features. Provision of the private Shopping Street includes many of the functional components that an alley would provide, and includes additional pedestrian benefits. This is consistent with Comprehensive Plan Policies 3.2.1.b (efficient use of land) and 3.2.1.d (compact urban form). The proposed variation has provided benefits to the development, such that the original intent of the alley requirement of **LDC § 3.19.40.06.a** is satisfied. The criterion for compensating benefits has been satisfied.

Variation # 6: LDC § 4.0.60.n - Commercial Block Perimeter Standards

Applicable LDC standards

Section 4.0.60 - PUBLIC AND PRIVATE STREET REQUIREMENTS

n. Block Perimeter Standards - The following Block Perimeter requirements apply to all development projects. Exceptions to these requirements may be approved for development that is smaller than one acre and situated in areas where the street patterns are established and do not require connections to the development.

2. Commercial, Industrial and Civic Standards -

a) Complete Blocks - Commercial developments shall create a series of complete blocks bound by a connecting network of public or private streets with sidewalks. When necessary to minimize impacts to a designated wetland, to slopes greater than 15 percent, to parks dedicated to the public, and/or to Significant Natural Features, blocks may be bound by walkways without streets.

b) Maximum Block Perimeter - The maximum Block Perimeter shall be as follows:

Other Commercial Zones and Limited Industrial-Office Zone	**1,500 ft.**	**Block faces greater than 400 ft. shall have a pedestrian through-connection**

c) Variations Allowed Outright - Variations of up to 30 percent to these block distances may be allowed outright to minimize impacts to a designated wetland, to slopes greater than 15 percent, to parks dedicated to the public, to Significant Natural Features, to existing street patterns, and/or to existing development.

The applicant has provided an exhibit (**see Attachment G - page 2**) which illustrates the Block Perimeter requirements noted in **LDC § 4.0.60.n**, as they relate to the subject development site. The illustration shows the required 1,500-ft. block perimeter. Strict compliance with **LDC § 4.0.60.n** would require either public and/or private streets with associated sidewalks to be constructed along the alignments shown in the applicant's exhibit. The applicant is proposing to utilize the exemption noted in **LDC § 4.0.60.n.2.a,** by not providing a public or private street along the northern leg of the Block Perimeter. The northern leg would be completed by a pedestrian and bike-only connection in the form of a required public multi-use path. This exemption applies due to the need to minimize impacts to the Natural Features located in this portion of the development site.

The requested variation is specific to not providing a pedestrian through-connection as prescribed under **LDC § 4.0.60.n.2.b,** since the east-west dimensions of the proposed Block Perimeter exceed 400 feet. The applicant is proposing a dimension of approximately 442 feet, defined by SW 53rd Street at the east end and the new Shopping Street at the west end. Additionally, due to the shape of the subject property, and proposal to minimize impacts to the Natural Features associated with Dunawi Creek, the Block Perimeter distance completed by SW 53rd Street, SW Philomath Boulevard, the new Shopping Street, and the public multi-use path exceeds the 1,500-ft. maximum distance. The actual distance traveled by a pedestrian or bicyclist completing a loop around the proposed Block Perimeter amounts to approximately 1,700 feet. The 1,700-ft. distance falls within the 30 percent variation to the Block Perimeter distance that is allowed outright per **LDC § 4.0.60.n.2.c.** Therefore, the requested variation is specific to the lack of a pedestrian through-connection where the block face distances exceed 400, as noted above.

Compensating benefits have been provided in the form of added protection for the Natural Features, by not enforcing the strict application of a pedestrian mid-block connection, which could potentially introduce a new Dunawi Creek crossing. An additional benefit to moving the Shopping Street entrance an additional 42 feet to the west is improved vehicle circulation at the intersection of SW 53rd Street and SW Philomath Boulevard. By increasing the distance between the Shopping Street and SW 53rd Street, other LDC standards related to intersection spacing and Hwy 20/34 access are satisfied. Refer to the discussion below under Circulation for a more in-depth analysis of Highway 20/34 access standards. As noted in the compensating benefits discussion, the proposed variation to the Block Perimeter distance is supported and is otherwise consistent with **LDC § 4.0.60.n** and the review criterion in **LDC § 2.5.40.04.a.1.**

Variation # 7: Elimination of Franchise Utility Easement on Portions of Local Street

The applicant is proposing to not provide a 7-ft. wide franchise utility easement along the southern edge of the new local street right-of-way, located north of Building F. **LDC § 4.0.100.b** requires dedication of the franchise utility easement as part of the Tentative Subdivision Plat review process. The applicant has cited as a compensating benefit, minimizing disruptions to the Natural Features. While consistency with the Natural Features protections outlined in LDC Chapter 4.5, 4.11, 4.12, and 4.13 is required regardless of how utility easements and associated utility installations are provided, it should be noted that the LDC provides an outright exemption for certain public facilities such as street tree park strips, in order to minimize disruption to Natural Features. If the intent of the franchise utility provisions is met by ensuring that the applicable services have been provided to and through a development site, then the requested variation can be supported.

The applicant will need to demonstrate that franchise utility services such as electrical power, cable television, and telephone can be provided to and through the site despite the proposed variation to the utility easement standard (**see Conditions # 35 and # 39-e** and discussion below under Utilities). As proposed and conditioned, staff find that the compensating benefits criterion has been met for this requested variation.

Conclusion on Compensating Benefits for Requested Variations Criterion

Except for the variations noted in the review criteria under **LDC § 2.5.40.04.a.1**, the proposal is otherwise consistent with the MUCS zone development standards, and all applicable LDC

requirements in the supplemental LDC Chapters cross-referenced within the MUCS zone, as discussed in the subsequent Site Design portion of this staff report. The applicant has provided compensating benefits for the requested variation to provision of an alley and to the MADA - order of encroachments that results in enhanced Natural Features protections, as compared to what is permissible outright, by relocating development that could occur north of Dunawi Creek and concentrating the same acreage of allowable development on the south side of the creek.

The applicant has provided compensating benefits for requested variations to street tree park strip widths and pedestrian walkway shade tree requirements, through enhanced landscape buffers and trees that are greater in size than what is normally required. As proposed and conditioned, the CDP/DDP has provided compensating benefits that balance the objectives of the underlying LDC requirements. The criterion in **LDC § 2.5.40.04.a.1** is satisfied.

Basic Site Design

Applicable LDC Review Criteria - LDC 2.5.40.04.a

2. Basic site design (the organization of Uses on a site and the Uses' relationships to neighboring properties);

The site is bordered on its south and east sides by public street right-of-way, and is bisected by Dunawi Creek. Tax Lot 500 is bordered on its northern edge by Tax Lot 400, an undeveloped parcel with residential zoning. Tax Lot 600 is bordered on the north by the City limits, and on the west by an existing single-family residence. The proposal includes seven commercial buildings. The buildings range in size between 1,782 and 14,820 sq. ft. The buildings are evenly dispersed throughout the southern half of the site. Vehicle parking, sidewalks, landscaping, stormwater facilities, and pedestrian plazas surround the proposed buildings. The applicant proposes to construct a Shopping Street between Buildings E and F, and Buildings C and D, which includes wide sidewalks, and enhanced landscaping and pedestrian refuge areas. The northern half of the site is primarily set aside as an open space preservation tract, to incorporate the protected Riparian Corridor, Wetlands, and 100-Year Floodplain associated with Dunawi Creek. The applicant proposes to pay for the design, permitting, and cost of construction of a required public multi-use path along the north side of Dunawi Creek within the northern half of the site (**see Condition # 10**), but is deferring actual construction by submitting a pre-payment cash deposit.

Applicable LDC standards (Planned Development Background)

Section 2.5.10 - BACKGROUND

b. Restrictions on Variations -

1. Development Standards -

a) The Conceptual and Detailed Development Plan process permits modifications to the site development standards of the underlying zone;

2. Uses -

a) The Conceptual and Detailed Development Plan process does not permit an expansion of Uses beyond those specified by the underlying zone;

b) In cases where a property's underlying zoning designation was changed prior to December 31, 2006, and a valid (still active) Planned Development existed and was approved before December 31, 2006, the Conceptual and Detailed Development Plan process may be used to allow the Uses permitted by the new underlying zone; and

c) The Conceptual and Detailed Development Plan process may also be used to modify the Use size limitations contained in Chapter 3.19 - Mixed Use Community Shopping (MUCS) Zone.

Applicable LDC standards (MUCS zone)

Section 3.19.30 - PERMITTED USES

Land use in the MUCS Zone shall conform to the list of Permitted Use Types in Table 3.19-1 - Permitted Uses. Ministerial Development involving Use Types permitted outright are identified with a P. General Development involving Use Types subject to Chapter 2.13 - Plan Compatibility Review are identified with a PC. Special Development involving Use Types subject to Chapter 2.3 - Conditional Development Review are identified with a CD. Uses identified with an N are not permitted.

Table 3.19-1
Permitted Use Types

P = Use Types Permitted Outright
PC = Use Types Subject to Chapter 2.13 - Plan Compatibility Review
CD = Use Types Subject to Review of Chapter 2.3 - Conditional Development
PD = Use Types Subject to Review of Chapter 2.5 - Planned Development
N = Not Permitted

Use Types	Permit Procedure		
	No Use Size Limitation	Up to 7,500 sq. ft.	> 7,500 sq. ft.
f. Commercial Use Types - contained within enclosed building4			
13. Drive-through Facilities	CD		
14. Eating and Drinking Establishments - except Drive-through Facilities -10,000 sq. ft. maximum Use size		P	P (10,000 sq. ft. max. Use size)
25. Retail Sales -15,000 sq. ft. maximum Use size		P	PC (15,000 sq. ft. max. Use size)

Section 3.19.40 - DEVELOPMENT STANDARDS

3.19.40.01 - Use and Building Size

a. The maximum size of a Use is established in Table 3.19-1 - Permitted Use Types.

3.19.40.02 - Thresholds for Determining the Applicable Review Procedure - Commercial Uses

The permit procedures for Commercial Uses in the MUCS Zone shall be as identified in Table 3.19-1 - Permitted Use Types. The size of each Use is determined based on the total gross floor area of the Use. For the purposes of the MUCS Zone, floor area also includes unenclosed areas needed for automobile circulation for Car Washes, Fuel Sales, and Drive-through Facilities Uses. For these specific Uses, these unenclosed areas include those needed for operational use, queuing, and service areas, with the exception of areas needed for customer and employee parking, as defined in Chapter 3.0 - Use Classifications.

3.19.40.03 - Commercial Floor Area Ratio
Minimum commercial Floor Area Ratios (FARs) are required for all property with a Mixed Use Community Shopping designation. This requirement ensures that commercial land is preserved for primarily commercial purposes. For an explanation of how to apply/calculate FARs, see the definition of Floor Area Ratio in Chapter 1.6 - Definitions. All commercial and mixed use developments shall comply with the following standards for commercial floor area:

a. For Commercial Use Types, the minimum FAR shall be 0.25 and the maximum FAR shall be 1.0. When a project is composed of two or more phases, development in each phase shall fall within the minimum and maximum FAR requirements or an alternative FAR requirement proposed and approved through a Planned Development Review process.

<u>Applicable LDC Definition (Chapter 1.6)</u>

Area, Net - Total area of a parcel or site, usually expressed in acres and excluding existing public street rights-of-way and, if a developer desires, excluding public parks, Significant Natural Feature areas dedicated to the public, and/or other areas permanently precluded from development due to development constraints or conservation easements. Planned streets shall not be excluded from the net area.

Floor Area Ratio (FAR) - Gross floor area of all buildings on a lot or development site divided by the net area of a lot or development site on which the buildings are located. See Area, Net. In cases where outdoor areas are directly related to the subject land use(s) (e.g., outdoor storage areas; planting areas for nurseries, tree farms, and agricultural businesses; portions of parking lots used for storage and circulation of moving vans associated with moving businesses; etc.), these outdoor areas may be included in the Floor Area Ratio square footage calculation. However, unless specified otherwise, in no case shall standard parking and circulation areas, landscaping, etc., be included in the Floor Area Ratio square footage calculation.

One tenant has been confirmed as part of the CDP/DDP application - a Walgreen's store. Walgreen's is identified as the sole tenant of the largest building on the site. Walgreen's is classified as a Retail Sales use, which is permitted outright in the MUCS zone. However, the zone limits the size of individual uses, and where a Retail Sales use exceeds 7,500 square feet, a Plan Compatibility Review is required per LDC Table 3.19-1. As noted above under the Requested Variations and Compensating Benefits discussion, the proposed Walgreen's requires approval of a Conceptual and Detailed Development Plan because the size of the Retail Sales use exceeds the 15,000 sq. ft. limit specified in Table 3.19-1. Since the Planned Development review criteria include all of the compatibility issues addressed by the Plan Compatibility Review process outlined in LDC Chapter 2.13, it is unnecessary to review the proposal according to both sets of equivalent standards. Therefore, the required Planned Development review supercedes the need to conduct a Plan Compatibility Review. This is consistent with the Planned Development Background use allowances noted in **LDC § 2.5.10.b.2.c.** Additionally, Table

3.19.-1 specifies that a Conditional Development Permit approval is required for the drive-through facility use, which is associated with the Walgreen's store (**see Part II of this staff report**).

The CDP/DDP includes a proposed deli in Building A. This is classified as an Eating and Drinking Establishment. Building A is approximately 1,782 sq. ft. in area, and therefore, the proposed deli is consistent with the use size limitations of **LDC § 3.19.30.f.14.** All proposed uses are consistent with the allowed uses identified in **LDC § 3.19.30.**

The Walgreen's building is centrally located along the SW Philomath Boulevard frontage of Tax Lot 500. The other six buildings are scattered along the SW Philomath Boulevard frontage, along the proposed Shopping Street and/or just south of Dunawi Creek. All development (with the exception of a proposed public multi-use path and a driveway entrance and stream crossing) is located south of Dunawi Creek.

Approximately 60 percent of the total site area is proposed to be developed, and the remaining 40 percent of the site is proposed to be protected through the Natural Features protections in Article IV of the LDC. Refer to the discussion below for an in-depth review of applicable Natural Resources and Natural Hazards protections, as well as how the CDP/DDP intends to utilize the Minimum Assured Development Area (MADA) provisions of the LDC.

Vehicle and bicycle parking, vehicle circulation, and pedestrian sidewalks are interspersed between the buildings, and provide continuous circulation throughout the development site and between each building. The CDP/DDP proposes two points of vehicular access for ingress/egress. One driveway entrance is proposed along SW 53rd Street, and a second driveway is proposed on SW Philomath Blvd. 53rd Street is under Benton County jurisdiction in terms of ownership and maintenance. SW Philomath Boulevard is owned and maintained by ODOT. A stream crossing consisting of a vehicle driveway, sidewalk, and bridge is proposed just west of the project's SW 53rd Street entrance. The applicant also proposes to dedicate additional public right-of-way for construction of a local street, which would bisect Tax Lot 600.

All buildings are proposed to have direct pedestrian access to the abutting public street sidewalk, through a network of on-site pedestrian sidewalks. In some cases, these sidewalks are intended to satisfy the LDC Block Perimeter standards, in other cases, they provide simple pedestrian connections between buildings, and between buildings and parking areas, as required per the Pedestrian Oriented Design Standards of the LDC.

This site is subject to both a floor area ratio minimum for commercial development, which requires a minimum amount of commercial square footage, and the need to satisfy Natural Features protections, which limits the amount of commercial development on the site. The Floor Area Ratio requirements, specified in **LDC § 3.19.40.03.a**, are as follows:

TABLE B:
Floor Area Ratios

Site Area	Floor Area Ratio (Min. - 0.25)	Floor Area Ratio (Max. -1.0)
Total: 6.64 acres (289,082 sq. ft.)	72,271 square feet	289,082 square feet
Total Minus Natural Features Protections: 3.83 acres (166,931 sq. ft.)	41, 733 square feet	166,931 square feet

Without accounting for Natural Features protection requirements and other areas precluded from development, the subject property has a minimum requirement of 72,271 square feet of commercial floor area. Per the definitions of Area, Net and Floor Area Ratio in LDC Chapter 1.6, the applicant has the choice to reduce the minimum Floor Area Ratio by removing those areas of the site that are permanently precluded from development due to development constraints or conservation easements. When factoring in this voluntary reduction in the floor area ratio, the minimum commercial floor area requirement is 41,733 square feet. The applicant is proposing a total of approximately 43,300 square feet of commercial building space, which falls within the acceptable range for floor area ratio. The proposal exceeds the minimum required floor area ratio by approximately 1,500 square feet. The standards specified in **LDC § 3.19.40.03.a** are satisfied

Applicable MUCS zone standards related to basic site design are as follows:

Applicable LDC Standards (MUCS zone)
3.19.40.05 - Setbacks

a. Front Setback - Structures may be built to the property line, but no closer to the street than the width of the standard planting strip and sidewalk for that street classification. A maximum setback of 20 ft. from either the property line or the line marking the outer boundary of the standard planting strip and sidewalk for that street classification shall apply to all building sites, except as provided in "1," through "3," below. However, in no case shall parking facilities or circulation facilities, such as driveways and queues, be allowed between the building front and the street.

1. Exceptions for Improved Pedestrian and Automobile Circulation - The maximum setback may be increased by 50 percent through a Conditional Development approval when the Planning Commission finds that an increased setback will provide for improved pedestrian circulation and safety and improved vehicular access management outside the public rights-of-way. For example, objectives for both pedestrians and vehicles can be met through the provision of shared driveways, connected parking lots, improved pedestrian connections between buildings and the street sidewalk, and internal connections between adjoining buildings.

2. Exceptions Granted through Conditional Development/Planned Development Review - In conformance with Section 3.19.20.01.c, the maximum setback may be increased to provide for the following features:

a) Pedestrian amenities in conformance with Chapter 4.10 - Pedestrian Oriented

Design Standards;

b) An internal Shopping Street consistent with the requirements of Section 4.0.60.m of Chapter 4.0 - Improvements Required with Development;

c) Protection of Significant Natural Features protected by Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.12 - Significant Vegetation Protection Provisions, and/or Chapter 4.13 - Riparian Corridor and Wetland Provisions; or

d) Compliance with other Sections of this Code.

3. Exceptions for Interior Buildings - Buildings interior to a development site are exempt from this requirement, provided other buildings on the site meet the requirement.

b. Side and Rear Setbacks and Building Separations - The following setbacks shall apply:

1. No minimum setback adjacent to Mixed Use General Commercial (MUGC), Neighborhood Center (NC), and Industrial (GI, II) zones.

2. 20 ft. minimum setback adjacent to Low and Medium Density Residential zones; buffering shall be provided in accordance with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting.

3. 10 ft. minimum setback adjacent to Medium-high and High Density Residential zones; buffering shall be provided in accordance with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting.

The development site has frontage on SW Philomath Boulevard and SW 53rd Street. Buildings A, D, E, and the Walgreen's building are proposed to be constructed at between 7 and 20 feet from the new property lines. This is consistent with the standards in **LDC § 3.19.40.05.a.** Building B is exempt from the maximum setback requirement of 20 feet per **LDC § 3.19.40.05.a.3.** The applicant has chosen to provide a Shopping Street (see **LDC § 3.19.40.05.a.2.b**), to be located between Tax Lots 500 and 600. The proposed Shopping Street is one solution that provides compliance with LDC Block Perimeter standards (see discussion below under Circulation). Provision of the Shopping Street also means that Buildings C and F are consistent with the maximum setback requirement noted in **LDC § 3.19.40.05.a,** because both buildings abut the Shopping Street Tract and are built to the property line. All proposed buildings comply with the minimum setback requirement of 10 feet to the adjacent RS-12 zone (Medium-High Density Residential), located north of Dunawi Creek. The building setback criteria in **LDC § 3.19.40.05** are satisfied.

Compatibility issues arise when two dissimilar land uses abut each other. Building setbacks and landscape buffers are often required to mitigate for these potential impacts. In this case, the applicant is proposing two commercial buildings and associated parking areas on Tax Lot 600 that directly abut the residential property to the west. Per **LDC § 3.19.40.05.b.2**, the MUCS zone requires a building setback and landscape buffer along the perimeter of a development site, where it abuts Low Density zones. In this case, the west property line of the development site abuts a property with a Low Density designation. The CDP/DDP illustrates that the buildings adjacent to this property line comply with the minimum building setback of 20 feet and that a minimum 5-ft. wide landscape buffer has been provided along the west property line, consistent with **LDC § 3.19.40.05.b.2**. The CDP/DDP includes a conceptual landscape plan (**see**

Attachment G - page 9). Additional discussion of the landscape buffer requirements noted above, and other applicable landscaping standards from LDC Chapter 4.2, is included below, under the discussion heading of Landscaping /Buffering /Screening.

As discussed in Part I of this staff report under Pedestrian Oriented Design, the proposal is consistent with the pedestrian-related site design requirements of **LDC § 4.10.70**. The applicant has provided a continuous network of on-site pedestrian walkways that link all of the customer entrances for each building to the nearby public sidewalks and multi-use paths. Where applicable, buildings have been oriented to the streets, with parking located to the rear or sides of the buildings.

Conclusion on Basic Site Design

The buildings have been spread relatively evenly throughout the southern half of the site, offering pedestrians multiple ways to access various tenants using the interconnected sidewalks. Existing and potential residential development to the north of the site is well buffered by the open space preservation tracts that contain Dunawi Creek. A landscape buffer has been provided between the westernmost parking area and the existing residential development to the west of the subject site. All buildings have pedestrian and bicycle access from the public transportation network abutting the site's south and east borders. As noted above, the applicable LDC criteria for site design and arrangement of uses on the site have been satisfied. The CDP/DDP compatibility criterion for Basic Site Design outlined in **LDC § 2.5.40.04.a.2** is satisfied.

Visual Elements

Applicable LDC Review Criteria - LDC 2.5.40.04.a
3. Visual elements (scale, structural design and form, materials, etc.);

The CDP/DDP includes architectural building elevations for all seven proposed buildings (**see Attachment G - pages 19 through 24**). Buildings constructed consistent with LDC standards in the MUCS zone and the Pedestrian Oriented Design Standards (PODS) outlined in Chapter 4.10 are considered to be compatible with surrounding uses and in compliance with the visual elements criterion in **LDC § 2.5.40.04.a.3.** The following MUCS and PODS standards apply to the proposed building architecture:

Applicable MUCS architectural standards
Section 3.19.40 - DEVELOPMENT STANDARDS
3.19.40.01 - Use and Building Size
b. The maximum building footprint shall be 25,000 sq. ft., except for Lodging Services Use Types and Residential Use Types, for which no limits are established.

3.19.40.08 - Structure Height
No structure shall exceed 45 ft. in height.

No individual building identified in the CDP/DDP exceeds 17,000 square feet. Therefore, the maximum building footprint standard in **LDC § 3.19.40.01.b** is satisfied. The proposed buildings range in height from 18 feet (Building A) to approximately 34 feet (Buildings B and C). All

buildings are lower in height than the maximum of 45 feet prescribed by **LDC § 3.19.40.08**. The applicable MUCS architectural standards are satisfied.

Applicable PODS architectural standards

Section 4.10.70 - STANDARDS FOR COMMERCIAL, INDUSTRIAL, AND CIVIC DEVELOPMENT

4.10.70.01 - Applicability
a. All new commercial, industrial, and civic building types and associated features, such as parking lots, within all zones that refer to Section 4.10.70 shall comply with Sections 4.10.70.02 through 4.10.70.05.

The CDP/DDP involves new commercial building types. Therefore, the standards in **LDC § 4.10.70.02** through **LDC § 4.10.70.05** are applicable. Buildings constructed consistent with the PODS are considered to meet the compatibility criteria for visual elements.

Applicable PODS architectural standards(cont.)
4.10.70.02 - Building Orientation
All buildings shall be oriented, as outlined in this Section, to existing or proposed public or private streets. See Chapter 4.0 - Improvements Required with Development for public and private street standards. Buildings on corner parcels shall be oriented to both streets bordering the property. Private streets used to meet this standard must include the elements in Chapter 4.0.

The building orientation standard is met when all of the following criteria are met:

a. Street Frontage Setback - At least 50 percent of the building's linear frontage is located within the maximum setback established for the zone for structures that have street frontage, as shown below in Figure 4.10-18 - Percent of Building Frontage Within Maximum Setback Area. An exception to this requirement pertains to provisions elsewhere in this Chapter for development in the Neighborhood Center (NC) Zone. Expansion of a structure existing prior to December 31, 2006, and in conformance with the Code on that date is deemed to meet this criterion, provided the area of expansion is between the street and the existing building frontage.

b. Entrances - All building sides that face an adjacent public or private street include at least one customer entrance. When the site is adjacent to more than one street, corner entrances at an angle of up to 45 degrees, from the largest of the two adjacent streets, may be substituted for separate entrances on adjacent streets. If the building does not have frontage along an adjacent street, direct pedestrian access to the street may be achieved by a sidewalk or courtyard connecting to a street no farther than 100 ft. from the building's pedestrian entrance (distance measured along the centerline of the sidewalk or over the "hard-surfaced" portion of the courtyard from a public street right-of- way or private street tract). Examples of these requirements are shown below in Figure 4.10-19 - Site Development Element Locations. Buildings of less than 3,000 sq. ft. fronting on only one street may provide the customer entrance on the side of the building in lieu of the front, if a sidewalk or courtyard provides a direct, "hard-surfaced" pedestrian connection of less than 50 ft. between the entrance and the street (distance measured along the centerline of the sidewalk or over the "hard-surfaced" portion of the courtyard from a public street right-of-way or private street tract).

c. **Parking and Vehicle Circulation - Off-street parking or vehicular circulation shall not be placed between buildings and streets used to comply with this standard, as shown above in Figure 4.10-19 - Site Development Element Locations. Where allowed by the underlying zone, outdoor vehicle display lots for sale of autos, noncommercial trucks, motorcycles, trailers with less than 10,000 lbs. gross cargo weight, motor homes, and boats may be located adjacent to streets. The parking lot perimeter landscaping requirements of Section 4.2.40 of Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting shall be met.**

Building Orientation

The CDP/DDP includes seven commercial buildings. With the exception of Building B, the other six buildings are oriented to public (SW 53rd Street and SW Philomath Boulevard) or private (Shopping Street) streets. The maximum front setback prescribed in the MUCS zone is 20 feet. For the six buildings that face public or private streets, the entire facade oriented to the adjacent street is located within the maximum 20-ft. setback. Building B is interior to the site, and all other buildings comply with the street frontage setback requirement outlined above. Per **LDC § 3.19.40.05.a.3**, Building B is exempt from street frontage setback requirements. All proposed buildings comply with the criteria in **LDC § 4.10.70.02.a**. As illustrated on the architectural elevations and floor plans for all buildings (**see Attachment G - pages 19 through 25**), a customer entrance has been provided for each building facade that faces a public or private street. The criterion in **LDC § 4.10.70.02.b** is satisfied.

The CDP/DDP does not propose that vehicle parking will be placed in between the building facades and the streets to which those facades are oriented, with the exception of Buildings C, D, and F. Because these three buildings are oriented toward a Shopping Street, which requires vehicle parking along its length, the vehicle parking is permitted between the building and the street. The criterion in **LDC § 4.10.70.02.c** is satisfied.

Additional Pedestrian Oriented Design Standards Affecting Visual Elements

The following PODS affect building architecture. Conformance to these standards also demonstrates consistency with the compatibility criteria for visual elements. The following LDC standards are applicable to the proposed CDP/DDP:

Applicable PODS architectural standards(cont.)

4.10.70.05 - Standards and Menus for Pedestrian Features and Design Variety

a. Pedestrian Amenities Standards

1. **Weather Protection - Where new commercial and civic development is constructed immediately adjacent to (abutting) street sidewalks or pedestrian plazas, a minimum six-ft.-wide, weather-protected area, protected by such elements as awnings or canopies, shall be provided and maintained along at least 60 percent of any building wall immediately adjacent to the sidewalks and/or pedestrian plazas. An additional requirement shall include a minimum eight-ft. vertical clearance between the sidewalk and the lowest portion of the weather protection. This vertical clearance shall be nine ft. for balconies. These requirements are shown below in Figure 4.10-22 - Weather Protection.**

b. Design Standards and Design Variety Menus

3. Roof-mounted Equipment - Roof-mounted equipment, such as heating, ventilation, and air conditioning equipment, shall be screened. Screening features shall be at least equal in height to the equipment, compatible with roof lines, and constructed of materials used in the building's exterior construction. Screening features include such elements as a parapet, wall, or other sight-blocking feature, etc. The roof-mounted equipment shall be painted to match the roof.

6. Windows - The provisions in this Section shall apply to placement and type of windows. Figure 4.10-24 - Windows and Glass Doors on Street-facing Facades is provided for context.

a) Ground Floor Windows and Doors - Except for the Neighborhood Center (NC) Zone, which is addressed in "c," below, a minimum of 60 percent of the length and 25 percent of the first 12 ft. in height from the adjacent grade of any street facing facade shall contain windows and/or glass doors. An exception may be granted if the expansion/enlargement is for space neither adjacent to a street nor open to customers or the public. Additional requirements for windows shall include the following:

1) Ground floor windows shall be framed by bulkheads, piers, and sills such as are used in a recessed window, where applicable. Ground floor windows shall also have a Top Treatment such as a hood, awning, or a storefront cornice separating the ground floor from the second story. Alternatively, all ground floor windows shall provide a minimum three-in.-wide trim or recession. The Base Treatment standards under Section 4.10.70.05.b.7.d, below, and the Top Treatment standards under Section 4.10.70.05.b.7.e, below, shall be used as a guide for providing bulkheads and cornices that meet this standard.

2) Window Type - Ground floor windows used to comply with "a," above, shall meet all of the following standards:
a. Opacity of greater than 60 percent prohibited for any required window; and

b. Ground floor windows shall allow views from adjacent sidewalks into working areas or lobbies, pedestrian entrances, or display windows set into the wall. Display cases attached to the outside wall do not qualify. The bottom of windows shall be no more than four ft. above the adjacent exterior grade.

7. Design Variety Menu - Each structure shall incorporate a minimum of three of the following five building design features. The applicant shall indicate proposed options on plans submitted for building permits. While not all of the design features are required, the inclusion of as many as possible is strongly encouraged.

a) Building Walls - Building walls in excess of 30 ft. in length shall not exceed a height/width ratio of 1:3 without a change in height of at least four ft., as addressed below in Figures 4.10-25A through C - Building Walls.

b) **Maximum Wall Segments - All building wall segments on all sides of buildings visible from public areas or adjacent uses shall be a maximum of 30 ft. in length. Building wall segments shall be distinguished by architectural features including at least one of the following: columns, reveals, ribs or pilasters, piers, recesses, or extensions. The segment length may be increased to a maximum of 60 ft. if the segment contains integral planters, public art, or permanent seating such as a seating wall, that conform to the accessibility standards in Section 4.10.70.05.a.4.**

c) **Entrances - Primary building entrances shall be clearly defined by recess or projection, and shall be framed by a sheltering element such as an awning, overhang, arcade, or portico.**

d) **Base Treatments - A recognizable Base Treatment consisting of at least one of the following:**
1) Thicker walls, such as a bulkhead, ledges, or sills as viewed from the exterior of the building;
2) Integrally textured materials such as stone, stucco, or other masonry;
3) Integrally colored and patterned materials such as smooth-finished stone or tile;
4) Lighter or darker colored materials, Mullions, or panels;
5) Detailing such as scoring, ribbing, moldings, or ornamentation; or
6) Planters integral to the building.

e) **Top Treatments - A recognizable Top Treatment consisting of at least one of the following:**
1) Cornice treatments, other than colored stripes or bands that are integral to the building design. Materials such as stone, masonry, brick, wood, galvanized and painted metal, or other colored materials shall be used;
2) Sloping roof (4:12 or greater) with overhangs. Overhangs may be boxed with moldings such as Modillions, Dentils, or other moldings, as applicable; or contain brackets; or
3) Stepped parapets.

The CDP/DDP illustrates awnings attached to the building facades that abut sidewalks located along streets or pedestrian plazas. As illustrated on Sheet SP3.1 (**see Attachment G - page 25**), all buildings include awnings that are at least 6-foot in depth, and extend along each applicable facade's length for at least 60% of the linear distance (**see Condition # 11**). In many cases these standards are exceeded by 10% or more. As proposed, all required awnings comply with the vertical clearance standard of eight feet. The architectural standards in **LDC § 4.10.70.05.a.1** are satisfied.

The application materials do not specify whether roof mounted mechanical equipment will be supplied or not; However, building permit review will ensure compliance with this standard, where applicable. The application narrative does not include an associated variation request for the applicable LDC standards. The standards in **LDC § 4.10.70.05.b.3** are satisfied.

Buildings with street facing facades include buildings A, C, D, E, F, and Walgreen's. Windows have been provided on the applicable facades, as illustrated on the architectural elevations **(see Attachment G - pages 19 through 24)**, and as listed in Table 6 in the application narrative **(see Attachment H - page 52)**. The window percentage criteria in **LDC § 4.10.70.05.b.6.a** are satisfied. As illustrated, the windows have been framed by architectural elements including piers, sills, and awnings, as specified in **LDC § 4.10.70.05.b.6.a.1** . The application narrative and display window cross section **(see Attachment G - page 24)** indicate that the opacity standards in **LDC § 4.10.70.05.b.6.a.2** will be satisfied. The architectural elements specified in the menu in **LDC § 4.10.70.05.b.7** have been provided by provision of vertical breaks in the massing of building walls, well defined building entrances in many cases, and base and top treatments consisting of architectural features like cornice treatments, stepped parapets, changes in wall thickness or materials, and overhanging roofs.

Conclusion on Visual Elements Criterion

As discussed above, the applicant has provided architectural elevations, floor plans, and a site plan which provides a visual description of the proposed development. The applicant is proposing to comply with the architectural standards outlined in the MUCS zone and the commercial Pedestrian Oriented Design Standards that govern building form, materials, and the relationship to the pedestrian environment. Development that is in compliance with these standards is considered to be visually compatible. Therefore, the criterion in **LDC § 2.5.40.04.a.3** is satisfied.

Noise Attenuation

Applicable LDC Review Criteria - LDC 2.5.40.04.a
4. Noise attenuation;

Noise within commercial development typically includes motor vehicle traffic, conversing pedestrians, and service vehicle activities such as garbage collection. The level of noise attributed to these activities is not anticipated to swell above the ambient traffic noise generated on Hwy 20/34 and other existing commercial activities in the vicinity of the subject site. Noise impacts from the proposed commercial development are not anticipated to create negative compatibility impacts. The proposed CDP/DDP illustrates that no service areas or loading docks have been placed in the vicinity of adjacent residential properties, which minimizes the noise impacts that this development will have on residences. This criterion is satisfied.

Odors and Emissions

Applicable LDC Review Criteria - LDC 2.5.40.04.a
5. Odors and emissions;

No unusual odors are anticipated from the proposed development. This criterion is satisfied.

Exterior Lighting

Applicable LDC Review Criteria - LDC 2.5.40.04.a
6. Lighting;

Applicable LDC standard (Section 4.2.80.d) :
Light sources shall be concealed or shielded to the maximum extent feasible to minimize the potential for glare and unnecessary diffusion on adjacent property. Compliance with this provision shall be demonstrated by ensuring that, when evaluated from a point four ft. above the ground, bulbs of light fixtures are not visible from adjacent property.

The applicant has submitted a Conceptual Lighting Plan (**see Attachment G- page 11)** which includes a mixture of pole mounted and building mounted light fixtures. The applicant's narrative includes exhibits for light fixtures (**see Attachment H- pages 159 through 162)** indicating that house side shields will be used where necessary to ensure that the standards in **LDC § 4.2.80.d** will satisfied. As proposed, the plans indicate that the criterion in **LDC § 2.5.40.04.a.6** is satisfied. Compliance with these standards will be verified through the building permit review process (**see Condition # 15**).

Signs

Applicable LDC Review Criteria - LDC 2.5.40.04.a
7. Signage;

The applicant has included conceptual designs for proposed free-standing signs, and has identified the conceptual location of these signs on the site development plans (**see Attachment G - page 3**). Three signs are proposed. One is to be located adjacent to the driveway entrance on SW 53rd Street, a second sign is proposed immediately to the southwest of Building A, and a third free-standing sign is located at the driveway entrance on SW Philomath Blvd. The applicant has also illustrated attached building signs for the Walgreen's building. The applicant is not proposing variations to the LDC sign provisions in Chapter 4.7. The conceptual designs are within the allocation, maximum size and maximum height standards specified for the MUCS zone. Signs will require a sign permit through the City's standard sign permit process, and all applicable standards will be evaluated at that time. This criterion is satisfied.

Landscaping / Buffering / Screening

Applicable LDC Review Criteria - LDC 2.5.40.04.a
8. Landscaping for buffering and screening;

The proposed CDP/DDP includes a Conceptual Landscape Plan (**see Attachment G - page 9**). The Landscape Plan includes parking lot landscaping, screening / buffering landscaping in specific areas, restored natural landscaping abutting Dunawi Creek, pedestrian walkway and Shopping Street landscaping, and except as noted in the discussion above under requested variations, street trees. Applicable landscaping standards include general landscape requirements specified in Chapters 4.1 and 4.2 of the LDC, as well as landscaping specific to Riparian Corridor restoration (Chapter 4.13) and pedestrian areas (Chapter 4.10). The applicable standards are as follows:

Applicable LDC requirements -
Section 4.2.20 - GENERAL PROVISIONS
a. Required Landscaping -

1. **Landscaping and Irrigation Plans - Where a landscape plan is required by this Code, by a particular proposal, and/or by Conditions of Approval, detailed planting plans, irrigation plans and other related plans shall be submitted for review and approval with Building Permit applications and/or prior to the recordation of a Final Plat, as applicable. Building Permits, including Foundation Permits, shall not be issued until the Director has determined that the plans comply with the purposes clause and specific standards in this Chapter, any specific proposal(s), and/or Conditions of Approval that apply to the particular project. On a case by case basis, and where no Significant Natural Features would be impacted, the Director may grant an exception and allow the issuance of permits. Required landscaping shall be reviewed and approved by the Director, and in no case shall landscaping be less than that required by this Chapter. Landscaping shall consist of ground cover, shrubbery, and trees.**

2. **Installation - All required landscaping and related improvements, such as irrigation, etc., shall be completed prior to the issuance of a Certificate of Occupancy. Additionally, all required landscaping and related improvements within the public right-of-way, and/or required by Conditions of Approval in conjunction with recording of the Final Plat, shall be completed or financially guaranteed prior to the recording of a Final Plat. If an applicant chooses to financially secure landscaping and related improvements in order to record a Final Plat, such financial security shall be consistent with the provisions of this Code, shall be reviewed and approved by the Director, and shall be for an amount at least equivalent to 120 percent of the cost of the installation of the landscaping and related improvements.**

3. **Coverage within Three Years - All required landscaping shall provide a minimum 90 percent ground coverage within three years. A financial guarantee shall be provided for new residential development, with the exception of areas within single-family or Duplex lots. A financial guarantee shall also be provided for new nonresidential development, and nonresidential redevelopment that involves a 3,000 sq. ft. or 20 percent expansion, whichever is less, except that 20 percent expansions less than 500 sq. ft. are exempt. The financial guarantee shall cover maintenance for a three-year period from the date that the landscaping was installed by the applicant and accepted by the City. This guarantee shall be established prior to the issuance of a Final Certificate of Occupancy and prior to recording of a Final Plat. Additionally, this guarantee shall be consistent with the provisions of this Code, shall be reviewed and approved by the Director, and shall be for an amount that is at least equivalent to 50 percent of the cost of installation of required landscaping and related improvements, plus 20 percent of the 50 percent figure.**

   To release this guarantee at the end of the three-year period, the developer shall provide a report to the Director. This report shall be prepared by a licensed arborist or licensed landscape contractor and shall verify that 90 percent ground coverage has been achieved, either by successful plantings or by the installation of replacement plantings. The Director shall approve the report prior to release of the guarantee.

b. **Appropriate care and maintenance of landscaping on-site and landscaping in the adjacent right-of-way is the right and responsibility of the property owner, unless City ordinances specify otherwise for general public and safety reasons. A City permit is required to plant, remove, or prune any trees in a public right-of-way. Pruning shall be in accordance with the American National Standards Institute (ANSI) A300 standards for Tree Care Operations. Landscaping, buffering, and screening required by this Code shall be maintained. If street trees or other plant materials do not survive or are removed, materials shall be replaced in kind.**

The plans submitted as part of this CDP/DDP are conceptual in nature, and do not fully illustrate compliance with the 90% coverage standard noted above. A detailed set of planting and irrigation plans will be required at time of building permit, that illustrates compliance with the 90% coverage standard noted in **LDC § 4.2.20.a.3. Condition # 36** implements the requirements of **LDC § 4.2.20.a**, noted above. The applicant has indicated an intent to comply with these standards.

The developer intends to create two property owners' associations (POA), comprised of the individual lot owners. One of the roles of the POA is to maintain the common area landscaping, created through the Subdivision of the property. Because all of the proposed and required landscaping is located in common areas, the two POAs will be responsible for maintenance of the landscape areas, consistent with **LDC § 4.2.20.b (see Condition # 36-l and # 36-o).**

In order to ensure the understanding between individual lot owners that landscaping maintenance is to be a responsibility of the POA, common landscape maintenance easements, or a blanket easement shall be dedicated on the final plat. A dedication statement shall be included on the final plat to this effect (**see Condition # 39-j**).

<u>Applicable LDC requirements - Section 4.2.20 continued :</u>
c. Protection of Shrub, Ground Cover and Tree Specimens in Inventoried Areas of the Adopted Natural Features Inventory Map dated December 20, 2004 -

1. For shrub, groundcover, and tree specimens within the areas inventoried as part of the Natural Features Inventory, preservation requirements shall be in accordance with the provisions of Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. See Adopted Natural Features Inventory Map dated December 20, 2004, for information regarding areas inventoried as part of the Natural Features Inventory.

2. Plants to be preserved and methods of protection shall be indicated on the detailed planting plan submitted for approval. Existing trees and shrubs shall be considered preserved if the standards in Section 4.12.60.f are met.

d. Protection of Significant Tree and Significant Shrub Specimens Outside of Inventoried Areas of the Adopted Natural Features Inventory Map dated December 20, 2004 -

1. Significant Tree and Significant Shrub specimens outside of the areas inventoried as part of the Natural Features Inventory should be preserved to the greatest extent practicable and integrated into the design of a development. See Adopted Natural Features Inventory Map dated December 20, 2004, for information regarding areas inventoried as part of the Natural Features Inventory. See also

the definitions for Significant Shrub and Significant Tree in Chapter 1.6 - Definitions.

2. **Preservation -**
   a) **Significant Trees and Significant Shrubs to be preserved and methods of protection shall be indicated on the detailed planting plan submitted for approval. Existing Significant Trees and Significant Shrubs shall be considered preserved if the standards in Section 4.12.60.f are met.**
   b) **Where the preservation of Significant Trees or Significant Shrubs is required by this Code, by a particular proposal, and/or by Conditions of Approval, no development permits shall be issued until a preservation plan has been reviewed and approved by the Director. The preservation plan shall be developed by a certified arborist and shall comply with the purposes clause and specific standards in this Chapter and any proposal(s) and/or Conditions of Approval that apply to the particular project. Additionally, Significant Trees and Significant Shrubs to be saved and methods of protection shall be indicated on the preservation plan submitted for approval. Methods of preservation shall be consistent with Section 4.12.60.f.**

Existing Significant Vegetation associated with the Riparian Corridor and Proximate Wetland was inventoried as part of the Natural Features Inventory and no vegetation was identified for protection as part of the Significant Vegetation provisions of LDC Chapter 4.12. However, the Significant Vegetation associated with the Highly Protected Riparian Corridor and Locally Protected Locally Significant Wetlands is subject to specific protections within LDC Chapter 4.13. Significant vegetation within the Riparian Corridor / Proximate Wetland that is located outside of the areas that may be developed according to the MADA provisions of Chapter 4.11 is required to be protected.

The proposed CDP/DDP indicates that this vegetation will be preserved within a separate open space tract. For that Significant Vegetation required to be preserved, procedures outlined in LDC 4.12.60.f are to be followed. This includes installation of construction fencing along the MADA boundary, so that areas required to be protected are clearly delineated and maintained throughout the construction process (**see Conditions # 8 and # 36-b**). The application materials identify specific Significant Trees which are to be removed or preserved in the area of the proposed Dunawi Creek crossing at the northeast corner of the site (**see Attachment H - page 217**), consistent with the provisions of **LDC § 4.2.20.c**. Where not specifically identified in the Detailed Development Plans, the applicant will be required to demonstrate compliance with **LDC § 4.2.20.c** and the Significant Vegetation preservation requirements of Chapter 4.13 during all phases of construction (**see Condition # 36-b**).

The applicant has also identified Significant Trees, located at the southwest corner of the site that are suitable for protection. The proposed CDP/DDP includes plans to install tree protection fencing during construction, in order to preserve some of these trees. Tree fencing shall be installed prior to issuance of any permits authorizing site disturbance, in accordance with **LDC § 4.2.20.d** and **LDC § 4.12.60.f** (**see Condition # 36-b**). As conditioned, the standards in **LDC § 4.2.20(c)** and **(d)** will be satisfied.

Applicable LDC requirements - Section 4.2.20 continued :

e. **Planters and boundary areas used for required plantings shall have a minimum diameter of five ft., or 2.5 ft. radius, inside dimensions. Where the curb or the edge of these areas is used as a tire stop for parking, the planter or boundary plantings shall be a minimum width of 7.5 ft.**

Section 4.2.20(e) of the LDC requires a minimum depth for landscape planters that are intended to buffer vehicle parking from adjacent properties and rights-of-way. The depth required varies depending on whether vehicle bumpers overhang the planter or not. The Conceptual Landscape Plans indicate that the required depth has been provided in most cases. In some locations, vehicle parking stalls are located perpendicular to the required planters, and there is the potential that vehicle bumpers which overhang the curb may damage required plantings. In these cases, the planter depth shall be increased to 7.5 feet to accommodate the vehicle bumper and minimize chances of damaging vegetation (**see Condition # 14**). As proposed and conditioned, this standard is satisfied.

Applicable LDC requirements - continued :

f. **Irrigation Systems - With the exception of individual lots for single-family and Duplex development, irrigation systems shall be required, provided, and maintained for all required landscape areas in all zones, unless waived by the Director. These irrigation systems are for the purpose of ensuring survival of plant materials in required landscape areas. The Director may waive the requirement for irrigation systems in areas containing established trees and shrubs that are more than five years old, and are retained as significant vegetation in common, open space tracts and areas. Irrigation systems needed to establish trees and shrubs in Natural Resource and Natural Hazard areas are required. Where required, a detailed irrigation system plan shall be submitted with Building Permit applications. The plan shall indicate source of water, pipe location and size, and specifications of backflow device. The irrigation system shall utilize 100 percent sprinkler head-to-head coverage or sufficient coverage to ensure 90 percent coverage of plant materials in three years.**

Irrigation systems are typically evaluated at the time of landscape plan review and building permit issuance. **Condition of Approval # 36-a** implements these requirements. The applicant intends to comply with these standards.

Applicable LDC requirements - continued :

g. **In no case shall shrubs, conifer trees, or other screening be permitted within Vision Clearance Areas of street, alley, or driveway intersections, or where the City Engineer otherwise deems such plantings would endanger pedestrians and vehicles.**

The proposed Conceptual Landscape plan illustrates the required Vision Clearance Areas, abutting the driveway entrances on SW Philomath Boulevard and SW 53rd Street. The plan does not include details for shrub plantings that might be planted within the vision clearance areas, and conifer trees are not permitted within public right-of-way. The applicant has not indicated, in the narrative, a request to vary from these standards. With submittal of the final landscape plans, the applicant shall ensure that the City's vision clearance standards are satisfied in all locations on the development site (**see Condition # 36-m**).

Street Trees

Applicable LDC Standards

Section 4.2.30 - REQUIRED TREE PLANTINGS AND MAINTENANCE

a. Tree Plantings -

Tree plantings in accordance with this Section are required for all landscape areas, including but not limited to parking lots for four or more cars, public street frontages, private streets, multi-use paths, sidewalks that are not located along streets, alleys, and along private drives more than 150 ft. long.

1. Street Trees -

a) Along streets, trees shall be planted in designated landscape parkway areas or within areas specified in a City-adopted street tree plan. Where there is no designated landscape parkway area, street trees shall be planted in yard areas adjacent to the street, except as allowed elsewhere by "d," below;

b) Along all streets with planting strips in excess of six ft. wide and where power lines are located underground, a minimum of 80 percent of the street trees shall be large canopy trees;

c) Planting strips on Local Connector and Local Streets shall be planted with medium canopy trees; and

d) If planting strips are not provided on Arterial, Collector, and Neighborhood Collector Streets, an equivalent number of the required large and required medium canopy trees shall be provided in other locations within common open space tracts on the site, or within the front yard setback areas of the parcels and lots adjacent to the street. Such plantings in-lieu-of street trees shall be in addition to the mitigation trees required in Section 4.12.60;

Table 4.2-1 - Street Trees

Medium-canopy trees: trees that normally reach 30-50 ft. in height within 30 years	**- Maximum 30 ft. on-center spacing**
Large-canopy trees: trees that normally reach 30-50 ft. in height within 30 years, but exceed 50 ft. in height at maturity	**- Maximum 50 ft. on-center spacing**

Section 4.0.60 - PUBLIC AND PRIVATE STREET REQUIREMENTS

m. Designated Shopping Streets associated with Minor and Major Neighborhood Centers shall adhere to the following standards -

4. The following development and design standards shall apply to streets designated as Shopping Streets:

j) Planting Strips/Street Trees - Planting strips are discouraged along Shopping Streets. Street tree wells shall be provided and placed at a minimum of every 20 ft. in conformance with requirements in Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting. Street trees at maturity shall be pruned to awning height, with tree canopies extending above awnings.

The development site has frontage on two existing streets (SW 53rd Street and SW Philomath Blvd.), and is proposed to have frontage on two new streets (internal private Shopping Street and West Corvallis Access Strategy (WCAS) local street bisecting Tax Lot 600). Each of the applicable four streets is subject to different LDC and jurisdictional standards relating to street trees. These standards are as follows:

TABLE C
Street Trees and Street Frontage

Street Frontage	Jurisdiction	Street Classification	Applicable LDC Standards
SW 53rd Street	Benton County / Corvallis	Arterial	12-ft.parkway (see 6-ft. variation noted above under Compensating Benefits discussion), size and spacing per Table 4.2-1
SW Philomath Boulevard	ODOT / Corvallis	Arterial Hwy	12-ft.parkway, size and spacing per Table 4.2-1
Private Shopping Street	Corvallis	Local	no parkway, tree wells per LDC § 4.0.60.m.4.j
WCAS Local Street	Corvallis	Local	6-ft. parkway, size and spacing per Table 4.2-1

The applicant proposes to plant medium canopy street trees along SW 53rd Street at a 30-ft. on-center spacing, as prescribed by LDC Table 4.2-1. The applicant proposes street trees along the Shopping Street frontage that are consistent with LDC § 4.0.60.m.4.j, by providing rows of tree wells at a 20-ft. on-center spacing.

As discussed above under the criterion for Requested Variations and Compensating Benefits, the applicant is proposing to stagger some of the spacing requirements for street tree wells on the Shopping Street. Compensating benefits have been provided in the form of additional large canopy trees along the Shopping Street (**see Condition # 36-a**). As proposed and conditioned, the street trees identified on the Conceptual Landscape Plan are consistent with the applicable LDC standards.

<u>On-Site Trees and Pedestrian Landscape Buffers</u>

<u>Applicable LDC standards - Section 4.2.30.a -</u>

3. 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 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;

LDC § 4.2.30.a.3 requires a minimum five-foot wide landscaping buffer to be provided along both sides of a multi-use path, where the path is not located along a street. The applicant proposes to construct a multi-use path along the north side of Dunawi Creek, within an existing heavily vegetation Riparian Corridor. Due to the presence of the existing vegetation, the standard in LDC § 4.2.30.a.3 is satisfied.

Applicable LDC standards - Section 4.2.30.a continued -
6. Trees in parking areas shall be dispersed throughout the lot to provide a canopy for shade and visual relief.

Table 4.2-2 - Parking Lot Trees

Medium-canopy trees: trees that normally reach 30-50 ft. in height within 30 years	**- Minimum one tree per eight cars**
Large-canopy trees: trees that normally reach 30-50 ft. in height within 30 years, but exceed 50 ft. in height at maturity	**- Minimum one tree per 12 cars**

4.2.30.b. Areas Where Trees May Not be Planted -

1. Trees may not be planted within five ft. of permanent hard surface paving or walkways, unless special planting techniques and specifications are used and particular species of trees are planted, as outlined in Section 4.2.40.c or approved by the Director. These limitations apply most frequently in areas such as landscape parkways, pedestrian walkways, and plaza areas, where there may be tree grates.

2. Unless approved otherwise by the City Engineer, trees may not be planted:
- **a) Within 10 ft. of fire hydrants and utility poles;**
- **b) Within 20 ft. of street light standards;**
- **c) Within five ft. from an existing curb face, except where required for street trees;**
- **d) Within 10 ft. of a public sanitary sewer, storm drainage, or water line;or**
- **e) Where the Director determines the trees may be a hazard to the public interest or general welfare.**

c. Tree Maintenance Near Sidewalks and Paved Surfaces - Trees shall be pruned to provide a minimum clearance of eight ft. above sidewalks and 12 ft. above street and roadway surfaces; and shall be pruned in accordance with the American National Standards Institute (ANSI) A300 standards for Tree Care Operations.

d. Trees Planted near Weather Protection - Where street trees are required in combination with weather protection features such as awnings, the trees shall be allowed to grow and their canopies shall be trimmed above the weather protection features. Such trimming shall be in accordance with the American National Standards Institute (ANSI) A300 standards for Tree Care Operations.

Section 4.2.40
b. In addition to any pedestrian refuge areas, each landscaped island within and around parking lot areas shall -

1. **Include one or more shade canopy trees;**
2. **Be a minimum length of eight ft. at its smallest dimension;**
3. **Include at least 80 sq. ft. of ground area per tree to allow for root aeration; and**
4. **Include raised concrete curbs around the perimeter.**

The applicant is proposing a mix of small, medium, and large canopy trees within the parking areas. There are approximately 42 trees proposed in the parking areas, at a ratio of approximately 1 tree for every 4 vehicle parking spaces. The proposed Conceptual Landscape Plan exceeds the minimum requirements for trees in parking areas, per **LDC § 4.2.30.a.6.** There are some locations where trees are proposed within five feet of the parking lot pavement or sidewalks. In these cases, the applicant will need to demonstrate compliance with **LDC § 4.2.30.b**, by including special construction details on the landscape construction drawings, and by adjusting the soil mixture in the field to support the growth of the trees in the constrained conditions **(see Condition # 36-c)** . There are also several locations where the proposed trees conflict with the conceptual locations of fire hydrants and public water lines. These utilities will need to be adjusted on the construction drawings so that the trees can be provided as shown, and be in compliance with **LDC § 4.2.30.b.2 (see Condition # 36-n).** As proposed and conditioned, the landscaping is consistent with the standards noted above.

Buffering along West Property Line, Parking and Loading Areas

Applicable LDC standards - Section 4.2.40 -
Section 4.2.40 - BUFFER PLANTINGS
Buffer plantings are used to reduce apparent building scale, provide a transition between contrasting architectural styles, and generally mitigate incompatible or undesirable views. They are used to soften rather than block viewing. Where required, a mix of plant materials shall be used to achieve the desired buffering effect. At minimum, this mix shall consist of trees, shrubs, and ground cover, and may also consist of existing vegetation, such as natural areas that will be preserved.
At minimum, buffering is required in areas identified through Conditions of Approval, in areas required by other provisions within this Code, and in Through Lot areas, and as required below.

Parking, Loading, and Vehicle Maneuvering Areas -
a. Buffering is required for parking areas containing four or more spaces, loading areas, and vehicle maneuvering areas. Boundary plantings shall be used to buffer these uses from adjacent properties and the public right-of-way. A minimum five-ft.-wide perimeter landscaping buffer shall be provided around parking areas; and a minimum 10 ft.-wide perimeter landscaping buffer shall be provided around trees. Additionally, where parking abuts this perimeter landscape buffer, either parking stops shall be used or planters shall be increased in width by 2.5 ft. On-site plantings shall be used between parking bays, as well as between parking bays and vehicle maneuvering areas. Low-lying ground cover and shrubs, balanced with vertical shrubs and trees, shall be used to buffer the view of these facilities.

Decorative walls and fences may be used in conjunction with plantings, but may not be used alone to comply with buffering requirements.

Applicable LDC standards - Section 4.2.50 -
Section 4.2.50 - SCREENING (HEDGES, FENCES, WALLS, AND BERMS)
Screening is required where unsightly views or visual conflicts must be obscured or blocked

and/or where privacy and security are desired. Fences and walls used for screening may be constructed of wood, concrete, stone, brick, wrought iron, or other commonly used fencing/wall materials. Acoustically designed fences and walls shall also be used where noise pollution requires mitigation.

Where landscaping is used for required screening, it shall be at least six ft. in height and be at least 80 percent opaque, as seen from a perpendicular line of sight, within 18 months following establishment of the primary use of the site. A chainlink fence with slats shall qualify for screening only if a landscape buffer is provided in compliance with Section 4.2.40, above.

As noted above, the CDP/DDP includes a Conceptual Landscape Plan. Planting details will be evaluated against LDC criteria at time of construction permit review. With submittal of the site development permits, the applicant will need to demonstrate that landscaping within the 5-ft. wide buffer along the west property line of Tax Lot 600 is consistent with the buffering requirements of **LDC § 4.2.40,** and that an effective screen has been provided consistent with **LDC § 4.2.50** . This includes adding trees, shrubs, and groundcover within this planter to achieve a mix of plant materials and effective screen that is 6-ft. tall and 80% opaque, as prescribed in the LDC standard (**see Condition # 36-e**). As conditioned, this screen will help buffer the development with the adjacent residence to the west. This is consistent with the compatibility criterion for landscape screening.

With the exception of required vehicle parking along the proposed Shopping Street, the Conceptual Landscape Plans illustrate parking lot buffer plantings where parking spaces are adjacent to public rights-of-way. Plantings in these buffer areas shall comply with the standards in **LDC § 4.2.40.a (see Condition # 36-f).**

Applicable LDC standards - Section 4.2.50.02

4.2.50.02 - Service Facilities and Outdoor Storage Areas
Trash dumpsters, gas meters, ground-level air conditioning units and other mechanical equipment, other service facilities, and outdoor storage areas shall be appropriately screened with a fence, wall, or plantings, consistent with the landscape screening provisions in this Section. When located adjacent to a residential zone, outdoor components associated with heat pumps, ground-level air conditioning units and similar kinds of equipment that create noise shall not be placed within any required setback area. Additionally, if such equipment is located adjacent to a residential zone and between five - 10 ft. of a property line, it shall be screened with a solid fence or wall at least one ft. higher than the equipment. When such equipment is located adjacent to a residential zone and outside a required setback line, and is greater than 10 ft. from a property line, standard screening requirements in this Section shall apply.

Applicable PODS site design standards - Section 4.10.70.05
b. Design Standards and Design Variety Menus

2. **Loading/Service Facilities - Loading and service areas such as trash enclosures shall be located to minimize conflicts with public pedestrian areas; screened in accordance with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting; designed to provide convenient access for trucks; and designed to minimize noise and other impacts with adjoining uses. Service areas shall be located to the back or sides of buildings, or in alleys where available. Loading dock doors are encouraged to be placed in recessed areas or between buildings to minimize impacts to the pedestrian and human-scale aspects of the development.**

Sheet SP1.2 (**see Attachment G - page 3**) illustrates three (3) locations for proposed trash dumpsters. The applicant has indicated, through illustration of a typical refuse enclosure detail (**see Attachment G - page 25**), that all proposed trash dumpsters will comply with the screening requirements of **LDC § 4.2.50.02**. The trash dumpsters have been located away from public pedestrian areas such that they do not conflict with pedestrian passage, and are easily accessible by the local trash service provider. A landscape buffer area and screen wall has been provided between the proposed loading dock for Walgreen's and SW Philomath Blvd., consistent with **LDC § 4.2.50**. No other service facilities have been identified on the CDP/DDP. These standards are satisfied, and compliance will be confirmed through the building permit process.

> **Applicable LDC standards - Section 4.2.50.04**
> **4.2.50.04 - Detention Facilities**
> **Detention facilities, such as ponds, shall be graded so that the sides of the facilities are no steeper than 3:1. Additionally, the facilities shall be landscaped with plant materials that provide erosion control and biofiltration. See also Section 4.0.130 of Chapter 4.0 - Improvements Required with Development.**

There are two bio-retention facilities proposed along the north side of the developed portion of the site, and the application materials indicate that the 3:1 side slope requirement of **LDC § 4.2.50.04** will be satisfied (**see Attachment H - page 221 (Attachment EE from MSS, inc.)**). Supplemental detention is proposed via underground piping. The CDP/DDP does not include details for landscaping of the bio-retention facilities. With submittal of the landscape construction documents, the applicant shall verify that the landscaping standards in **LDC § 4.2.50.04** are satisfied (**see Condition # 36-k**). As proposed and conditioned, these standards are satisfied.

Landscaping Installation Phasing

As illustrated on Sheet SP1.11 (**see Attachment G - page 18**), the applicant proposes to phase construction. Since required landscaping is affected by the proposed phase plan, installation of required plant materials and irrigation should occur consistent with the proposed phase plan (**see Condition # 36-a**). Additional phases of landscaping will occur as each lot develops, and will be installed according to the proposed Master Conceptual Landscape Plan (**see Condition # 36-a**).

Conclusion on Landscaping Requirements

The applicant has proposed a Conceptual Landscape Plan, which illustrates the different site components associated with required landscaping. Street trees have been provided along public and private streets consistent with **LDC § 4.2.30.a.1.** Parking lot trees and buffer landscaping have been provided consistent with **LDC § 4.2.30.a.1** and **LDC Table 4.2-2.** Significant vegetation has been protected consistent with **LDC § 4.2.20(c) and (d).** As proposed and conditioned, the CDP/DDP is consistent with the applicable review criterion for landscape buffering, screening, and protection.

Transportation Facilities

Applicable LDC Review Criteria - LDC 2.5.40.04.a
9. Transportation facilities;

The following discussion addresses criteria related to vehicle, bicycle, pedestrians and transit circulation.

Circulation

Applicable LDC Standards
Section 4.0.20 - TIMING OF IMPROVEMENTS

a. All improvements required by the standards in this Chapter shall be installed concurrently with development, as follows:

1. Where a Land Division is proposed, each proposed lot shall have required public and franchise utility improvements installed or secured prior to approval of the Final Plat, in accordance with the provisions of Section 2.4.40.08 of Chapter 2.4 - Subdivisions and Major Replats.

b. Where specific approval for a phasing plan has been granted for a Planned Development and/or Subdivision, improvements shall be phased in accordance with that plan.

Section 4.0.30 - PEDESTRIAN REQUIREMENTS

a. Sidewalks shall be required along both sides of all streets, as follows:

1. Sidewalks on Local, Local Connector, and Cul-de-sac Streets - Sidewalks shall be a minimum of five ft. wide on Local, Local Connector, and Cul-de-sac Streets. The sidewalks shall be separated from curbs by a tree planting area that provides at least six ft. of separation between the sidewalk and curb, except that this separated tree planting area shall not be provided adjacent to sidewalks where they are allowed to be located within Natural Resource areas governed by Chapter 4.12 - Significant Vegetation Protection Provisions and Chapter 4.13 - Riparian Corridor and Wetland Provisions. This separated tree planting area shall also not be provided adjacent to sidewalks where they are allowed to be located within drainageway areas governed by regulations in Chapter 4.5 - Natural Hazard and Hillside Development Provisions.

2. Sidewalks on Arterial, Collector, and Neighborhood Collector Streets - Sidewalks along Arterial, Collector, and Neighborhood Collector Streets shall be separated from curbs by a planted area. The planted area shall be a minimum of 12 ft. wide and landscaped with trees and plant materials approved by the City. The sidewalks shall be a minimum of five ft. wide. An exception to these provisions is that this separated tree planting area shall not be provided adjacent to sidewalks where they are allowed to be located within Natural Resource areas governed by Chapter 4.12 - Significant Vegetation Protection Provisions and Chapter 4.13 - Riparian Corridor and Wetland Provisions. This separated tree planting area shall also not be provided adjacent to sidewalks where they are allowed to be located within drainageway areas governed by regulations in Chapter 4.5 - Natural Hazard and Hillside Development Provisions.

3. <u>Sidewalk Installation Timing</u> - The timing of the installation of sidewalks shall be as follows:

b) Except as noted in "c," below, construction of sidewalks along Local, Local Connector, and Cul-de-sac Streets may be deferred until development of the site and reviewed as a component of the Building Permit. However, in no case shall construction of the sidewalks be completed later than three years from the recording of the Final Plat. The obligation to complete sidewalk construction within three years will be outlined in a deed restriction on affected parcels and recorded concurrently with the Final Plat.

c) Where sidewalks on Local, Local Connector, and Cul-de-sac Streets abut common areas, drainageways, or other publicly owned areas, or where off-site Local, Local Connector, and Cul-de-sac Street extensions are required and sufficient right-of-way exists, the sidewalks and planted areas shall be installed with street improvements.

b. Safe and Convenient Pedestrian Facilities - Safe and convenient pedestrian facilities that minimize travel distance to the greatest extent practicable shall be provided in conjunction with new development within and between new Subdivisions, Planned Developments, commercial developments, industrial areas, residential areas, transit stops, and neighborhood activity centers such as schools and parks, as follows:

1. For the purposes of this Section, safe and convenient means pedestrian facilities that are free from hazards and that provide a direct route of travel between destinations.

2. Pedestrian rights-of-way connecting Cul-de-sacs or passing through unusually long or oddly shaped blocks shall be a minimum of 15 ft. wide. When these connections are less than 220 ft. long, measuring both the on-site and the off-site portions of the path, or when they directly serve 10 or fewer on-site dwellings, the paved improvement shall be no less than five ft. wide. Connections that are either longer than 220 ft. or serve more than 10 on-site dwellings shall have wider paving widths as specified in Section 4.0.40.c. Maintenance of the paved improvement shall be the responsibility of adjacent property owners. Additionally, a minimum of five ft. of landscaping shall be provided on either side of these pedestrian facilities, in accordance with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting. Maintenance of the landscaping shall also be the responsibility of adjacent property owners.

c. Where a development site is traversed by or adjacent to a future trail linkage identified within either the Corvallis Transportation Plan or the Trails Master Plan, improvement of the trail linkage shall occur concurrently with development. Dedication of the trail to the City shall be provided in accordance with Section 4.0.100.d.

d. To provide for orderly development of an effective pedestrian network, pedestrian facilities installed concurrently with development of a site shall be extended through the site to the edge of adjacent property(ies).

e. To ensure improved access between a development site and an existing developed facility such as a commercial center, school, park, or trail system, the Planning

Commission or Director may require off-site pedestrian facility improvements concurrently with development.

Section 4.0.40 - BICYCLE REQUIREMENTS

a. On-street Bike Lanes - On-street bike lanes shall be required on all Arterial, Collector, and Neighborhood Collector Streets and constructed at the time of street improvements.

b. Safe and Convenient Bicycle Facilities - Safe and convenient bicycle facilities that minimize travel distance to the greatest extent practicable shall be provided in conjunction with new development within and between new Subdivisions, Planned Developments, commercial developments, industrial areas, residential areas, transit stops, and neighborhood activity centers such as schools and parks, as follows:

1. For the purposes of this Section, safe and convenient means bicycle facilities that are free from hazards and provide a direct route of travel between destinations.

2. Bicycle/pedestrian rights-of-way connecting Cul-de-sacs or passing through unusually long or oddly shaped blocks shall be a minimum of 15 ft. wide. Maintenance of the paved improvement shall be the responsibility of adjacent property owners. Additionally, a minimum of five ft. of landscaping shall be provided on either side of these bicycle/pedestrian facilities, in accordance with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting. Maintenance of the landscaping shall also be the responsibility of adjacent property owners.

c. Widths for Pedestrian/Bicycle Facilities - Adequate widths for pedestrian/bicycle facilities shall be provided in accordance with the following standards:

2. The standard width for two-way multi-use paths shall be 10 ft.

d. To provide for orderly development of an effective bicycle network, bicycle facilities installed concurrently with development of a site shall be extended through the site to the edge of adjacent property(ies).

Section 4.0.60 - PUBLIC AND PRIVATE STREET REQUIREMENTS

a. Traffic evaluations shall be required of all development proposals in accordance with the following:

1. Any proposal generating 30 or more trips per hour shall include Level of Service (LOS) analyses for the affected intersections. A Traffic Impact Analysis (TIA) is required, if required by the City Engineer. The TIA shall be prepared by a registered professional engineer. The City Engineer shall define the scope of the traffic impact study based on established procedures. The TIA shall be submitted for review to the City Engineer. The proposed TIA shall reflect the magnitude of the project in accordance with accepted traffic engineering practices. The applicant shall complete the evaluation and present the results with an overall site development proposal.

d. Private streets, though discouraged in conjunction with Land Divisions, may be considered within a development site provided all the following conditions are met:

1. Extension of a public street through the development site is not needed for continuation of the existing street network or for future service to adjacent properties;

2. **The development site remains in one ownership, or adequate mechanisms are established, such as a homeowners' association with the authority to enforce payment, to ensure that a private street installed with a Land Division will be adequately maintained;**

3. **Where a private street is installed in conjunction with a Land Division, development standards, including paving standards, consistent with City standards for public streets shall be used to protect the interests of future homeowners; and**

4. **The private street is located within a separate tract.**

e. **Development sites shall be provided with access from a public street or a private street that meets the criteria in "d," above, both improved to City standards in accordance with the following:**

1. **Where a development site abuts an existing public street not improved to City standards, the abutting street shall be improved to City standards along the full frontage of the property concurrently with development. Where a development site abuts an existing private street not improved to City standards, and the private street is allowed per the criteria in "d", above, the abutting street shall meet all the criteria in "d", above and be improved to City standards along the full frontage of the property concurrently with development.**

3. **To ensure improved access to a development site consistent with policies on orderly urbanization and extension of public facilities, the Planning Commission or Director may require off-site street improvements concurrently with development.**

g. **The Planning Commission or Director may require the extension of public and private street improvements through a development site to provide for the logical extension of an existing street network or to connect a site with a nearby neighborhood activity center, such as a school or park. Where this creates a Land Division incidental to the development, a land partition shall be completed concurrently with the development, in accordance with Chapter 2.14 - Partitions, Minor Replats, and Lot Line Adjustments.**

k. **Location, grades, alignments, and widths for all public and private streets shall be considered in relation to existing and planned streets, topographical conditions, public convenience and safety, and proposed land use. Where topographical conditions present special circumstances, exceptions to these standards may be granted by the City Engineer provided that the safety and capacity of the street network is not adversely effected. The following standards shall apply:**

2. **Location of streets in a development shall not preclude development of adjacent properties. Streets shall conform to planned street extensions identified in the Corvallis Transportation Plan and/or provide for continuation of the existing street network in the surrounding area.**

9. **Where streets must cross protected Natural Resources or Natural Hazards, street widths shall be minimized by providing no on-street parking and no planting strips between the curb and the sidewalk on either side of the street. Parking bays may be allowed, provided they do not exceed one space per dwelling unit and provided they do not cause the development to exceed the amount of**

development allowed by the provisions of Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions.

I. Where standards do not exist to address unusual situations, the Planning Commission or Director may require special design standards recommended by the City Engineer as Conditions of development Approval.

Table 4.0-1- Street Functional Classification System[1]

	Arterial Highway	Arterial	Collector	Neighborhood Collector	Local Connector	Local
Auto amenities (lane widths)[2]	2-5 Lanes (11 - 14 ft.)	2-5 Lanes (12 ft.)	2-3 Lanes (11 ft.)	2 Lanes (10 ft.)	2 Lanes (10 ft.)	Shared Surface
Bike amenities[3]	2 Lanes (6 ft.)	2 Lanes (6 ft.)	2 Lanes (6 ft.)	2 Lanes (6 ft.)	Shared Surface	Shared Surface
Pedestrian amenities	2 Sidewalks (6 ft.) Ped. Islands	2 Sidewalks (5 ft.) Ped. Islands	2 Sidewalks (5 ft.)	2 Sidewalks (5 ft.)	2 Sidewalks (5 ft.)	2 Sidewalks (5 ft.)
Transit	Typical	Typical	Typical	Typical	Permissible/not typical	Permissible/not typical
Managed speed[4]	20 mph - 55 mph	25 mph - 45 mph	25 mph - 35 mph	25 mph	25 mph	15-20 mph
Curb-to-curb width[5] (two way)						
No on-street parking	34 ft - 84 ft.*	34 ft.-72 ft.	34 ft.-45 ft.	32 ft.	20 ft.*	20 ft.*
Parking one side	42 ft. - 84 ft.	NA	NA	40 ft.	28 ft.	25 ft.*
Parking both sides	50 ft. - 84 ft.	NA	NA	48 ft.	28-34 ft.	28 ft.
Traffic calming[6]		No	Permissible/ not typical	Typical	Permissible	Permissible
Preferred adjacent land use	High Intensity	High Intensity	Med. to High Intensity	Medium Intensity	Med. to Low Intensity	Low Intensity
Access control	Yes	Yes	Some	No	No	No
Turn lanes		Continuous and/or medians with ped. islands	Typical at intersections with Arterials or Collectors	Not typical	Not typical	Not typical
Planting strips[7&8]	Two - 12 ft. Except across areas of Natural Features	Two - 12 ft. Except across areas of Natural Features	Two - 12 ft. Except across areas of Natural Features	Two - 12 ft. Except across areas of Natural Features	Two - 6 ft. Except across areas of Natural Features	Two - 6 ft.[7] Except across areas of Natural Features[7&8]
Through-traffic connectivity		Primary function	Typical function	Typical function	Permissible function	Permissible function

1.	**These standards do not preclude the flexibility currently allowed through the Planned Development process in Chapter 2.5 - Planned Development.**
2.	Lane widths shown are the preferred construction standards that apply to existing routes adjacent to areas of new development, and to newly constructed routes. On Arterial and Collector roadways, an absolute minimum for safety concerns is 10 ft. Such minimums are expected to occur only in locations where existing development along an established sub-standard route or other severe physical constraints preclude construction of the preferred facility width.
3.	An absolute minimum width for safety concerns is five ft., which is expected to occur only in locations where existing development along an established sub-standard route or other severe physical constraints preclude construction of the preferred facility width. Parallel multi-use paths in lieu of bike lanes are not appropriate along the Arterial-Collector system due to the multiple conflicts created for bicycles at driveway and sidewalk intersections. In rare instances, separated (but not adjacent) facilities may provide a proper function.
4.	Arterial Highway speeds in the Central Business or other Commercial zones in urban areas may be 20-25 mph. Traffic calming techniques, signal timing, and other efforts will be used to keep traffic within the desired managed speed ranges. Design of a corridor's vertical and horizontal alignment will focus on providing an enhanced degree of safety for the managed speed.
5.	**Street design for each development shall provide for emergency and fire vehicle access. Street widths of less than 28 ft. shall be applied as a development condition through the Subdivision process in Chapter 2.4 - Subdivisions and Major Replats and/or the Planned Development process in Chapter 2.5 - Planned Development. The condition may require the developer to choose between improving the street to the 28-ft. standard or constructing the narrower streets with parking bays placed intermittently along the street length. The condition may require fire-suppressive sprinkler systems for any dwelling unit more than 150 ft. from a secondary access point. * To be applied in RS-9 and lesser zones.**
6.	Traffic calming includes such measures as bulbed intersections, speed humps, raised planted medians, mid-block curb extensions, traffic circles, signage, and varied paving materials and is addressed in the Transportation Plan.
7.	Through the Planned Development Review Process, the planting strip along Local Streets and around the bulbs of Cul-de-sacs may be reduced or eliminated.
8.	**Where streets must cross protected Natural Features, street widths shall be minimized by providing no on-street parking and no planting strips between the curb and the sidewalk on either side of the street.**

m. Designated Shopping Streets associated with Minor and Major Neighborhood Centers shall adhere to the following standards

1. Prior to designation of a Shopping Street, the applicant shall submit a traffic analysis of the proposal in accordance with the requirements of Section 4.0.60.a and the City Engineer.

2. Shopping Streets may include streets falling within the categories in "a," and "b," below. See also Table 4.0-2 - Shopping Street Standards for specific elements required with Shopping Streets.

a) <u>City Streets</u> - Functional classifications as follows:

1)	**Local**	**existing or proposed**
2)	**Local Connector**	**existing or proposed**
3)	**Neighborhood Collector**	**existing or proposed**
4)	**Collector**	**existing or proposed**
5)	**Arterial (for Neighborhood Center Zones developed prior to December 31, 2006)**	**existing**

b) <u>Private Streets</u> - Designed to City street standards for either the Local or Local Connector and for Shopping Streets as provided by this Section. For purposes of other development standards, such as setback requirements, private Shopping Streets shall provide the same features as

required for public streets. However, the City shall not be responsible for maintenance of private Shopping Streets, and the applicant and/or owner shall be responsible for construction of the private Shopping Street and its maintenance in accordance with the standards herein. Private streets as provided by this Section shall have public access easements recorded and shall be platted in a separate tract per Section 4.0.60.d.4 .

3. Street Connectivity - Designated Shopping Streets, whether City streets or private streets, shall provide direct connections to adjacent public and private streets and neighborhoods where practicable.

4. The following development and design standards shall apply to streets designated as Shopping Streets:

   a) Auto Amenities - Auto lane widths shall comply with Table 4.0-1 - Street Functional Classification System and Table 4.0-2 - Shopping Street Standards. Shopping Streets should not include more than two travel lanes, excluding turn lanes as required or consistent with Section 4.0.60. However, applicants or the City may propose Shopping Street designations for streets with more than two travel lanes as part of Master Site Plans for Neighborhood Centers.

   b) Length of Shopping Streets - A Shopping Street should be no more than two blocks in length in accordance with the Block Perimeter requirements in Section 4.0.60.n and Chapter 4.10 - Pedestrian Oriented Design Standards.

   c) Bike Amenities - Shared surface with auto traffic lanes is acceptable on Local and Local Connector Streets. Bike lanes shall be required on new Neighborhood Collector, Collector, and Arterial Streets except on Neighborhood Collectors where angled parking has been allowed.

   d) Transit - Transit amenities consistent with the Corvallis Transit Master Plan are encouraged along Shopping Streets.

   e) Managed Speed - Speeds along Shopping Streets shall be in conformance with Table 4.0-1 - Street Functional Classification System, and generally should be no greater than 25 mph. In situations where limitations of site development warrant, streets with higher established speed limits may be designated as Shopping Streets.

   f) On-street Parking - On-street parking is required along newly constructed Shopping Streets and shall be maintained where already existing. Parallel parking is required where on-street bike lanes are provided or required. Angled parking is typical on Local and Local Connector Streets and allowed on Neighborhood Collector Streets designated as Shopping Streets where bicycle safety is ensured through lower traffic volumes or speeds. On-street handicapped parking spaces may be designed as 90 degree spaces for better accessibility.

   An exception to the requirement for on-street parking along newly constructed Shopping Streets is allowed in specific areas where a pedestrian park or plaza extends into the area that would otherwise be required to be on-street parking, provided the pedestrian park or plaza

meets or exceeds all the thresholds in Sections 4.10.70.05.a.3(a-e) and Section 4.10.70.05.a.4. In this situation, the on-street parking would continue to be located on parts of the Shopping Street where the described pedestrian park or plaza was not present.

g) Curb-to-curb Width - Curb-to-curb widths shall be consistent with Table 4.0-1 - Street Functional Classification System, and shall be determined on a case-by-case basis with an emphasis on the minimum width necessary to accommodate transportation needs and on the creation of a quality pedestrian environment.

h) Traffic Calming - Bulbed intersections on Shopping Streets are required. Other traffic calming measures, including speed humps, raised planted medians, mid-block curb extensions, traffic circles, signage, and varied paving materials are encouraged when shown to be appropriate in a traffic evaluation. Any traffic calming shall be approved by the City Engineer and City Fire Chief.

i) Access Control - Access control shall be required, consistent with Table 4.0-1 - Street Functional Classification System.

j) Planting Strips/Street Trees - Planting strips are discouraged along Shopping Streets. Street tree wells shall be provided and placed at a minimum of every 20 ft. in conformance with requirements in Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting. Street trees at maturity shall be pruned to awning height, with tree canopies extending above awnings.

k) Sidewalk Width - Sidewalks along Shopping Streets shall be a minimum width of 12 ft.

l) Pedestrian Oriented Intersections - Street intersections along Shopping Streets shall contain:

1) Crosswalks that are clearly marked with contrasting paving materials. Raised crosswalks or raised intersections may be required as traffic calming measures, subject to standards specified by the City Engineer;

2) Bulbed intersections; and

3) Other pedestrian amenities approved by the City Engineer.

m) Facades - Ground-floor facades that face Shopping Streets shall comply with Chapter 4.10 - Pedestrian Oriented Design Standards.

5. An exception to the requirements of this Section may be granted if, through a Planned Development process consistent with Chapter 2.5 - Planned Development, or a legislative process consistent with or 2.0 - Public Hearings, a site is determined to appropriately provide mixed use opportunities and services to the affected Comprehensive Neighborhood.

n. Block Perimeter Standards - The following Block Perimeter requirements apply to all development projects. Exceptions to these requirements may be approved for

development that is smaller than one acre and situated in areas where the street patterns are established and do not require connections to the development.

2. **Commercial, Industrial and Civic Standards** -

Table 4.0- 2 - Shopping Street Standards				
		Collector	**Neighborhood Collector**	**Local and Local Connector**
New Development	**On-street Parking**	Required	Required	Required
	Angled Parking	Not allowed	Permissible	Required per Section 4.0.60.m.4(f)
	Bike Lanes	Required	Required, if no angled parking	Shared Street
	Curb Extensions	Required	Required	Required
	Mid-block Crossings	Required	Required	Required
	Other Traffic Calming	Permissible, but not required	Required	Required
	Managed Speed (mph)	25	20-25	15-20
	Pedestrian Facilities	Wide sidewalks	Wide sidewalks	Wide sidewalks
Redevelopment	**On-street Parking**	Allowed	Required	Required
	Angled Parking	Not allowed	Permissible, if no existing bike lanes	Required per Section 4.0.60.m.4(f)
	Bike Lanes	Required	Required, except where angled parking is allowed	Shared street
	Curb Extensions	Required	Required	Required
	Mid-block Crossings	Required	Required	Required
	Other Traffic Calming	Permissible, but not required	Required	Required
	Managed Speed (mph)	25	20-25	15-20
	Pedestrian Facilities	Wide Sidewalks	Wide Sidewalks	Wide Sidewalks

a) Complete Blocks - Commercial developments shall create a series of complete blocks bound by a connecting network of public or private streets with sidewalks. When necessary to minimize impacts to a designated wetland, to slopes greater than 15 percent, to parks dedicated to the public, and/or to Significant Natural Features, blocks may be bound by walkways without streets.

b) Maximum Block Perimeter - The maximum Block Perimeter shall be as follows:

Neighborhood Center and Professional and Administrative Office Zones	1,200 ft.	Block faces greater than 250 ft. shall have a pedestrian through-connection
Other Commercial Zones and Limited Industrial-Office Zone	1,500 ft.	Block faces greater than 400 ft. shall have a pedestrian through-connection
Mixed Use Employment and Mixed Use Transitional Zones	1,800 ft.	Block faces greater than 400 ft. shall have a pedestrian through-connection

c) Variations Allowed Outright - Variations of up to 30 percent to these block distances may be allowed outright to minimize impacts to a designated wetland, to slopes greater than 15 percent, to parks dedicated to the public, to Significant Natural Features, to existing street patterns, and/or to existing development.

o. Direct access to Highway 20/34 shall be restricted to maintain the Highway's carrying capacity and enhance its safety levels. This shall be achieved through the following requirements:

1. New or expanded development shall comply with the City's Transportation and Access Strategy until adoption of the final version of the Oregon Department of Transportation's Highway 20/34 Corridor Plan;

2. New or expanded development on sites within 0.25-mile of Highway 20/34 shall have direct access to a Local, Collector, and/or Neighborhood Collector Street, wherever practicable;

3. Collector and/or Neighborhood Collector Streets, rather than Local Streets or direct access from individual properties, should be used to access Highway 20/34. Access from Local Streets onto Highway 20/34 may be allowed where no connection to a Collector or Neighborhood Collector Street is available;

4. New or existing Local Street access to Highway 20/34 shall be restricted or eliminated where possible;

5. Full-street access points should be consolidated and spaced at no closer than 0.25-mile intervals along Highway 20/34;

6. Roadway connections between West Hills Road and Country Club Drive shall be provided consistent with the West Corvallis Access Strategy, which is outlined in the Corvallis Transportation Plan; and

7. New or expanded development shall comply with state highway access regulations and other accepted traffic engineering standards.

p. Multiple accesses to properties along Highway 20/34 and to related major streets shall be consolidated when:

1. Land uses develop, expand, intensify, and/or change;

2. Properties are consolidated and/or divided; and

3. Lot lines are adjusted.

Section 4.0.100 - LAND FOR PUBLIC PURPOSES

a. Easements for public sanitary sewer, water, storm drain, streetlight, transit, pedestrian and bicycle facilities shall be provided whenever these facilities are located outside a public right-of-way. The minimum easement width for a single utility is 15 ft. The minimum easement width for two adjacent utilities is 20 ft. The easement width shall be centered on the utility to the greatest extent practicable. Wider easements may be required for unusually deep facilities.

b. Utility easements with a minimum width of seven ft. shall be granted to the public adjacent to all street rights-of-way for franchise utility installations.

e. Where street, trail, utility, or other rights-of-way and/or easements in or adjacent to development sites are nonexistent or of insufficient width, dedications may be required. The need for and widths of those dedications shall be determined by the City Engineer.

f. Easements or dedications required in conjunction with Land Divisions shall be recorded on the Final Plat. For developments not involving a Land Division, easements and/or dedications shall be recorded on standard forms provided by the City Engineer.

g. Environmental assessments shall be provided by the developer (grantor) for all lands to be dedicated to the public or City. An environmental assessment shall include information necessary for the City to evaluate potential liability for environmental hazards, contamination, or required waste cleanups related to the dedicated land. An environmental assessment shall be completed prior to the acceptance of dedicated lands, in accordance with the following:

1. The initial environmental assessment shall detail the history of ownership and general use of the land by past owners. Upon review of this information, as well as any site investigation by the City, the Director will determine if the risks of potential contamination warrant further investigation. If further site investigation is warranted, a Level I Environmental Assessment shall be provided by the grantor, as described in "2," below.

Vehicular Circulation

The site is bordered by SW 53rd Street to the east and Hwy. 20/34 (SW Philomath Blvd.) to the south. There are no other streets bordering the site. Existing access to tax lot 500 is provided by unimproved driveway approaches on SW 53rd Street and Hwy. 20/34. Tax lot 600 has a looped drive with paved residential approaches off Hwy. 20/34. Tax lot 400 does not have any access to an existing public or private street.

SW 53rd Street

Southwest 53rd Street is under Benton County jurisdiction, and classified as an arterial street. It is improved to County standards including 2 travel lanes, a left turn lane, and a 10-foot wide multi-use path on the west side. The existing ROW varies in width along the site frontage.

The 53rd Street Corridor Study (1985) and the 1996 Corvallis Transportation Plan (page 10-22) identify a future five-lane section for SW 53rd Street. According to LDC Table 4.0-1- Street Functional Classification System, current City Standards for an arterial street with five lanes would require five 12-foot vehicle lanes, two 6-foot bike lanes, two 12-foot planter strips, a 10-foot multi-use path (a 5-foot sidewalk is typical) on the west side and a 5-foot sidewalk on the east side for a total ROW of 111 feet (106 feet without multi-use path). The City also lists the intersection of SW 53rd Street and Hwy. 20/34 on page 53 of the Capital Improvement Program, 2011 Update. The CIP listed project consists of right turn lanes on each leg of SW 53rd Street and a right turn lane on the westbound leg of Hwy. 20/34.

Although this is in the City's CIP, it is assumed that improvements would be constructed by Benton County or ODOT with only applicable SDC reimbursement from the City. Benton County has a more recent transportation plan (July 2001) that recommends a two-lane facility with a center turn lane/median (page 3-40). The County had a subsequent traffic analysis conducted in August of 2007 which provided recommendations for intersection improvements along the SW 53rd Street corridor. The recommendation for SW 53rd Street at Hwy. 20/34 was additional lanes. Since SW 53rd is under Benton County's jurisdiction, the City has conferred with Benton County on improvements to SW 53rd Street. Benton County outlined approved lane configurations for SW 53rd Street in a letter dated February 5, 2009 to the applicant's traffic engineer. These intersection improvements include a 12-foot left turn lane, 11-foot through lane, 6- foot bicycle lane, 11-foot right turn lane, 6-foot planter strip and 10-foot multi-use path for southbound approach on SW 53rd Street. The Corvallis Area Metropolitan Planning Organization (CAMPO) analysis and recommendations are consistent with Benton County's requirements.

Highway 20/34 (Philomath Blvd.)

Hwy. 20/34 also known as Philomath Boulevard is classified as an arterial highway in the Corvallis Transportation Plan and is under ODOT jurisdiction. Along the site frontage the highway has 2 travel lanes, a left turn lane at SW 53rd, and paved shoulders. There are no sidewalks or bike lanes. The existing ROW is 80 feet.

According to the 1996 Corvallis Transportation Master Plan Section 10.10.20 (page 10-29), Philomath Boulevard (Hwy. 20/34) is to be widened to 4 travel lanes including accommodations

for bikes and pedestrians. A new five-lane arterial highway built to City/ODOT standards would require a 114-foot ROW (four 12-foot lanes, a 18-foot center lane/median, two 6-foot bike lanes, two 12-foot planting strips, and two 6-foot sidewalks). This would be 57 feet from centerline. Campo's Corvallis Area Metropolitan Transportation Plan: Destination 2030 also recommends roadway system improvement including four travel lanes, a left turn lane and bike lanes in table VII-1 future improvement to Hwy. 20/34 (Year 2020).

Traffic Impact Analysis (TIA or traffic study)

Over the past 6 years several traffic studies have been completed for the Development. The following is a list:

- Traffic Impact Analysis, May 2004
- Supplement to Traffic Impact Analysis, October 2004
- Design Exception Approval (ODOT), April 2007
- Signal Modification Request Form (SMRF), September 2007
- Traffic Impact Study and Signal Modification request, April 2009
- Traffic Impact Analysis Update, April 2010

The Signal Modification Requests were completed for ODOT due to signal modifications required at the intersection of SW 53rd and Hwy. 20/34 associated with widening the pavement for improvements. Per LDC section 4.0.60.a, the City requested an updated Traffic Impact Analysis for the Land Use Application to be consistent with the proposed development as it has evolved over time. While the various studies have useful information in them for the intersection improvements and what needs to be designed, the most applicable document to this City land use approval is the April 2010 study. Since the development's significant impacts are to the intersection of Hwy. 20/34 and SW 53rd Street, ODOT has been the lead reviewer of the traffic studies with the City and Benton County providing comments to ODOT and the applicant.

Concerns over the most recent traffic study were outlined in a letter from ODOT dated April 22, 2010 (**see Attachment J - pages 9 through 12**). Most of these concerns are based on the background traffic and the existing traffic count information. There is also concern over the location of the proposed access to the Highway not being as far west as possible. Existing traffic counts for the traffic study where taken in July of 2009. While ODOT often uses summer months for counts (as in the submitted traffic study), the City requests that counts be taken when OSU is in session. Based on the most recent comments from ODOT, they will not be requiring any further traffic analysis except some refinements to the Traffic Signal Modification Request Form which will be accomplished with the ODOT permit and design process (**see Attachment J - page 1**).

The TIA dated April 5, 2010, included trip generation information for the site and adjacent intersection analysis of SW 53rd Street and Hwy. 20/34. The trip generation study is based on the Institute of Transportation Engineers (ITE) Trip Generation Manual. ITE Specialty Retail Center classification includes a variety of retail shops including quality apparel, hard goods, services such as real estate offices, dance studios, florists and small restaurants. The estimated PM peak hour trip total for the site is shown in the table below. An apartment building proposed on tax lot 400 was removed from the application, but was included in the trip generation for the site.

TABLE D:
Weekday PM Peak Hour Trip Generation of Proposed Development

Land Use	Development Size	Weekday PM Peak Hour Trip Generation		
Specialty Retail	28.9 KSF	91	40	51
Pharmacy w. Drive-Up Window	14.8 KSF	128	63	65
Apartments	38 units	39	25	
Total Trip Generation of Site		257	128	129

Included in the traffic study was an intersection operational analysis. The table below shows the TIA results for the intersection based on the applicant's traffic counts. The table shows V/C which is the volume to capacity ratio (maximum of 1). Also shown is the Level of Service which is based on delay or time waiting. The City uses a level of service D or V/C of 0.80 as the minimum standard. A V/C > 0.80 or a LOS E requires mitigation. ODOT also uses V/C as their mobility standard and depending on the function of the highway there is a minimum mobility standard. For Hwy. 20/34 in this area the minimum mobility standard is a V/C of 0.80 or better.

TABLE E:
Year 2012 (Year of Opening) Operational Analysis Results

		Weekday PM Peak Hour Trip	
Scenario	Intersection	Generation	
		v/c ratio	Level of Service
No-Build Conditions	53rd Street @ Philomath Blvd.	0.79	N/A
Build Conditions	53rd Street @ Philomath Blvd.	0.77	N/A
	Site Access @ 53rd Street	0.01	B
	Site Access @ Philomath Blvd	0.35	C

ODOT's 2008 operational analysis of selected intersections in the Corvallis metropolitan area included an analysis of Hwy. 20/34 and SW 53rd Street. *According to that study, the existing intersection of Hwy. 20/34 is failing with a V/C of 0.94.* As noted above, ODOT has reconciled this discrepancy with the applicant and is not requiring further analysis (**see Attachment J - page 1**). Even with site trips due to the proposed development, the applicant's analysis shows an improvement at the intersection of Hwy. 20/34 and SW 53rd Street with the intersection mitigation including the right turn lane on SW 53rd Street.

Additional information on the location of the accesses and queue length from vehicles backing up waiting for the signal were reviewed as part of the traffic analysis, and will be discussed in more detail under site access below.

Since the facilities the development significantly impacts are ODOT or Benton County facilities, any additional studies will need to be part of the permitting process associated with ODOT and Benton County. If there are required changes to the site plan because of that permitting process, a Planned Development Modification approval is required (**see Conditions # 21 and # 22**).

Proposed improvements

Below is a summary of the proposed street improvements associated with the development application. Improvements are broken into 2 phases. Phase 1 is generally the development of tax lot 500 and most of the shopping street. Phase 2 is generally the development of tax lot 600 including the installation of the local street. Traffic flows through the site between the two access points: one on SW 53rd Street and the other on Hwy. 20/34. A local street is shown across tax lot 600 with the goal of providing a connection between the site and a future local street network identified in the West Corvallis Access Strategy shown on figure A-2 in the 1996 Corvallis Transportation Plan.

According to LDC section 4.0.60.n, block perimeter standards for other commercial zones is 1500 feet, with a maximum block face of 400 feet. The applicant has requested a variance for block perimeter standards which is discussed on pages 72 & 73 of the applicant's narrative. Engineering Staff support the variations to block perimeter based on LDC sections 4.0.60.o and 4.0.60.p. These code sections limit direct access to the Highway based on access management policies and engineering principles that apply to higher function roadways such as collectors, arterials and highways. LDC section 4.0.60.o.5 states "Full street access points should be consolidated and spaced no closer than 0.25 mile (1320 feet) intervals along highway 20/34. Additionally, there are provisions in LDC section 4.0.60.n.2.a that allow these blocks to be bound by walkways where there are significant natural features. The applicant shows a series of sidewalks though the site that address block perimeter standards. Staff reviewed the proposed street network based on LDC standards, Natural Features, The West Corvallis - North Philomath Plan, and the West Corvallis Access Strategy shown on figure A-2 in the appendix of the 1996 Corvallis Transportation Plan, and find that the proposed street network is consistent with the direction in those documents, as conditioned.

SW 53rd Street (Phase 1)

Proposed improvements to SW 53rd Street are shown in the applicant's attachment Y and on sheet SP1.2. The improvements are consistent with the improvements outlined by Benton County in a letter dated February 5, 2009 including a 12-foot left turn lane, 11-foot through lane, 6- foot bicycle lane, 11-foot right turn lane, 6-foot planter strip and 10-foot multi-use path for southbound approach on SW 53rd Street. Besides the street approach improvements, the applicant will be required to move the existing traffic signal pole on the NW corner of the intersection and increase the radius of the curb on the NW corner to accommodate design vehicle turning movements. According to the applicant's traffic study (discussed above), these

improvements should mitigate the development's impacts to the intersection of SW 53rd Street and Hwy. 20/34 and are consistent with LDC section 4.0.60.e requirements. Due to limited ROW on the east side of SW 53rd Street, improvements will only be constructed on the west side of SW 53rd Street adjacent to the applicant's site. To construct these improvements, the applicant will need to dedicate additional ROW to provide 50 feet of ROW from the existing centerline. Prior to final plat, the Developer will need to obtain any access or improvement permits from Benton County and construct improvements for SW 53rd Street along the site frontage **(see Conditions # 20, #21, and #39-a).** These improvements may be eligible for SDC reimbursement (**see Development Related Concern E**).

Highway 20/34 (Philomath Blvd.) (Phase 1)

Proposed improvements to Hwy. 20/34 are shown in the applicant's attachment Y and on sheet SP1.2. The proposed property plan on Sheet SP1.10 shows a ROW dedication of 17 feet along the west end of the site across tax lot 600, and a 12-foot dedication along the tax lot 500. These dedications should provide a ROW width of 57 feet on the north side of the original highway centerline. With 57-feet of ROW, the north side of a five-lane arterial highway could be built to City/ODOT standards. According to **LDC § 4.0.60.k**, Table 4.0-1, the standard for a five lane arterial highway would require a 114-foot ROW (four 12-foot lanes, a 18-foot center lane/median, two 6-foot bike lanes, two 12-foot planting strips, and two 6-foot sidewalks).

Improvements to the Highway shown on the applicant's plan have been through preliminary review by ODOT and include installation of a right turn pocket into the new site access point to the shopping street, extending the east bound left turn lane on the Highway at SW 53rd Street to the maximum possible while still accommodating the full movement access, installation of a two-way left turn lane (center turn lane) on Hwy. 20/34 at the site access, a bike lane, curb and gutter, a planter strip varying in width from 12 feet to 24 feet, and a 6-foot sidewalk. The 6-foot sidewalk shown in the applicant's plan along the Walgreen's building will need to be located in the ROW **(see Conditions #22 and # 39-a)**. The applicant proposes a wider sidewalk with part of it on private property. The portion of the sidewalk located on private property shall include a public access easement on the final plat (**see Condition # 39-b**). Improvements and access permits to the highway will be coordinated and permitted through ODOT **(see Condition #23)**.

Access points (Phase 1)

The plans submitted with the application show a right in and right out private driveway access on SW 53rd Street with a center median to discourage left turns into the site. This is a result of previous review of the traffic study and comments from ODOT, County and City staff. Although this access on SW 53rd Street is located as far north as possible on the site, at approximately 235 feet from the intersection with the highway, the vehicular queuing noted in table 4 of the traffic study at 300 feet from the intersection creates a conflict. The queue would make a left hand turn into the site difficult and would impact the highway by backing up traffic on SW 53rd Street. Therefore, the median is necessary.

Additionally, by limiting movements at this access there are less conflicts with the multi-use path than if there was a full access and additional vehicular movements. Access to SW 53rd Street will be permitted by Benton County and should include paving materials that contrast with both the commercial driveway approach and existing path. Truncated domes may be located on each side of the driveway approach on the multi-use path. If grades allow, the path should be located in a raised crossing across the commercial driveway approach. Appropriate signing including a stop sign meeting MUTCD retroreflectivity requirements for vehicles exiting the site shall be located at the crossing. **(see Condition # 26)**

Access to the Highway is provided by a full movement access from the private shopping street on the west property line of tax lot 500. Based on historical information provided in the April 5, 2010, Traffic Impact Analysis, this access was proposed prior to the applicant owning tax lot 600 and was based on an agreement with the prior owner to sign a reciprocal access agreement. Apparently the prior owner would not sign the access agreement and the applicant subsequently acquired the property. One issue associated with this access is the distance from the intersection of SW 53rd Street and Hwy. 20/34. It has been suggested the access be moved to the west side of tax lot 600, but the applicant has been reluctant to shift the access due to the long history of the project and the site design. Ultimately, ODOT approved locations for Hwy 20/34 access **(see Condition # 23).** If ODOT requires the access to move to the west, the applicant will be required to apply for a Planned Development Modification approval.

Temporary access permits, for fill and grading operations only, have been issued by ODOT and the County. These permits restrict movement of construction traffic to enter only from the highway. Final approach permits as noted above will need to be permitted prior to building construction.

Shopping Street (Phase 1 and Phase 2)

To meet block perimeter standards and pedestrian oriented design standards, a private local shopping street is proposed through the site. This shopping street is also the main and only access to the site from Hwy. 20/34 and is currently shown having full access to the highway (no turning restrictions). The limits of the shopping street end just south of Dunawi Creek.

The applicant discusses the shopping street on page 71 of the narrative and it is shown on sheet SP 1.2. According to the applicant's narrative on page 71, the proposed shopping street is 28 feet wide, has angled parking spaces, 12-foot wide sidewalks, tree wells placed every 20 feet, pedestrian crossing points and curb extensions. These improvements are consistent with LDC table 4.0 -2 - Shopping Street Standards. On sheet SP 1.2 of the application (**see Attachment G - page 3**) the dimensions shown are greater than 28 feet up to the main east-west drive aisle **(see Conditions # 16, # 17, and # 39-c).** According to LDC section 4.0.60.m.4.l, crosswalks should be marked with Contrasting paving materials. This would include continuing the concrete sidewalk through an asphalt pavement parking area as noted in the applicant's narrative.

It is not clear how the shopping street will terminate at the future intersection with the local street across tax lot 600. To distinguish the private street from the local public street, a commercial approach will need to be installed. While it appears that the proposed CDP/DDP can accommodate the required improvements, final design of the intersection and commercial

approach may require a Planned Development Modification, if Modification thresholds identified in LDC Chapter 2.5 are exceeded **(see Condition # 16).** According to the applicant's phasing plan shown on SP1.11 the shopping street would be constructed in two phases. The first phase of the street would be constructed with development of Tax lot 500 and the second phase would be completed with development of tax lot 600 **(see Condition # 39-c)**.

Local Street (Phase 2)

The need for the local street is based on Block Perimeter standards per **LDC § 4.0.60.n**, to comply with the West Corvallis Access Strategy (**see Attachment F - page 2 of 8**), to provide alternative future accesses to the highway, and address street connectivity in **LDC § 4.0.60.g**, and **LDC § 4.0.60.k.2.** These street connections also provide for utility connections for adjacent properties per **LDC § 4.0.70.d.** A street connection to the west provides a logical connection to adjacent properties that would enhance the orderly development in the area. With future development of a local street corridor adjacent to the highway, access issues consistent with **LDC § 4.0.60.o** and **LDC § 4.0.60.n** will be addressed.

The applicant shows a 20-foot wide local street connection located in a 31-foot wide ROW across tax lot 600. This street is intended to connect to a future street that would be constructed with any future development on tax lot 400. The proposed narrow street is based on a reduced street width and curb side sidewalks allowed though a Highly Protected Riparian Corridor and Locally Protected Wetland per **LDC § 4.0.30.a**, and LDC Table 4.0-1 (footnote # 8). Based on the applicant's proposal and the LDC provisions, a 20-foot wide local street with no parking, no planting trips and 5 foot curbside sidewalks would be appropriate. City staff have some concerns about the intersection design, where the local street makes a 90 degree turn. At 31 feet of ROW, it may be difficult to accommodate the larger radius required for trucks and a truck may run over the sidewalk to make the turn. Based on a modeled truck turn, the applicant has shown an increased curb radius and ROW on the NW corner of the future intersection on Sheet SP1.2 **(see Conditions # 24 and # 25).**

Conclusions on Vehicular Circulation

Given the discussion above, and associated Conditions of Approval, the anticipated development-related trips are expected to be accommodated by the proposed and existing street network.

Bicycle and Pedestrian Circulation

Existing bicycle and pedestrian facilities adjacent to the proposed development are provided on the east side of the site by the multi-use path and bike lane along SW 53rd Street. On the south side of the highway for a distance roughly 600 feet west of SW 53rd Street to the old Dairymart site, there is a curbside sidewalk. Along the highway, there are paved shoulders.

Bicycle and pedestrian improvements shown in the proposed CDP/DDP include;

- Relocating the multi-use path to be setback 6 feet from the 53rd street along the site Frontage.
- A future trail identified on Figure A-4 of the 1996 Corvallis Transportation Plan and in table 13 (T-13)on page 5-6 and map#7 of the 2000 Park and Recreation Facilities Plan (**see Attachment F - pages 6 through 8**).
- Installation of a bike lane on the west side of SW 53rd Street along the site frontage.
- Installation of a bike lane along the north side of the Highway across the site frontage.
- 6-foot wide setback sidewalks along Hwy. 20/34.
- Curbside sidewalks along the future local street.
- Wide sidewalks along the private shopping street.
- Private sidewalks throughout the site as shown on sheet SP1.2

53rd Street Multi-Use Path and Public Sidewalk

Due to existing conditions and the 10-foot multi-use path, the planting strip on the west side of SW 53rd Street is proposed to be 6-feet wide. This is noted in the applicant's variance table and included under the Compensating Benefits discussion above. The proposed relocation of the multi-use path and the site access to SW 53rd Street was reviewed by the Bicycle and Pedestrian Advisory Commission (BPAC). BPAC has concerns over conflicts with bicycles, pedestrians and motor vehicle at the multi-use path crossing the site access on SW 53rd Street, and recommended elimination of the driveway on SW 53rd Street until the street is developed to urban standards (**see Attachment M**).

To mitigate some of these concerns, it is possible to increase awareness for bicycles, pedestrians, and vehicle drivers at the crossing point by using paving materials that contrast with both the commercial driveway approach and existing path, by locating truncated domes on each side of the driveway approach on the multi-use path, by providing a raised crossing if grades allow, by installing a concrete commercial driveway approach, and by installing appropriate signs for vehicles exiting the site, including a stop sign meeting MUTCD requirements for retro-reflectivity **(see Condition #26)**. Additionally this approach should be limited to right in and right out access only. This will reduce the number of potential conflicts at the crossing for a full access driveway. Benton County provided a letter dated July 16, 2010 (**see Attachment K**) which addresses some of the concerns expressed by BPAC on the multi-use path and driveway.

Dunawi Creek Multi-Use Path

A public multi-use path is proposed along the north side of Dunawi Creek (**see Attachment G**). The applicant proposes to meander the trail alignment within a 45-foot wide easement to provide flexibility in the alignment, to account for maximum preservation of Significant Vegetation, and to also account for any field adjustments that might be required by both City and DSL construction standards. DSL concurrence is required for construction of the path where it impacts the Locally Protected Wetland (**see Condition # 4**).

The applicant proposes to utilize two MADA credits, outlined in **LDC § 4.11.50.02.c**, that relate specifically to the proposed public multi-use path located on the north side of Dunawi Creek. Use of the MADA credits increases the amount of the site area that can be development beyond the base MADA, allowing an additional 12,388 square feet of commercial development and an

additional 12,388 square feet of Natural Features encroachment allowances for construction of the path itself. Inclusion of the multi-use path is also the applicant's proposed method of complying with Block Perimeter standards, by providing a northerly east/west pedestrian and bicycle connection, and completing the block formed by the existing and proposed street network. The path alignment is consistent with the City's Transportation Plan and Park and Recreation Facilities Plan.

There is concern by both staff and the applicant, over the ability to get permits for this path from DSL. Additionally, staff and the applicant are concerned that construction of the path with development would be an "attractive nuisance" until additional development occurs to the north and west of the subject site. In light of the permitting uncertainty and potential nuisance creation, the applicant has suggested prepaying for this path in meetings with staff as opposed to constructing the path with development. Prepayment is the applicant's proposed method of fulfilling compliance with the MADA and Block Perimeter standards noted above, as well as with **LDC § 4.0.30.c**, which specifies that trail construction or security for construction needs to occur concurrent with review of the site development permit applications **(see Condition #10)**.

Other Proposed Pedestrian Circulation Improvements

A 6-foot sidewalk is proposed along the south side of the Walgreen's building and is outside the public ROW on private property. The required 6-foot public sidewalk needs to be located completely within the ROW. The applicant may choose to construct a wider sidewalk in this location with the portion of the sidewalk wider than 6 feet on private property **(see Conditions # 22 and # 39-b)**.

The requirements of setback sidewalks and planter strips which trigger the ROW dedication/easements are City standards and components of safe public sidewalks that are taken into consideration when determining serviceability. The applicant benefits from additional ROW and setback sidewalks in the form of:

- An enhanced aesthetic experience for pedestrians as the separation from motor vehicle traffic decreases road noise, prevents water from the roadway being splashed on pedestrians and provides an enhanced sense of security.
- An enhanced environment for wheelchair users as the sidewalk can be kept at a constant slope with the steeper slopes for driveway approaches built into the planting strip.
- An area for street trees, sign posts, utility and signal poles, mailboxes, fire hydrants, etc.
- Mature street trees may reduce vehicle speed.
- When wide enough, a place for a motor vehicle to wait out of the stream of traffic while yielding to a pedestrian crossing a driveway.
- A break in hard surfacing with added pervious area.
- Facilitating construction of commercial approaches by allowing adequate ROW to install the minimum radius on the approach of 8 feet or larger to accommodate smooth vehicular and truck turning movements.
- A transit facility, if needed, can be installed in wider planter strips which benefits the adjacent property's employees and customers.

With the retail oriented development, a location on the intersection of an arterial street and arterial highway, and on multiple bus routes, the site is expected to derive particular benefit from enhanced pedestrian and bicycle access facilities. This demand and above benefits support nexus and rough proportionality findings for incremental ROW increases associated with providing park strips and setback sidewalks. Development potential of the site as proposed is maintained. The proposed ROW increase is incremental because provision of standard street ROW and improvements are the minimum necessary to provide safe, functional multi-modal transportation and utility access to a commercial development site located at the intersection of an arterial street and arterial highway. Excess capacity improvements may be eligible for SDC reimbursement (**see Development Related Concern E**).

Given the above-cited benefits, staff find the burden of right-of-way dedication/easements has nexus and is roughly proportional to the benefits received by the development.

Conclusions on Bicycle and Pedestrian Circulation

As proposed and conditioned, no additional improvements to the bicycle and pedestrian system are required to meet applicable Comprehensive Plan policies and Land Development Code criteria for bicycle and pedestrian circulation.

Transit

The Corvallis Transit System currently provides multiple services to this area Via Routes 3, C3, and the Philomath Connection. Route 3 has bus stops on SW 53rd Street just south of Hwy. 20/34. Route C3 has stops at SW 53rd and Helen Avenue and in front of the Sunset Shopping Center. The Philomath Connection has stops at SW 53rd Street and SW Helen, SW 53rd Street and Hwy. 20/34. and SW 53rd Street and SW Technology Loop. There are no transit shelters in the immediate vicinity of the site.

No additional improvements to the transit system are required to meet applicable Comprehensive Plan policies and Land Development Code criteria.

Conclusion on Circulation

Given the preceding discussion, the applicant's proposal and associated Conditions of Approval noted above, the requirements of the Land Development Code will be met.

Traffic and Off-Site Parking Impacts

Applicable LDC Review Criteria - LDC 2.5.40.04.a
10. Traffic and off-site parking impacts;

Refer to the discussion above, regarding the project's Traffic Impact Analysis, for expected neighborhood-level traffic impacts resulting from the proposed development. The conclusion from that analysis, based on existing conditions, is that impacts have been properly mitigated

by the proposed improvements, and as conditioned. The following discussion concerns the proposed CDP/DDP, and related on-site vehicle and bicycle parking requirements.

The following LDC Sections outline the vehicle parking requirements for the Creekside Center, based on the proposed uses permitted outright in the MUCS zone :

Applicable LDC vehicle parking requirements :
Section 4.1.20 - General Provisions

o. Maximum Parking Allowed - No site shall be permitted to provide more than 30 percent in excess of the minimum off-street vehicle parking required by Section 4.1.30, below, except as provided in "p" below, and in Section 4.1.30.g.3.b.

Section 4.1.30 - OFF-STREET PARKING REQUIREMENTS
Minimum parking requirements for Use Types in all areas of the City, with the exception of the Central Business (CB) Zone and the Riverfront (RF) Zone, are described in Sections 4.1.30.a through 4.1.30.f. Minimum parking requirements for the Central Business (CB) Zone are described in Section 4.1.30.g.

c. Commercial Use Types (for accompanying office and indoor service areas) - Unless noted otherwise, number of spaces refers to vehicle parking requirements, and the number of spaces for bicycle parking shall be 10 percent of required vehicle parking or two bicycle spaces, whichever is greater. However, where fewer than three vehicle spaces are required, then only one bicycle parking space shall be required.

12. Eating or Drinking Establishments - One space per four fixed seats or stools where 24 lineal in. of bench shall be considered one seat, and one space per 50 sq. ft. of dining or drinking area where there are no fixed seats.

25. Retail Sales, General - One space per 400 sq. ft. of gross floor area.

Vehicle Parking

The proposed CDP/DDP includes vehicle parking and access locations. Vehicle parking and access driveways are intended to be constructed in two phases. Phase I includes vehicle parking and access for Buildings A, B,C,D, and Walgreen's, and Phase II includes the remaining parking required for Buildings E and F. Each Phase will stand on its own in terms of meeting the minimum and maximum vehicle parking standards in **LDC § 4.1.30.**

The calculations in Table D below outline the required amount of vehicle parking for Creekside Center I & II. The majority of the buildings are intended to house tenants with a retail sales use classification, which requires 1 vehicle parking space per 400 sq. ft. of gross floor area. Based on this requirement, the number of vehicle parking spaces required for the retail uses on site is approximately 108 spaces. Building A is intended to support an Eating and Drinking Establishment, such as a Deli. The vehicle parking required for this type of use equates to 1 space for every 50 sq. ft. of public seating area. Based on the square footage of Building A, and an estimate that 40% of the gross floor area will be dedicated to public seating, approximately 15 vehicle parking spaces are required. The estimated total of minimum required vehicle parking spaces for all phases is 123 spaces. Per **LDC § 4.1.20.o**, the maximum number of vehicle parking spaces allowed is 160. The CDP/DDP illustrates 141 vehicle parking spaces. This falls within the range of minimum and maximum vehicle parking as specified in the LDC.

Typically, vehicle parking requirements cannot be measured in exact quantities until individual tenant improvements are made, and the exact use and square footage is known. Based on the proposed Retail and Restaurant uses, the applicant has demonstrated that sufficient vehicle parking will be provided to meet the minimum requirements, and that the maximum amount of vehicle parking (130% of the minimum) is not likely to be exceeded. Compliance with LDC standards for off-street parking is considered to be one variable that helps to minimize off-site parking impacts. In terms of vehicle parking and mitigation for off-site parking impacts, the proposal is consistent with the criterion in **LDC § 2.5.40.04.a.10.** Building and tenant improvement permit reviews will ensure that minimum parking requirements for each building are satisfied prior to occupancy.

The following table provides estimates of minimum required vehicle parking:

TABLE F:
Minimum Vehicle Parking Requirements

Building & Use	*Floor Area*	*Parking Ratio per LDC 4.1.30*	*Required #*	*Provided #*
Building A	*1,782 sf*	*1 per 50 (restaurant - public seating area at 40% (714 sq. ft.) of total GFA)*	*14.28*	
Buildings B,C,D,E, and F *(Retail Sales)*	*26,695 sf*	*1 per 400 sf*	*66.74*	
Walgreen's (Retail Sales)	*16,674 sf*	*1 per 400 sf*	*41.69*	
		TOTAL	***123***	***141***

Bicycle Parking

Per **LDC § 4.1.30.c,** bicycle parking is required to be provided at 10% of the minimum required number of vehicle parking spaces, which equates to approximately 12 bicycle parking spaces. Per **LDC § 4.1.70.d**, a minimum of 50% of the required bicycle parking (6 spaces) shall be covered. The CDP/DDP illustrates that a minimum of two bicycle shelters will be provided, covering a total of eight spaces, which is consistent with the requirements of **LDC § 4.1.70.d.** As proposed in the application narrative, additional uncovered bicycle parking spaces will be provided, up to the minimum number required per Chapter 4.1 of the LDC. Compliance with the CDP/DDP and proposed bicycle parking shelters will be ensure through the building permit process (**see Condition # 18**). As proposed and conditioned, the bicycle requirements of **LDC § 4.1.70** are satisfied.

Conclusion on Traffic and Off-Site Parking Impacts

Based on the discussion above, traffic impacts have been mitigated by the proposed infrastructure improvements. The applicant proposes to provide the minimum number of vehicle parking spaces, as required per **LDC § 4.1.30**, and no more than the maximum allowed per **LDC § 4.1.20.o.** The application materials indicate that bicycle parking requirements will be satisfied per **LDC § 4.1.30** and **LDC § 4.1.70.** Based on proposed compliance with vehicle and bicycle parking requirements in Chapter 4.1 of the LDC, no off-site parking impacts are anticipated. The proposal is consistent with the criterion in **LDC § 2.5.40.04.a.10.**

Utility Infrastructure

Applicable LDC Review Criteria - LDC 2.5.40.04.a
11. Utility infrastructure;

The following discussion addresses criteria related to public water, sanitary sewer, storm drainage, street lights and franchise utilities.

Applicable Land Development Code Criteria

Section 4.0.20 - TIMING OF IMPROVEMENTS

a. All improvements required by the standards in this Chapter shall be installed concurrently with development, as follows:

1. Where a Land Division is proposed, each proposed lot shall have required public and franchise utility improvements installed or secured prior to approval of the Final Plat, in accordance with the provisions of Section 2.4.40.08 of Chapter 2.4 - Subdivisions and Major Replats.

Section 4.0.60 - PUBLIC AND PRIVATE STREET REQUIREMENTS

q. Development shall include underground electric services, light standards, wiring and lamps for streetlights according to the specifications and standards of the City Engineer. The developer shall be responsible for installation of underground conduit for street lighting along all public streets improved in conjunction with such development in accordance with the following:

1. The developer shall coordinate with the City Engineer to determine the location of future street light poles.

2. The streetlight plan shall be designed to provide illumination meeting standards set by the City Engineer.

3. The standard street light installation is a wood pole.

The developer shall install such facilities and make the necessary arrangements with the serving electric utility for the City-owned and operated street lighting system to be served at the lowest applicable rate available to the City. Upon City's acceptance of such development improvements, the street lighting system, exclusive of utility-owned service lines, shall be and become the property of the City.

Section 4.0.70 - PUBLIC UTILITY REQUIREMENTS (OR INSTALLATIONS)

a. All development sites shall be provided with public water, sanitary sewer, storm drainage, and street lights.

b. Where necessary to serve property as specified in "a" above, required public utility installations shall be constructed concurrently with development.

c. Off-site public utility extensions necessary to fully serve a development site and adjacent properties shall be constructed concurrently with development.

d. To provide for orderly development of adjacent properties, public utilities installed concurrently with development of a site shall be extended through the site to the edge of adjacent property(ies).

f. Private on-site sanitary sewer and storm drainage facilities may be allowed, provided all the following conditions exist:

   1. Extension of a public facility through the site is not necessary for the future orderly development of adjacent properties;

   2. The development site remains in one ownership and Land Division does not occur, with the exception of Land Divisions that may occur under the provisions of Section 4.0.60.d, above; and

   3. The facilities are designed and constructed in accordance with the Uniform Plumbing Code and other applicable codes, and permits are obtained from the Development Assistance Center prior to commencement of work.

Section 4.0.80 - PUBLIC IMPROVEMENT PROCEDURES

It is in the best interests of the community to ensure that public improvements installed in conjunction with development are constructed in accordance with all applicable City policies, standards, procedures, and ordinances. Therefore, before installing public water, sanitary sewer, storm drainage, streetlights, street, transit, bicycle, or pedestrian improvements, developers shall contact the City Engineer for information regarding adopted procedures governing plan submittal, plan review and approval, permit requirements, inspection and testing requirements, progress of the work, and provision of easements, dedications, and as-built drawings for installation of public improvements.

Whenever any work is done contrary to the provisions of this Code, the Director may order the work stopped via a written notice served on the persons performing the work or otherwise in charge of the work. The work shall stop until the Director authorizes that it proceed or authorizes corrective action to remedy existing substandard work.

Section 4.0.90 - FRANCHISE UTILITY INSTALLATIONS

These standards are intended to supplement, not replace or supersede, requirements contained within individual franchise agreements that the City has with providers of electrical power, telecommunication, cable television, and natural gas services, hereafter referred to as Franchise Utilities.

a. Where a Land Division is proposed, the developer shall provide Franchise Utilities to the development site. Each lot in a Subdivision shall have an individual service available or

secured prior to approval of the Final Plat, in accordance with Section 2.4.40 of Chapter 2.4 - Subdivisions and Major Replats.

b. Where necessary and in the judgement of the Director, Franchise Utilities shall be extended through the site to the edge of adjacent property(ies) to provide for orderly development of adjacent properties.

Section 4.0.110 - MAIL DELIVERY FACILITIES

d. Installation of mail delivery facilities is the obligation of the developer. These facilities shall be installed concurrently with the public improvements. Where development of a site does not require public improvements, mail delivery facilities shall be installed concurrently with private site improvements.

4.0.130 - STORM WATER MANAGEMENT MEASURES

a. To reduce the risk of causing downstream properties to become flooded and to help maintain or restore the Properly Functioning Conditions of receiving waters, new development, expansions to existing development, or redevelopment shall be required to provide storm water detention and retention in accordance with "b," of this Section.

b. When Detention and/or Retention are Required - See also Section 4.2.50.04 of Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting.

1. New development projects that create impervious surfaces in excess of 25,000 sq. ft. are required to implement storm water detention and/or retention measures as specified in the Corvallis Design Criteria Manual. Impervious surfaces include such elements as roads, driveways, parking lots, walks, patios, and roofs, etc. Detention facilities shall be designed to maximize storm water infiltration. Detention or retention facilities shall be located outside the 10-year Floodplain or the riparian easement area, whichever is greater. The riparian easement area is identified in Section 4.13.70 of Chapter 4.13 - Riparian Corridor and Wetland Provisions, and this standard shall apply regardless of whether or not an easement has been granted.

2. <u>Expansion and Redevelopment</u> -

a) Development projects that create new or redeveloped impervious area totaling at least 10,000 sq. ft. and resulting in at least 25,000 sq. ft. of post-development impervious area are required to implement storm water detention and/or retention measures for the new and redeveloped impervious area as specified in the Corvallis Design Criteria Manual. Redeveloped impervious area consists of roof area and replaced impervious area, minus any reduction in overall impervious area, associated with substantial improvement or replacement of structures.

b) Detention facilities shall be designed to maximize storm water infiltration. Detention or retention facilities shall be located outside the 10-year Floodplain or the riparian easement area, whichever is greater. The riparian easement area is identified in Section 4.13.70 and this standard shall apply regardless of whether or not an easement has been granted.

c) Pre-developed runoff conditions for redeveloped impervious area shall assume a runoff pattern based on good condition grass and the

corresponding native hydrologic soil group for the site. Detention shall not be required beyond the point at which gravity flow to the existing abutting storm drainage system cannot be feasibly maintained, as determined during development plan review.

c. **Use of water quality features shall be consistent with the Corvallis Design Criteria Manual. Water quality features within the regulated Riparian Corridor shall be located outside of the applicable riparian easement area. The riparian easement shall be re-vegetated consistent with Sections 4.13.50.d.1 and 4.13.50.d.2 of Chapter 4.13 - Riparian Corridor and Wetland Provisions.**

d. **Use of infiltration systems is allowed consistent with the Corvallis Design Criteria Manual.**

Water

The site is located in the first level service area (elevations of 290' or less). There is a 20-inch first level waterline in SW 53rd Street and a 16-inch first level waterline along Hwy. 20/34. These waterlines were installed as part of the City's West Corvallis 1st Level Waterline Project (No. 657031). With that project, an infrastructure recovery charge was established for tax lots 500 and 600. The Corvallis Water Distribution System Facility Plan does not show any other required system improvements in the area of the development site, although the development will be required to install water system improvements to serve their site and extend a waterline through the site to enable adjacent properties (tax lot 400) to connect to water as require by LDC section 4.0.70.d. According to the applicant's utility plan on Sheet SP1.6 and narrative on page 81, a new waterline will be installed through the site to provide domestic services and fire suppression for the site as well as providing a waterline stub to the new lot line of tax lot 400. Final sizing will need to be determined based on final design and fire flow requirements. The minimum main line size is 8-inches. The final location of the waterlines will also need to account for tree plantings to avoid conflicts. According to LDC section 4.2.30, there needs to be 10 feet of separation between trees and waterlines, including hydrants. Final line sizing and locations will be determined with review of the Public Improvements by Private Contract (PIPC) construction plans for the site **(see Conditions # 25 and # 27**).

Easements for new waterlines will need to be provided for all waterlines outside the public ROW. Per LDC section 4.0.100, the minimum easement width for a single City utility is 15 feet wide and multiple City utilities require a minimum easement width of 20 feet. A waterline easement will need to extend to Tax lot 400 to provide access to City utilities. Final locations of the easements are typically based on the construction plans submitted for PIPC permits. These plans are required to be authorized prior to final plat approval. Easements will need to be shown on the final plat. As shown on Sheet SP1.10, the easement for the future waterline is on the west side of the future ROW, but the waterline stub for tax lot 400 is shown on the east side of the future ROW. The easement for the waterline extending to tax lot 400 and across Dunawi Creek shall be located outside the construction limits for a future bridge across Dunawi Creek and on the same side of the future creek crossing as the waterline. If a bridge were located over City Utilities, the footings could impact the line and it may be difficult to access the waterline for maintenance **(see Condition # 39-h).**

According to LDC section 4.13.50.b.2, the location of utilities within Highly Protected Riparian Corridors and Riparian-related Areas must be deemed necessary to maintain a functional system by the City Engineer. The extension of the waterline to tax lot 400 meets this requirement by enabling tax lot 400 to be served with water and enabling future waterlines on the north side of Dunawi Creek to be connected to a future looped system that provides improved water quality and redundancy when there are maintenance or fire issues.

Given the Conditions of Approval noted above, and the applicant's proposal, no additional improvements to the City water system are required to meet applicable Comprehensive Plan policies and Land Development Code criteria.

Sanitary Sewer

According to the Wastewater Utility Master Plan, the site is located within the Brooklane Service Area and Country Club Sanitary Sewer Basin. There is an existing 18-inch sanitary sewer located along the site frontage on Hwy. 20/34 and there is an 18-inch sewer line that extends through the site between tax lot 500 and tax lot 600 to the north side of tax lot 400. No additional improvements or upgrades to the sewer system are identified in the Wastewater Utility Master Plan to serve the immediate area near the site.

As shown on the applicant's utility plan, sheet SP1.6, service to each of the buildings will be provided with individual sewer service laterals from the existing 18-inch sewer mains adjacent and through the site. Where the main line is located in an easement, the service laterals will be private up to the sewer main. Where any service laterals are located within a public ROW, the service laterals would be public up to a clean-out at the property line **(see Condition #28).**

As shown on Sheet SP1.10, the easement for the existing sewer line is located under the future ROW where there is likely to be a bridge or culvert. The easement and sewer line extending to tax lot 400 and across Dunawi Creek shall be located outside the Construction limits for a future bridge or culvert across Dunawi Creek. If a bridge were located over City utilities, the footings could impact the line and it may be difficult to access the sewer line for maintenance **(see Conditions # 39-g and # 39-h)**. Access to sewer lines and manholes should be considered in the design of the site and final utility plans.

According to **LDC § 4.13.50.b.2**, the location of utilities within Highly Protected Riparian Corridors and Riparian-related Areas must be deemed necessary to maintain a functional system by the City Engineer. To provide necessary sewer service to the north side of the Dunawi Creek, the existing sewer line, is located within the riparian corridor. Gravity sewer lines rely on elevation differences to maintain flow. To optimize the service area without the need for pumps, sewers are located at the lowest elevations, typically areas where the natural drainage flows. Therefore, location of sewers as proposed are necessary to maintain a functional system.

Given the Conditions of Approval noted above and the applicant's proposal, no additional improvements to the City sewer system are required to meet applicable Comprehensive Plan policies and Land Development Code criteria.

Storm Drainage

The site is located within the Dunawi Creek drainage basin (formally Squaw Creek). The west branch of Dunawi Creek runs through the site. There are no existing City storm drain systems in the vicinity of the site.

Chapter 7 of the Stormwater Master Plan (2002) addresses the Dunawi Creek watershed. The segment of creek just upstream of SW 53rd Street is identified as having a good riparian area, but there are concerns over the channel capacity for the ten year storm (page 7-8 and table 7-1). Recommended activity in this area of the creek as stated in SWMP table 7-3, is to develop City wide measures for preventing additional runoff volumes or excessive velocities into the stream, preserve undeveloped area near the channel, and improving the over bank area to provide flow and storage capability while improving the riparian zone. No other improvements were identified for this area of Dunawi Creek in the stormwater master plan.

Proposed site drainage is shown on the conceptual grading plan, Sheet SP1.5, and outlined in the Creekside Center1/II Preliminary Storm Drainage Calculations report as well as a summary in the application narrative beginning on page 81. Most of the site drainage will be private with the exception of the storm drain system for the future local street across tax lot 600 and to tax lot 400. Since jurisdiction of Hwy. 20/34 is under ODOT, and jurisdiction of SW 53rd Street is under Benton County, any new drainage within those street ROW's will be under their jurisdiction and will need to be permitted with applicable street improvement permit documents.

For the private site drainage, the applicant proposes a storm drainage system consisting of catch basins, pipes, water quality facilities, underground detention, detention ponds and outfalls to Dunawi Creek. The applicant has also proposed the use of some pervious pavement to reduce the pollution generating impervious area used in detention and water quality runoff calculations. The area of pervious pavement includes approximately 5100 sq. ft plus the Walgreen's drive-up lane. The detention facilities on sheet SP1.5 are shown with one underground facility under the shopping street and one detention pond. As proposed, the water quality facilities for the site include Stormfilter™ cartridges installed in special catch basins throughout the site or located in a vault that would serve a larger area. Any private storm water facilities will need to be located outside of any current or future street ROW. A private maintenance agreement with enforcement provisions to ensure maintenance for this facility shall be established in accordance with LDC sections 4.0.70.f and 4.0.60.d prior to permitting these improvements. The private site improvements, including storm drainage and pervious pavements, will be reviewed and permitted concurrent with the building permit application **(see Conditions # 29, # 30, and # 31)**.

Storm drainage for the future local street will be collected via catch basins and routed through a main line to a combined water quality/detention pond. A proposed alternate system illustrated on Sheet SP 1.5 includes a separate detention pond and water quality facility such as a Stormfilter™ vault. Stormfilter™ is a system that uses removable cartridges to filter the storm water. The cartridges can be installed in oversized catch basins for treating smaller areas or can be grouped in a vault for larger design flows. Public storm drainage will require a Public Improvements by Private Contract (PIPC) permit through Public Works, Development Review Engineering **(see Conditions # 24, # 32, and # 33)**.

Since this development will be creating more than 5000 ft^2 of new pollution generating impervious surface, water quality facilities are required. Water quality facilities shall be designed in accordance with design standards outlined in Appendix F of the Storm Water Master Plan, and the most recent version of the *King County, Washington, Surface Water Design Manual.* The water quality facilities shall be designed to remove 70 percent of the total suspended solids (TSS) entering the facility during the water quality design storm, 0.9" 24-hr rainfall event with NRCS Type 1A distribution. The facility design will need to safely pass a 100 year, 24-hour storm test. A public storm drainage easement will be required for all public drainage facilities located outside the ROW **(see Conditions # 30, # 32, and # 39-l)**.

In accordance with **LDC § 4.0.130.b**, the requirement for detention (water quantity) is typically triggered when the proposed impervious area is more than 25,000 ft^2. The storm water detention facilities will be required to be designed consistent with design standards outlined in Appendix F of the Storm Water Master Plan, and standards outlined in the King County, Washington, Surface Water Design Manual. Design shall capture storm water run-off so the run-off rates from the site after development do not exceed the pre-developed conditions, based on the 2-year, 5-year, and 10-year, 24-hour design storms. The facility design will need to safely pass a 100 year, 24-hour storm test. A public storm drainage easement will be required for all public drainage facilities located outside the ROW **(see Conditions # 31, # 33, and # 39-l)**.

Street Lights

Per **LDC § 4.0.60.q** and **LDC § 4.0.70.a**, the applicant is required to install street lights with development. There are existing street lights at the intersection of SW 53rd Street and Hwy. 20/34. With the installation of the new local street city street lighting will be required. All public street lighting shall be designed to meet City of Corvallis Standard Construction Specifications. Final design of the street lights will be reviewed with the PIPC construction plans **(see Condition # 25).**

Franchise Utilities

The applicant proposes to grant a 7-foot utility easement adjacent to the new ROW line along SW 53rd Street and Hwy. 20/34 as shown on sheet SP 1.10 (**see Attachment G - page 17**), However, along the future West Corvallis Access Strategy local street, the required Utility Easement (UE) is proposed on one side only. According to **LDC § 4.0.100.b**, a 7-foot UE is required adjacent to all street rights-of-way (both sides). Refer to the discussion above under Compensating Benefits for the proposed variation. The UE is typically granted at the time of the final plat. The applicant shall confirm via letters from the franchise utility companies that the UE is not needed on both sides of the street, and that all lots created through the subdivision plat and those properties abutting the development site will be able to be fully served by franchise utilities, or shall demonstrate there is an existing 7-foot UE adjacent to the ROW, or the applicant will need to grant a UE consistent with LDC requirements. With development of the site, applicable franchise utilities will need to be installed to serve the site **(See Conditions # 35 & # 39-e).**

Nexus and Rough Proportionality

Construction of improvements, as cited above, implement legislatively prescribed standards per the Corvallis Land Development Code. Constructing the prescribed improvements, including, but not limited to dedication of public rights-of-way, setback sidewalks, water lines, sanitary sewers, bicycle lanes, multi-use paths, and storm drainage systems is mutually beneficial to both the public at-large and the property owner, by improving access to and through the development site, and for accommodating water, stormwater, sanitary sewer, and franchise utility service to the site. Staff find that the requirements have nexus and are roughly proportional to the benefits received.

Conclusion on Public Facilities and Services
Given the Conditions of Approval cited above and the applicant's proposal, the requirements of the Land Development Code will be met.

Effects on Air and Water Quality

Applicable LDC Review Criteria - LDC 2.5.40.04.a

12. Effects on air and water quality (note: a DEQ permit is not sufficient to meet this criterion);

The proposal includes provision of pedestrian connections, consistent with the LDC Pedestrian Oriented Design Standards. Provision of pedestrian connections supports walking, a mode of transportation with no impact on air quality.

Increases in impervious surfaces tend to negatively impact water quality, by reducing the amount of permeable surface that allows for proper infiltration of stormwater, and the associated cleansing of water that occurs when it is allowed to percolate into the soil. However, the City maintains water quality standards in relationship to construction of parking lots and streets, and construction permits for these improvements will be required to comply with the applicable standards. Additionally, the applicant is proposing that the drive-through facility will be constructed of permeable paving, which provides an additional level of stormwater filtration, and an overall improvement to the quality of water that leaves the site as compared to impervious solutions. Except as noted in the discussion above under requested variations and compensating benefits, the applicant proposes to adhere to the City's water quality and Engineering standards, which will minimize the development's impacts on water quality. As noted in the discussion above, the stormwater design proposed by the applicant exceeds the City's standards for permeability and meets the water quality standards of the City.

Conclusion on Air and Water Quality Impacts
In considering approval of Land Development Code and City Engineering standards, the City balances impacts to air and water quality with anticipated and acceptable levels of urban development. Balancing of conflicting objectives has already occurred through adoption of the LDC and City Engineering standards, and the proposed CDP/DDP is in conformance with the review criterion in **LDC § 2.5.50.04.a.12**.

Pedestrian Oriented Design Standards

Applicable LDC Review Criteria - LDC 2.5.40.04.a

13. Design equal to or in excess of the types of improvements required by the standards in Chapter 4.10 - Pedestrian Oriented Design Standards; and

The standards in Chapter 4.10 - Section 4.10.70, Pedestrian Oriented Design Standards for Commercial development include a variety of site plan and building architectural standards, and are intended to *"Foster human-scale development that emphasizes pedestrian rather than vehicular features".*

The applicant has included building architectural drawings as part of the CDP/DDP request. As noted in the discussion above under Visual Elements, the proposed building architecture is consistent with the Pedestrian Oriented Design Standards outlined in Chapter 4.10 (**LDC § 4.10.70**).Therefore, the discussion concerning review criterion in **LDC § 2.5.50.04.a.13** will be limited to the standards that apply to site plan design.

Additional PODS applicable to the proposed site development are as follows:

Applicable PODS site design standards

4.10.70.02 - Building Orientation

All buildings shall be oriented, as outlined in this Section, to existing or proposed public or private streets. See Chapter 4.0 - Improvements Required with Development for public and private street standards. Buildings on corner parcels shall be oriented to both streets bordering the property. Private streets used to meet this standard must include the elements in Chapter 4.0. The building orientation standard is met when all of the following criteria are met:

a. Street Frontage Setback - At least 50 percent of the building's linear frontage is located within the maximum setback established for the zone for structures that have street frontage, as shown below in Figure 4.10-18 - Percent of Building Frontage Within Maximum Setback Area.

The CDP/DDP drawings (**see Attachment G - page 3**) indicate that all seven commercial buildings will be oriented to abutting public or private streets, with the exception of Building B, which is exempt from the provisions of **LDC § 4.10.70.02** because it is an internal building, and all other buildings meet the standard (refer to exemption language for Building B in the MUCS zone - **LDC § 3.19.40.05.a.3**, as noted in the discussion under Basic Site Design above).

For all applicable buildings, all of the applicable linear frontage falls within the 20-ft. maximum setback prescribed in the MUCS zone. The standard in **LDC § 4.10.70.02.a** is satisfied .

Applicable PODS site design standards

4.10.70.02 - Building Orientation

b. Entrances - All building sides that face an adjacent public or private street include at least one customer entrance. When the site is adjacent to more than one street, corner entrances at an angle of up to 45 degrees, from the largest of the two adjacent streets, may be substituted for separate entrances on adjacent streets. If the building does not have frontage along an adjacent street, direct pedestrian access to the street may be achieved by a sidewalk or courtyard connecting to a street no farther than 100 ft. from the building's pedestrian entrance (distance measured along the centerline of the sidewalk or over the

"hard-surfaced" portion of the courtyard from a public street right-of- way or private street tract).

As indicated on the architectural and site plan drawings (**see Attachment G**), customer entrances have been provided for all applicable street facing facades. In the case of Building B, a pedestrian connection less than 100 feet has been provided between the westernmost customer entrance and the Shopping Street. As proposed, this standard is satisfied.

Applicable PODS site design standards

4.10.70.02 - Building Orientation

c. Parking and Vehicle Circulation - Off-street parking or vehicular circulation shall not be placed between buildings and streets used to comply with this standard, as shown above in Figure 4.10-19 - Site Development Element Locations. Where allowed by the underlying zone, outdoor vehicle display lots for sale of autos, noncommercial trucks, motorcycles, trailers with less than 10,000 lbs. gross cargo weight, motor homes, and boats may be located adjacent to streets. The parking lot perimeter landscaping requirements of Section 4.2.40 of Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting shall be met.

Based on the proposed orientation of all seven buildings, and where applicable, vehicle parking has not been placed between the building and street identified for orientation purposes. As noted in the discussion above under Landscape Requirements, vehicle parking spaces visible from adjacent rights-of-way have been appropriately screened by providing landscape buffers. This standard is satisfied.

Applicable PODS site design standards(cont.)

4.10.70.03 - Pedestrian Circulation Standards

a. Requirements for New Development and Options for Expansions of a Commercial, Industrial, or Civic Structure, Consistent with Section 4.10.70.01.c -

1. Continuous Internal Sidewalks and Multi-use Paths - A continuous internal sidewalk, including associated necessary sidewalk crossings, no less than five ft. wide, shall be provided from public sidewalks or rights-of-way to all customer entrances, and between customer entrances of all buildings, as shown in Figure 4.10-19 - Site Development Element Locations. Sidewalks shall be direct and convenient and form a network of walking routes. Internal multi-use paths shall be no less than 12 ft. wide.

2. Sidewalks along Building Walls - Sidewalks no less than five ft. wide shall be provided along the full length of building walls featuring a customer entrance and along any wall parallel to and abutting parking areas larger than eight parking spaces, except in situations where the sidewalk would not provide connectivity between an entrance and parking area. Where sidewalks are adjacent to buildings, except along Shopping Streets, a five-ft.-wide foundation landscape strip and/or weather protection with planters shall be provided. These elements are noted in Figure 4.10-19 - Site Development Element Locations.

3. Separation and Distinction from Driving Surfaces - Where any internal sidewalk is parallel to and abuts a vehicular circulation or parking area, the sidewalk shall be raised and separated from the vehicular circulation or parking area by a raised curb at least six in. in height. In addition to this requirement, a landscaping strip at least five ft. wide, or wheel stops with landscaping strips at least four ft. wide, are strongly encouraged to enhance the separation of vehicular from pedestrian facilities.

4. **Sidewalk and Multi-use Path Surface Treatment - Public internal sidewalks shall be concrete and shall be at least five ft. wide. Private internal sidewalks shall be concrete or masonry pavers, and shall be at least five ft. wide. Public multi-use paths, such as paths for bicycles, pedestrians, and emergency vehicles, shall be concrete, and shall be at least 12 ft. wide. Private multi-use paths shall be of the same materials as private sidewalks, or asphalt, and shall be at least 12 ft. wide. All materials used for public sidewalks and multi-use paths shall meet City Engineering standards.**

5. **Crossings - Where any internal sidewalk crosses an internal street, driveway, or parking aisle, the sidewalk shall be clearly marked with contrasting paving materials. Additional use of other measures to clearly mark a crossing, such as an elevation change, speed humps, or striping, is encouraged.**

6. **Connection to Adjacent Properties or Streets - In addition to the sidewalk connections required by the block development standards in Chapter 4.0 - Improvements Required with Development, sidewalk connections shall be provided between internal sidewalk networks and all adjacent planned streets, sidewalks, and multi-use paths. Multi-use paths shall be connected with adjacent multi-use paths, sidewalks, and/or bike lanes. Where appropriate, such connections shall also be provided to adjacent residential properties.**

7. **Planting Strips - For lots abutting existing streetside sidewalks, sidewalks shall be reconstructed with a planting strip consistent with the requirements in Chapter 4.0 - Improvements Required with Development.**

Sheet SP1.2 (**see Attachment G - page 3**) illustrates a continuous network of on-site sidewalks, that interconnect all seven buildings with the adjacent public sidewalk system, consistent with **LDC § 4.10.70.03.a.1** and **LDC § 4.10.70.03.a.6**. The usable portions of the sidewalk vary in width between 5 and 12 feet. The applicant proposes a 12-ft. wide internal public multi-use path north of Dunawi Creek. All building facades with customer entrances have a sidewalk along the length of the entire facade that is a minimum of 5 feet in width. All parking areas adjacent to building facades with customer entrances have the required 5-ft. sidewalk connection, per **LDC § 4.10.70.03.a.2**.

The applicant is proposing a combination of weather protection and planters along each building facade with customer entrances, consistent with **LDC § 4.10.70.03.a.2** . In some locations, the applicant has elected to provide additional landscape planters along the building facades, where weather protection or planters are not currently illustrated on the CDP/DDP, by accepting a condition of approval, to be implemented through the building permit review process (**see Condition # 36-g**). All proposed pedestrian connections use a 6-inch raised sidewalk, consistent with **LDC § 4.10.70.03.a.3.** The applicant's narrative states that pedestrian connections that intersect and cross drive aisles will be constructed with contrasting concrete paving materials (**see Condition # 17**), consistent with **LDC § 4.10.70.03.a.5.** As proposed, all of the standards in **LDC § 4.10.70.03.a** are satisfied.

Applicable PODS site design standards(cont.) - Section 4.10.70.03.b

b. **Additional Requirement for New Development and Additional List of Options for Expansions of a Commercial, Industrial, or Civic Structure, Consistent with Section 4.10.70.01.d.1 - New**

development shall comply with one of the following five options. Expansions in accordance with Section 4.10.70.01.c shall add this list of choices to those presented in Section 4.10.70.03.a to obtain a larger list of options to comply with the requirements of Section 4.10.70.01.d.1.

Options:

1. **Driveway Consolidation - Removal of at least one driveway through outright removal or access consolidation, such that the net number of driveways for the site is at least one less than prior existing conditions for the site.**

2. **Landscape Buffer - Construction or expansion of a landscape buffer between the back of a sidewalk and existing vehicle parking or circulation areas. The constructed or expanded landscape buffer shall, when completed, be a minimum of 20 ft. wide.**

3. **Reduced Parking - Establishment of an agreement that shares parking between the subject site and an abutting site and results in a reduction of total parking spaces for the subject site to 90 percent or less of the required minimum. Such shared parking agreements may be used, provided the applicant demonstrates an adequate supply of parking for each use. Identification of surplus parking during peak periods, or surplus capacity provided due to off-peak use, are methods of demonstrating this adequacy.**

4. **Covered Walkways - Installation of weather protection resulting in covered pedestrian walkways between and around all buildings and between the primary building and adjacent public pedestrian facilities.**

5. **Notarized Letter - Where development is proposed on property adjacent to existing five-lane arterial streets or highways, recording a signed and notarized letter with the Benton County Clerk from the owner of the development site agreeing not to oppose construction of a future median or pedestrian refuge.**

The proposal is consistent with the option to consolidate driveway locations, because there are three existing driveway entrances on abutting public streets, and the proposal removes one. The proposal is also consistent with option # 5, because a median is being provided on SW 53rd Street. Based on the proposal, the standards in **LDC § 4.10.70.03.b** are satisfied.

<u>Applicable PODS site design standards(cont.) - Section 4.10.70.04</u>

4.10.70.04 - Vehicle Circulation and Design Standards

a. Parking Lots -

1. **Parking lots shall be placed to the rear of buildings in accordance with Section 4.10.70.02. Administrative exceptions to this standard are allowed based on the following provisions. To the extent that required parking cannot be located to the rear of the building due to other requirements of this Code or unusual site constraints, both of which are defined in the following paragraph, the amount of parking and vehicle circulation that cannot be accommodated to the rear of the building may be provided only to the side of the building.**

2. **Other requirements of this Code may include, but are not necessarily limited to, significant Natural Resource and Natural Hazard provisions in Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions. Chapter 4.12 - Significant Vegetation**

Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions; and Chapter 4.1 - Parking, Loading, and Access Requirements. Unusual site constraints may include parcels fronting more than two streets, irregular lot configuration, weak foundation soils, or other physical site factors that constrain development when considered with Building Code requirements.

b. Corner Parcels - Parking areas shall not be located within 30 ft. of a roadway intersection, as measured from the center of the curb radius to the edge of the parking area's curb or wheel stop.

c. Parking Lot Access - Commercial driveway approaches shall be used to access parking lots from public streets. Parking lot approaches shall be located no closer than 50 ft. from local street intersections, as measured from the intersection of two rights-of-way lines. Approaches on collector and arterial streets shall comply with parking lot approach standards provided in Chapter 4.1 - Parking, Loading, and Access Requirements.

As discussed above, under **LDC § 4.10.70.02**, where applicable, vehicle parking areas have been placed to the rear or sides of buildings. This standard is satisfied. As proposed, the CDP/DDP complies with **LDC § 4.10.70.04.b** . The applicant has not indicated that commercial driveway approaches will be provided for the areas where the parking lot accesses the public street north of Building F. In order to comply with **LDC § 4.10.70.04.c** , the applicant is required to illustrate City-standard commercial driveway entrances for all applicable driveway/street intersections, during the site construction permit process **(see Condition # 16).**

Applicable PODS site design standards(cont.) - Section 4.10.70.04

e. Drive-through Facilities

1. Internal driveways are prohibited between buildings and streets to which the building entrances are oriented, except for car washes and fuel sales pursuant to "3," below. Examples of correct and incorrect locations of these facilities are shown on the next page in Figure 4.10- 21 - Drive-through Facilities.

2. Drive-through Facilities Uses are prohibited in the Minor Neighborhood Center (NC) Zone. In other commercial zones, Drive-through Facilities are allowed provided "1," above is met. Pedestrian areas shall be buffered from drive-through vehicles in accordance with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting.

As illustrated on Sheet SP1.2 (**see Attachment G - page 3**), the proposed Drive-through facility associated with the Walgreen's building does not face the street that Walgreen's is oriented toward (SW Philomath Boulevard). Adjacent pedestrian areas are appropriately buffered from drive-through vehicles due to their proximity to the drive-through lane and through on-site landscape islands. The standards in **LDC § 4.10.70.04.e** are satisfied.

Applicable PODS site design standards(cont.) - Section 4.10.70.05

4.10.70.05 - Standards and Menus for Pedestrian Features and Design Variety

a. Pedestrian Amenities Standards

2. Pedestrian Amenity Requirements - All new development and substantial improvements shall provide pedestrian amenities as defined by this Section. The number of pedestrian amenities provided shall comply with the following sliding scale:

Size of Structure or Substantial Improvement	Number of Amenities
< 5,000 sq. ft.	1
5,001 - 10,000 sq. ft.	2
10,001 - 50,000 sq. ft.	3
> 50,000 sq. ft.	4

3. **Acceptable Pedestrian Amenities - Acceptable pedestrian amenities include the items listed below, some of which are shown in Figure 4.10-23 - Pedestrian Amenities:**
   a) **Sidewalks with ornamental treatments, such as brick pavers, or sidewalks 50 percent wider than required by this Code;**
   b) **Sidewalk planters with benches and public outdoor seating;**
   c) **Significant public art, such as sculpture, fountain, clock, mural, etc.;**
   d) **Mini parks or plazas that provide a minimum usable area of 300 sq. ft.); and**
   e) **Street trees of a caliper 50 percent wider than required by this Code. This approach may include preservation of healthy mature trees adjacent to the street sidewalk.**

4. **Accessibility of Pedestrian Amenities - Pedestrian amenities shall be visible and accessible to the general public from an improved street. Access to mini parks, plazas, and sidewalks shall be provided via a public right-of-way or a public access easement.**

Based on the total proposed gross square footage of commercial space, a minimum of three (3) pedestrian amenities are required with development of Creekside Center I & II. The applicant proposes to incorporate benches with planters, four pedestrian plazas, and street trees with a minimum caliper size of 2.25 inches (City standards require a minimum 1.5" caliper size for new street trees) (**see Condition # 36-h**), in order to comply with **LDC § 4.10.70.05.a.2**. All of the proposed pedestrian amenities are illustrated on the CDP/DDP (**see Attachment G**).

Conclusion on Pedestrian Oriented Design - Site Plan Design

As noted in the above discussion,,the proposed CDP/DDP accommodates building orientation and on-site pedestrian sidewalk connections that meet the requirements of providing on-site pedestrian improvements and connectivity to and through the site for pedestrians. Pedestrian amenities have been provided consistent with **LDC § 4.10.70.05.a.2** . The proposal is consistent with the requirements of **LDC § 4.10.70** and the pedestrian site design review criteria for a CDP/DDP, noted in **LDC § 2.5.40.04.a.13**. As noted in the discussion above under Visual Elements, the proposed CDP/DDP is consistent with the PODS architectural standards of **LDC § 4.10.70** . The criterion for Pedestrian Oriented Design is satisfied.

Natural Features Criteria

Applicable LDC Review Criteria - LDC 2.5.40.04.a

14. **Preservation and/or protection of Significant Natural Features, consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Streets shall also be designed along contours, and structures shall be designed to fit the topography of the site to ensure compliance with these Code standards.**

Applicable LDC Review Criteria - LDC 2.5.40.04.b

2.5.40.04.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; and**

2. **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 involve an alternative located on the same development site where the specific standard applies.**

Applicable LDC Definitions (Chapter 1.6)

Development Constraints - Conditions that limit or preclude development of an area or site such as location within: a Natural Hazard on the Natural Hazards Map; a Riparian Corridor or Wetlands on the Riparian Corridors and Wetlands Map; an area of Significant Vegetation on the Significant Vegetation Map; a 4th-level water service area (not served by City water); and/or an area that is permanently preserved via a conservation easement or a drainageway easement/dedication.

Development Constraints - Former - Development Constraints that no longer preclude development due to the application of the Minimum Assured Development Area (MADA) provisions. A formerly constrained area is one which would be protected through the Development Constraints in Chapters 4.5, 4.11, 4.12, or 4.13, but can be developed by applying the MADA provisions in Chapter 4.11. Development can occur on the site and the constraining factors such as significant vegetation, etc. may be removed or reduced to accommodate the development. See Formerly Constrained Areas.

Formerly Constrained Areas - Areas that contain areas that would be protected through the Development Constraints in Chapters 4.5, 4.11, 4.12, or 4.13, but can be developed by applying the MADA provisions in Chapter 4.11. Formerly Constrained Areas can be developed, and the constraining factors such as significant vegetation may be removed or reduced to accommodate the development. See Development Constraints - Former.

Mapped Natural Features - Natural Resources
The site contains mapped Natural Resources including a Highly Protected Riparian Corridor and Locally Protected, Locally Significant Wetland (**see Attachment E**). No other Natural Resources identified through the City's Natural Features Inventory are present on the subject site. The subject Wetland was delineated previously in 1998, prior to the Natural Features Inventory. The 1998 delineation was used in defining the boundaries of the Wetland as currently shown on the City's Riparian Corridors and Wetlands map. A portion of the wetland is classified as a Proximate Wetland, due to its contiguity with the Riparian Corridor.

In addition to the Natural Resources identified on the City's Riparian Corridors and Wetlands map, the applicant has provided a supplemental wetland delineation for the Locally Protected Wetland on Tax Lot 500 (**see Attachment L - pages 19 through 21**), which was completed in 2004. The 2004 delineation has been acknowledged by DSL, but has expired (**DSL Determination # 2004-169**). However, an associated wetland fill permit, based on a previous but similar development proposal, has been approved by DSL and is valid through November 22, 2010 (**see Attachment H - page 153 and Attachment L**). The application materials also identify the 100-ft. Highly-Protected Riparian Corridor boundary, based on the top-of-bank of Dunawi Creek, as determined by a topographic survey provided by the applicant. Therefore, the application materials include a combination of City and Applicant-provided data.

Mapped Natural Features - Natural Hazards
The site contains mapped Natural Hazards in the form of a 0.2-ft. Floodway, which is identified on the City's Natural Hazards map (**see Attachment D**). The applicant has provided a supplemental 100-Year Floodplain Delineation (**see Attachment G - page 16**) and Modeling Study (**see Attachment H - pages 165 through 213**), because published data from FEMA and the City of Corvallis does not identify the location of the 100-Year Floodplain on the subject property. The floodplain study was required of the applicant per **LDC § 4.5.50.04**, due to the likely presence of floodplain on the subject property.

Natural Resources Provisions
The following LDC Natural Resources provisions apply to the development site:

Applicable LDC Natural Resources Protections

Section 4.13.50 - USE LIMITATIONS AND EXCEPTIONS WITHIN HIGHLY PROTECTED RIPARIAN CORRIDORS AND RIPARIAN-RELATED AREAS
Highly Protected Riparian Corridors are those which have been identified as warranting a high level of protection due to their environmental importance and Natural Resource quality. Riparian-related Areas are defined as Proximate Wetlands, drainage easements and drainage dedications under the City's jurisdiction, and open space tracts that have been created for Riparian Corridor protection purposes. Additionally, 100-year Floodplain area serves an important Riparian Function. This area is mapped on the City's Natural Hazards Map, and is subject to the protections outlined in Chapter 4.5 - Natural Hazard and Hillside Development Provisions.

In addition to the requirements of the underlying zone, the following limitations and exceptions shall apply to activities within Highly Protected Riparian Corridors and Riparian-related Areas, as mapped on the City's Riparian Corridors and Wetlands Map.

a. Removal of Vegetation - Removal of vegetation from Riparian Corridors and

Riparian-related Areas is prohibited, except for the following purposes:

1. Stream restoration and enhancement programs;
2. Removal of Invasive and/or Noxious Vegetation as defined in Chapter 1.6 - Definitions. If necessary, in conjunction with vegetation removal non-rip-rap erosion control measures shall be utilized;
3. Substitution of local source native plant species for non-native plants. Such local source native plant species shall originate from stock collected from wild plants within 75 miles of planting site;
4. Development of Water-related or Water-dependent Uses as defined in Chapter 1.6 - Definitions, provided such Uses are designed and constructed to minimize impact on existing Riparian Vegetation;
5. Removal of emergent in-channel vegetation likely to cause flooding events that result in structural damage;
6. Perimeter mowing/cutting of vegetation for fire hazard prevention/fuel reduction, provided such mowing/cutting occurs no more than 20 ft. around structures;
7. Continuation of agricultural activities occurring on a property prior to December 31, 2004, such as grazing livestock, growing crops, etc. However, the use of herbicides or other pesticides, the application of synthetic fertilizers, and the storage of toxic materials in these areas is subject to applicable state and federal regulations, as well as the restrictions set forth in the Corvallis Municipal Code.
8. Maintenance and protection of the function of City utilities and transportation facilities located within Riparian Corridors and Wetlands;
9. Allowance of activities under an Oregon Department of Fish and Wildlife approved restoration plan for improving Riparian Function. As a component of this plan, and as a means of controlling the spread of the weeds throughout the Watershed, livestock may be permitted in areas with identified Invasive and/or Noxious Vegetation; and
10. Removal of Hazardous Trees - Requests for removal of Hazardous Trees, except in emergency circumstances, shall be reviewed by the City Urban Forester (or another qualified arborist) and approved, conditionally approved, or denied by the Community Development Director. Any trees removed shall be replaced by like native species or alternative approved native species listed on the City of Corvallis Native Plant List.

b. Building, Paving, and Grading Activities - The placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, are prohibited. Exceptions to the drainageway restrictions may be made for the purposes identified in items 1-7 of this Section, provided they are designed and constructed to minimize adverse impacts to Riparian Corridors and Riparian-related Areas.

1. Replacement or Relocation of Existing Buildings - Replacement or relocation of existing buildings, either within the building's original footprint, or with the same or reduced square footage area elsewhere on the site. A relocation of an existing building within the same square footage area, but located elsewhere on the site, is only allowed if the relocation of the building enhances Riparian, Stormwater, and Floodplain Functions. Under no circumstances shall a relocated building be located within 15 ft. of Top-of-bank. The relocation shall be considered to enhance Stormwater, and Floodplain Function if it furthers any of the following goals without worsening any other goal:
   a) Replaces standard construction with Flow-through Design

construction, if the building is within the 100-year Floodplain;

b) Moves the structure to a higher elevation;

c) Moves the structure further from the Top-of-bank of the adjacent water body;

d) Reduces the amount of impervious surface area in the Riparian Corridor; and

e) Does not negatively impact non-noxious Riparian Vegetation. Invasive and/or Noxious Vegetation is defined in Chapter 1.6 - Definitions.

2. The location and construction of streets, utilities, bridges, bicycle, and pedestrian facilities within Highly Protected Riparian Corridors and Riparian-related Areas must be deemed necessary to maintain a functional system by the City Engineer. This Code, City Transportation and Utility Master Plans, and other adopted City plans shall guide this determination. The design standards of Chapter 4.0 - Improvements Required with Development shall be applied to minimize the impact to the subject area;

3. Redevelopment of utility operations existing as of December 31, 2004, is also permitted. Required riparian easement areas shall be re-vegetated consistent with Section 4.13.50.d.1 and Section 4.13.50.d.2;

4. Development of Water-related and Water-dependent Uses, as defined in Chapter 1.6 - Definitions, where no other viable locations exist;

5. Erosion control or flood control measures that have been approved by the Oregon Department of State Lands (DSL), the U.S. Army Corps of Engineers, or other state or federal regulatory agency with jurisdiction in this area. Erosion control or flood control measures shall either utilize bioengineering methods other than rip-rap, or shall utilize rip-rap only to address an imminent hazard to a structure built prior to December 31, 2004. If utilized, the rip-rap installation shall be designed by a Professional Engineer Licensed by the State of Oregon and approved by the Oregon Department of Fish and Wildlife;

6. Development associated with the Minimum Assured Development Area that would be allowed in accordance with Chapter 4.11 - Minimum Assured Development Area (MADA); and

7. Water quality or detention facilities located outside of riparian easement areas, as determined in Section 4.13.70.

d. Re-vegetation of Streambanks - Commensurate with the extent of new development of structures or of impervious surface areas on development sites containing Stream or river frontage as shown on the City's Riparian Corridors and Wetlands Map, the re-vegetation of Stream banks is required. For each 500 sq. ft. of new structure area or impervious surface area, 100 lineal ft. of the development site's Stream frontage shall be re-vegetated according to the following standards, up to the total amount of the development site's Stream frontage:

1. Stream bank vegetation, as outlined in "2," below, shall be provided within the first 30 ft. from Top-of-bank, with the exception of the Willamette River, which shall be addressed as indicated in "3," below;

2. **Re-vegetation Standards -**

a) Streams that already have existing vegetation as outlined in this provision are considered to be compliant with these Stream shading standards. To be considered compliant, at minimum the vegetation within the first 30 ft. from the Top-of-bank, as described in "1" above, shall include:

1) An existing vegetated tree canopy consisting of healthy trees at least four in. caliper, measured at four ft. above Natural Grade, and located at an average spacing of 20 ft. along the Stream bank; and

2) An existing vegetated under story consisting of healthy riparian shrubs over at least 50 percent of the area; and healthy groundcover such that the combination of shrubs and groundcover results in a coverage over at least 90 percent of the area.

b) Streams that do not have the required existing vegetated tree canopy and existing vegetated under story in the area to be shaded are subject to re-vegetation. Such re-vegetation shall either be that required by an Oregon Department of Fish and Wildlife-approved restoration plan for improving Riparian Function, or that required by the provisions outlined below:

1) In areas that do not meet the tree canopy requirement outlined in "a" above, large-canopy riparian trees, such as Acer Macrophyllum, with a minimum caliper size of 3/4 -1 in. shall be planted in a triple row with staggered spacing of 20 ft. oncenter along the length of the Stream bank. All new trees are required to be mulched with four cubic ft. of bark chips and drip irrigated for a period of five years to ensure establishment. All new trees shall be staked and protected by rodent-proof fencing, as specified by the Public Works Department;

2) In areas that do not meet the riparian shrub coverage portion of the under story requirement outlined in "a," above, riparian shrubs shall be planted and maintained to provide the required 50 percent coverage within five years. The minimum planting size for the riparian shrubs shall be one gallon or 18 in. live stakes. All new shrubs shall be mulched with three in. of bark chips, extending one ft. from the drip line of the shrub or around the live stake or live stake bundle. All new shrubs shall also be irrigated and maintained for a period of five years to ensure establishment.

3) In areas that do not meet the groundcover coverage portion of the under story requirement outlined in "a," above, groundcover shall be maintained or planted to provide a minimum of 90 percent total coverage of shrubs and ground covers within five years. The minimum planting size shall be one gallon. Ground covers shall be mulched with three in. of bark chips and irrigated for a period of five years to ensure establishment.

e. **Subdivisions, Land Partitions, and Property Line Adjustments - For properties with Natural Resources or Natural Hazards subject to Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.12 - Significant Vegetation Protection Provisions, or Chapter 4.13 - Riparian Corridor and Wetland Provisions, no Subdivision, Partition, or Lot Line Adjustment shall create new lots or parcels unless:**
   1. **Each new and remaining lot or parcel contains an area unconstrained by Natural Resources or Natural Hazards; and**
   2. **The unconstrained area in "1," above, is equal to or greater than the Minimum Assured Development Area for the zone or zones in which the development site falls.**

   Exceptions to this requirement are lots created for public park purposes and privately- or publicly-owned lots completely contained within land zoned Conservation-Open Space. New Subdivisions and Partitions may contain common open space tracts for the purpose of protecting Natural Resources and/or avoiding Natural Hazards.

g. **Exemptions - When performed under the direction of the City, and in compliance with the provisions of the Stormwater Master Plan, the following activities shall be exempt from the provisions of this Chapter:**
   1. **Response to public emergencies, including emergency repairs to public facilities; and**
   2. **Routine maintenance or replacement of existing public facilities.**

4.13.80.01 - Use Limitations and Exceptions Within Locally Protected Wetlands

a. **In addition to the requirements of the underlying zone, the limitations and exceptions in "b," through "e," below, shall apply to -**
   1. Activities within Locally Protected Wetlands (LPWs) as shown on the City's Riparian Corridors and Wetlands Map; and
   2. The associated 25-ft. setback/buffer area described in Section 4.13.40.b.1.b, unless a delineation results in a different boundary.

b. **Removal of Vegetation - Removal of vegetation from Locally Protected Wetlands is prohibited, except for the following purposes:**
   1. Wetland restoration and enhancement programs approved by the Department of State Lands; and
   2. Activities outlined in sections 4.13.50.a.2, 4.13.50.a.3, 4.13.50.a.5 through 4.13.50.a.8, and 4.13.50.a.10.

c. **Building, Paving, and Grading Activities - Within LPW areas, the placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, is prohibited, except as outlined below. Exceptions to the LPW restrictions may be made for the purposes identified in "1," and "2," below, provided they are designed and constructed to minimize adverse impacts to Wetland Functions.**
   1. Replacement of existing buildings with buildings located within the original building footprint, provided replacement does not disturb additional surface area within the Wetland area. Vertical additions may be added to these structures if they do not disturb additional surface area within the Wetland area.
   2. Activities outlined in sections 4.13.50.b.2, 4.13.50.b.5, and 4.13.50.b.6.

d. **Compliance with Some Use Limitations and Exceptions for Highly Protected Riparian Corridors and Riparian-related Areas - Compliance is required with sections 4.13.50.e through 4.13.50.g of Section 4.13.50 - Use Limitations and Exceptions for Highly Protected Riparian Corridors and Riparian-related Areas.**

e. **Department of State Lands and US Army Corps of Engineers Notification Required - In addition to the restrictions and requirements of this Section, all proposed development activities within any Wetland are also subject to Oregon Department of State Lands (DSL) and US Army Corps of Engineers standards and approval. Where there is a difference, the more restrictive regulation shall apply. In accordance with ORS 227.350, as amended, the applicant shall be responsible for notifying DSL and the Corps of Engineers whenever any portion of any Wetland is proposed for development.**

No application for development will be accepted as complete until documentation of such notification is provided. Additionally, no site development permits, such as Grading and Excavation Permits, Public Improvements by Private Contract Permits (PIPC), and Building Permits, shall be issued until the City has received verification of DSL and Corps of Engineers approval for development on the subject site.

Based on the provisions of **LDC § 4.13.50** and **LDC § 4.13.80.01**, development is generally prohibited in areas of a site where Highly Protected Riparian Corridors, Riparian Related Areas, and/or Locally Protected Wetlands have been identified. Approximately 60% of the 6.64 acre Creekside Center site is constrained by a combination of Natural Features and Natural Hazards. Due to the extent of constraints on the development site, the MADA provisions of LDC Chapter 4.11 apply (see MADA discussion below). Therefore, some level of encroachment is permissible into the Natural Resource areas identified above, based on the allowances under **LDC § 4.13.50.b.6** (MADA exemption for Riparian Corridor protections) and **LDC § 4.13.80.01.c.2** (MADA exemption for Wetland protections).

The area of allowable encroachment is re-classified as "Formerly Constrained Areas", and the development restrictions of **LDC § 4.13.50** and **LDC § 4.13.80.01** no longer apply in these specific areas of the site. The remaining area of the development site, where MADA does not allow encroachment and which is still classified as "Constrained" continues to be subject to the protections and allowances of **LDC § 4.13.50** and **LDC § 4.13.80.01**.

After consideration of development permissible in Unconstrained Areas of the subject site and development encroachments allowed through the MADA provisions, the applicant has indicated that the remaining portions of the site, containing the Highly Protected Riparian Corridor, Riparian Related Areas, and Locally Protected Wetlands that are subject to the protections of **LDC § 4.13.50** and **LDC § 4.13.80.01,** will be protected as required. The applicant has identified a "Limits of Construction" line that defines the areas to be protected (**see Attachment G - page 8**). In order to ensure that Natural Resource areas outside of the limits of development are protected, construction fencing and silt fencing will be required to be installed along the perimeter throughout all phases of construction (**see Condition # 8**).

Because the Highly Protected Riparian Corridor is heavily forested, the revegetation standards of **LDC § 4.13.50.d** are currently satisfied. Formerly constrained areas of the site that contain

the Highly Protected Riparian Corridor, where development encroachments are permissible per MADA and where no buildings or pavement are present, may be required to be re-vegetated per the provisions of **LDC § 4.13.50.d** where the standards are otherwise not satisfied. The applicant will be required to demonstrate this at time of construction permit review (**see Condition # 36-d)**.

As noted in the discussion in Part III of this staff report (Tentative Subdivision Plat), the applicant is proposing to create separate Tracts intended to occupy the area set aside for Natural Features protections. After consideration of MADA and Formerly Constrained Areas, each new proposed subdivision lot is unconstrained and may be developed, consistent with **LDC § 4.13.50.e** . Therefore, based on the proposal, exemptions allowed per LDC MADA provisions, and the definition of Formerly Constrained Areas, the CDP/DDP is consistent with the Natural Resources protection requirements of **LDC § 4.13.50** and **LDC § 4.13.80.01**.

Permitting by Other Agencies / Timing of Construction Permit Issuance

A portion of the proposed construction activities that impact the Locally Protected Wetland are permitted by DSL, based on the conditions of the active fill permit (**see Attachment H - page 153**). Since the proposed CDP/DDP includes construction activities that extend outside of the limits of construction activity illustrated on the active DSL fill permit, and the 2004 wetland delineation has expired, it will be necessary for the applicant to obtain a new wetland delineation that evaluates the entirety of Tax Lots 500 and 600, as well as a DSL and COE joint-fill permit that is based on the full extent of the proposed CDP/DDP (**see Condition # 4**).

Because the applicant is choosing to phase construction, it is acceptable for the City of Corvallis to authorize construction permits for the early phases (or portions of phases) that fall within the limits of construction noted on the active DSL fill permit. However, the City cannot issue construction permits for any later phase or portion of the site where DSL has not authorized development, and where the development is reliant upon MADA credits attributed to DSL-approved wetland mitigation (**see Conditions # 3 and # 4**). A detailed tabulation of MADA credits is included in the MADA discussion below and in **Attachment G**.

Natural Hazards Provisions

The following LDC Natural Hazard provisions apply to the development site :

Applicable LDC Natural Hazard Protections

Section 4.5.50 - STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARD - 100 YEAR FLOOD PLAIN

4.5.50.01 - Definitions and Related Standards

a. 100-year Floodplain, 0.2-ft. Floodway, and Floodway Fringe -

1. 100-year Floodplain - The 100-year Floodplain is a land area adjacent to a river, stream or other water body that is subject to a one percent chance of flooding in any given year. The Floodplain is divided into two sections: the Floodway and Floodway Fringe areas. The 100-year Floodplain is mapped by the Federal Emergency Management Agency (FEMA) on Flood Insurance Rate Maps (FIRMs)

and is the area subject to Base Flood regulations. See Figure 4.5-1 - Components of 100-year Floodplain; and Floodway, Floodplain - 100-year, Flood,100-year, Base Flood, Floodway Fringe, and Figure 1.6-16 - Floodplain Cross Section in Chapter 1.6 - Definitions.

2. **<u>0.2-ft. Floodway</u> - The 0.2-ft. Floodway is defined as the river channel or other watercourse and the adjacent land areas that must be reserved in order to discharge the Base Flood (100-year Flood) without cumulatively increasing the water surface elevation more than 0.2 ft. See Figure 4.5 -1 - Components of 100-year Floodplain, and Floodway, 0.2-ft. in Chapter 1.6 - Definitions.**

3. **<u>Floodway Fringe</u> - The Floodway Fringe is defined as the area of the 100-year Floodplain lying outside of the 0.2-ft. Floodway. See Figure 4.5 -1 - Components of 100-year Floodplain; and Floodway Fringe and Floodway, 0.2-ft. in Chapter 1.6 - Definitions.**

b. **Relationship of 0.2-ft. Floodway and Floodway Fringe to Regulated Riparian Corridors - Areas of the 0.2-ft. Floodway and Floodway Fringe that fall within a Regulated Riparian Corridor are also subject to the provisions of Chapter 4.13 - Riparian Corridor and Wetland Provisions. Where regulations are in conflict, the most restrictive shall apply. See Riparian Corridor, Regulated in Chapter 1.6 - Definitions.**

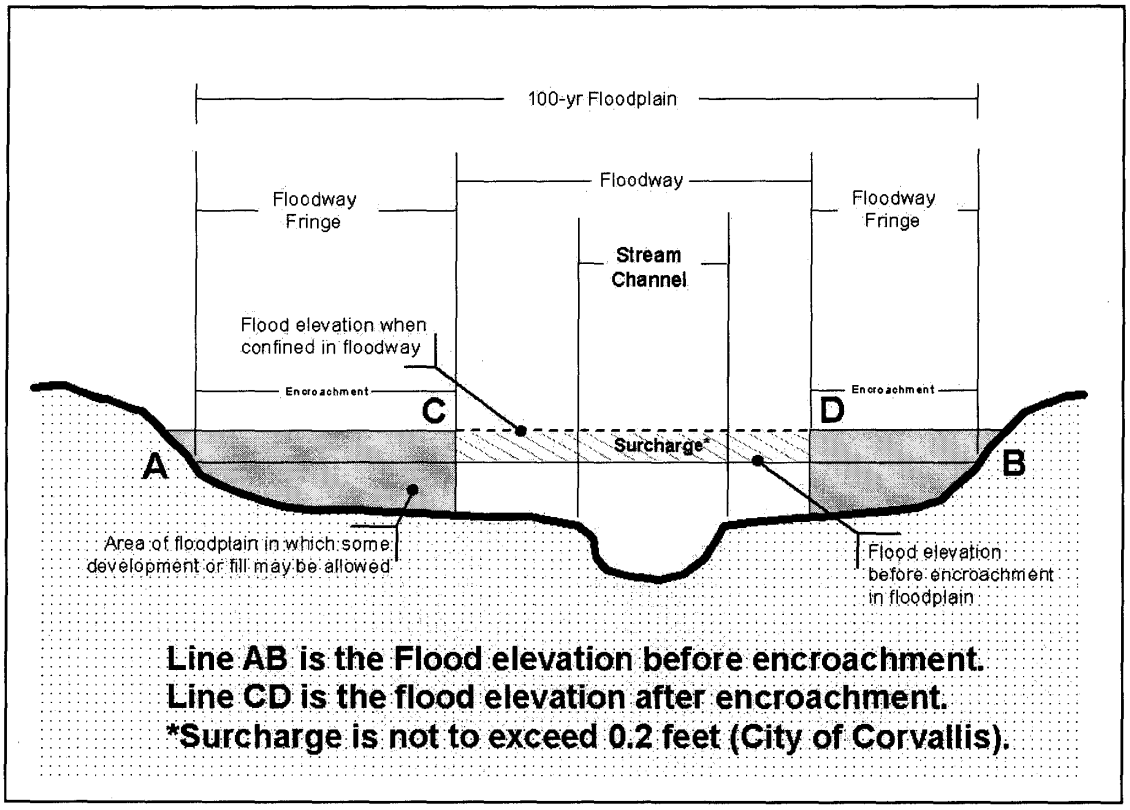


Figure 4.5-1 - Components of 100-year Floodplain

4.5.50.02 - Additional Application Requirements within the 100-year Floodplain

In addition to the application requirements in Section 4.5.40, the following information is required with development applications involving property in the 100-year Floodplain:

a. Elevation - Elevation in relation to the National Geodetic Vertical Datum 1929 (NGVD29), of either the:

1. Lowest finished floor level of all new structures. This includes basements and attached garages, electrical equipment (except utility meters), heating and ventilation equipment, plumbing, air conditioning equipment, and/or other service facilities (including ductwork); or

2. Elevation to which any existing structure has been or is proposed to be flood-proofed; and certification by a registered professional engineer that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Section 4.5.50.08.c.4, below;

b. A description of the extent to which any Floodplain or Watercourse is proposed to be altered or affected as a result of proposed development;

c. Topographic Survey - A topographic survey of the development site, showing existing and proposed topography in two-ft. contour intervals. The survey shall indicate the location of Top-of-bank, consistent with the definition in Chapter 1.6 - Definitions. The survey shall show the 0.2-ft. Floodway boundary and the 100-year Floodway Fringe boundary. The survey shall also show the location of existing and proposed improvements on the site, including structures, landscaping, parking areas, and other impervious surface areas. The survey shall be drawn to scale and shall note the distance from Top-of-bank to the improvements on the site;

d. Base Flood Elevation - The applicable Base Flood elevation;

e. All necessary permits from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, as amended, shall be obtained, or obtaining such permits shall be a Condition of Approval to be satisfied prior to issuance of any construction permit.

4.5.50.04 - Interpretation of Flood Insurance Rate Map and Other Floodplain Boundaries

When there appears to be a conflict between a mapped boundary and actual field conditions, the City Engineer shall determine the exact location of the boundaries of the Floodplain. Where FEMA Base Flood elevation information is unavailable for flood hazard areas, the City Engineer shall obtain, review, and reasonably utilize any Base Flood elevation and Floodway data as a basis for applying standards in the Floodway Fringe, 1.0-ft. Floodway, and 0.2-ft. Floodway.

4.5.50.06 - Standards in the 0.2-ft. Floodway -

a. Encroachments - No encroachments are allowed within the 0.2-ft. Floodway, with the exception of bridges, infrastructure, utilities, or Water-dependent Uses, for which it may be demonstrated, through hydrologic and hydraulic analyses performed in accordance with standard engineering practices, that the proposed encroachment would not result in any increase in flood levels within the community during the Base Flood discharge. Encroachments include fill, new construction, Substantial Improvements, except as provided in "c.3," below, and other development. Development within the 0.2-ft. Floodway shall comply with all applicable state and federal requirements. Construction of these facilities must be shown to cause minimal harm to the Properly Functioning Condition of the stream. These improvements shall be subject to the City's Engineering Design Standards.

c. Limitations and Exceptions to Activities in the 0.2-ft. Floodway - In addition to the requirements of the underlying zone, the limitations and exceptions in "1," through "3," below, shall apply to activities within the 0.2-ft. Floodway. Where applicable state or federal regulations provide greater restrictions, such regulations shall apply. All necessary local, state, and federal approvals shall be secured prior to the commencement of earth movement or construction in these areas.

1. Removal of Vegetation - Removal of vegetation from the 0.2-ft. Floodway is prohibited, except for the following purposes, as approved by the City Engineer:

a) Stream restoration and enhancement programs;

b) Removal of Invasive and/or Noxious Vegetation as defined in Chapter 1.6 - Definitions. If necessary in conjunction with vegetation removal, non-rip-rap erosion control measures shall be utilized;

c) For the development of Water-related or Water-dependent Uses, provided they are designed and constructed to minimize impact on the existing Riparian Vegetation;

d) Removal of emergent in-channel vegetation likely to cause flooding events that result in structural damage;

e) Mowing/cutting of vegetation in a 20-ft. perimeter around structures for fire hazard prevention;

f) Continuation of agricultural activities occurring on a property prior to December 31, 2004, such as grazing livestock, growing crops, etc. However, the use of herbicides, or other pesticides, the application of synthetic fertilizers, and the storage of toxic materials in these areas is subject to applicable state and federal regulations and is also subject to the restrictions set forth in the Corvallis Municipal Code; and

g) Removal of Hazardous Trees - Requests for removal of Hazardous Trees, except in emergency circumstances, shall be reviewed by the City Urban Forester (or another qualified arborist) and approved, conditionally approved, or denied by the Community Development Director. Any trees removed shall be replaced by like native species or alternative approved native species listed on the City of Corvallis Native Plant List.

2. Maintenance within the 0.2-ft. Floodway -

a) The limitations imposed by this Section do not preclude the routine maintenance of existing structures in the 0.2-ft. Floodway.

b) Maintenance of lawns, non-native riparian planted vegetation, and landscaping shall be kept to a minimum. Additionally, the application of herbicides or other pesticides, and the application of synthetic fertilizers is subject to applicable state and federal regulations and developed properties shall be subject to the restrictions set forth in the Corvallis Municipal Code;

c) Where replanting is done, native species shall be used, with the exception of continuing agricultural uses, as specified in Section 4.5.50.06.c.1.f;

d) Maintenance pruning of existing trees shall be kept to a minimum and shall be in accordance with the American National Standards Institute (ANSI) A300 standards for Tree Care Operations. Under no circumstances shall the maintenance pruning be so severe that it compromises the tree's health, longevity, and resource functions;

e) Vegetation within utility easements shall be kept in a natural state and replanted when necessary with native plant species. However, no trees shall be planted within utility easements; and

f) Disposal of yard waste or other organic materials is prohibited within the Top-of-bank boundary of any Stream, and is regulated by restrictions in the Corvallis Municipal Code.

3. Existing Structures Constructed Prior to December 4, 1984 - Existing structures that were constructed prior to December 4, 1984, and are located in the area between the 1.0-ft. Floodway and the 0.2-ft. Floodway shall not be considered Nonconforming Structures for the purposes of this Chapter. Additionally, Substantial Improvement or replacement within the same footprint is permitted. Such replacements shall comply with the mandatory construction standards in Sections 4.5.50.08.b and 4.5.50.08.c.

4.5.50.07 - Standards in High Protection Floodway Fringe Areas

The following standards shall apply to activities and development in High Protection Floodway Fringe areas, as identified on the Natural Hazards Map. Generally, these areas contain the 100-year Floodplain of local Streams, but not the portions of the Millrace and Willamette and Mary's River 100-year Floodplains within the City Limits boundary, as of December 31, 2004.

In addition to the requirements of the underlying zone, the following limitations and exceptions shall apply to activities within the High Protection Floodway Fringe. Where applicable state or federal regulations provide greater restrictions, such regulations shall apply. All necessary local, state, and federal approvals shall be secured prior to the commencement of earth movement or construction in these areas.

a. Removal of Vegetation - Removal of vegetation from High Protection Floodway Fringe areas is prohibited, except for the following purposes, as approved by the City Engineer:

1. Stream restoration and enhancement programs;

2. Removal of Invasive and/or Noxious Vegetation as defined in Chapter 1.6 - Definitions. If necessary in conjunction with vegetation removal, non-rip-rap erosion control measures shall be utilized;

3. For the development of Water-related or Water-dependent Uses, provided they are designed and constructed to minimize impact on the existing Riparian Vegetation;

4. Removal of emergent in-channel vegetation likely to cause flooding events that result in structural damage;

5. Mowing/cutting of vegetation in a 20-ft. perimeter around structures for fire hazard prevention;

6. Continuation of agricultural activities occurring on a property prior to December 31, 2004, such as grazing livestock, growing crops, etc. However, the use of herbicides, or other pesticides, the application of synthetic fertilizers, and the storage of toxic materials in these areas is subject to applicable state and federal regulations,and is also subject to the restrictions set forth in the Corvallis Municipal Code;

7. Maintenance and protection of the function of City utilities and transportation facilities located within Floodway Fringe areas; and

8. Removal of Hazardous Trees - Requests for removal of Hazardous Trees, except in emergency circumstances, shall be reviewed by the City Urban Forester (or

another qualified arborist) and approved, conditionally approved, or denied by the Community Development Director. Any trees removed shall be replaced by like native species or alternative approved native species listed on the City of Corvallis Native Plant List.

b. Building, Paving, and Grading Activities - Within High Protection Floodway Fringe areas, the placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, is prohibited except as stated below. Exceptions to the Floodway Fringe restrictions may be made for the purposes identified in items "1," through "7," of this Section, provided they are designed and constructed to minimize adverse impacts to Stormwater and Floodplain Functions within the Floodway Fringe, and comply with the mandatory construction standards in 4.5.50.08.b and 4.5.50.08.c.

4. Location and construction of streets, utilities, bridges, bicycle, and pedestrian facilities. Location and construction of such facilities within High Protection Floodway Fringe areas must be deemed necessary to maintain a functional system by the City Engineer. This Code, City Transportation and Utility Master Plans, and other adopted City plans shall guide this determination. The design standards of Chapter 4.0 - Improvements Required with Development shall be applied to minimize the impact to the Floodway Fringe area;

5. Redevelopment of utility operations existing as of December 31, 2004, is also permitted. Required riparian easement areas shall be re-vegetated consistent with Section 4.13.50.d.1 and Section 4.13.50.d.2 of Chapter 4.13 - Riparian Corridor and Wetland Provisions;

6. Development of Water-related and Water-dependent Uses, including associated drainage facilities, water and sewer utilities, stormwater detention and retention facilities, flood control projects, and drainage pumps. These improvements shall be subject to the City's Engineering Design Standards;

8. Development associated with a Minimum Assured Development Area that would be allowed in accordance with Chapter 4.11 - Minimum Assured Development Area (MADA).

Section 4.13.70.02 - Easements, Easement Restrictions, Dedications, and Easement Widths

a. Easement - An easement shall be required when:

1. Development is proposed on a vacant parcel or a partially developed parcel, and the amount of impervious surface on the parcel resulting from new development and/or redevelopment occurring after December 31, 2004, would cumulatively equal or exceed 20 percent of the total area of the parcel. The effects of new development and/or redevelopment shall be cumulative from December 31, 2004, and when the net effect of one or more changes results in 20 percent impervious coverage or more, an easement shall be required; or

2. A parcel of land is divided into two or more parcels, whether by Land Partition or Subdivision.

b. Easement Restrictions - The easement shall contain sufficient restrictions on the use of the area to satisfy the purposes cited in Section 4.13.10 above. Restrictions shall apply to structural improvements, regrading, filling, and alteration of existing vegetative cover, as specified on an easement document provided by the City Engineer. Trees that fall

within riparian easement areas are not to be removed, unless they are a hazard, or unless they would create flooding that would cause structural damage.

c. Dedications - The City will strongly consider accepting voluntary drainageway dedications provided:

1. Public maintenance of the drainageway is anticipated or public ownership will enhance protection of the resource or maintenance of Stormwater Functions;

2. Dedication of the drainageway area does not create substandard lot size, substandard building setbacks, or otherwise reduce applicable development standards to the point that would render the existing development Nonconforming;

3. The methodologies for determining width described in subsection "d," are utilized; and

4. The land to be dedicated is placed in a separate tract through the Land Division process.

d. Easement Widths - When an easement is required, the appropriate width shall be as described in "1," through "5," below. However, in no case shall riparian easements include areas containing existing buildings that are intended to remain, nor shall easements include development area assured under "4," below.

For areas with Riparian Corridors, as designated on the City's Riparian Corridors and Wetlands Map, the associated easement width and requirements shall be as follows:

1. Measurement and Separate Tract - Easement areas shall be measured from Top-of-bank, as indicated from a submitted topographic survey, and shall be placed in a separate tract.

2. Easement Width - When an easement is required, the appropriate width shall be as outlined in Table 4.13-2 - Easement Width, except as modified by the provisions in "3," through "5," below.

Table 4.13-2
Easement Width

Riparian Corridor Areas Mapped on the Riparian Corridors and Wetlands Map	Required Easement Area --To be Placed in Separate Tracts
All Partially Protected Stream Corridors	Drainage channel + 25 ft. from Top-of-bank; or The boundary of the 0.2-ft. Floodway, whichever is greater[1]

[1] Exceptions for select existing structures located between the 1.0-ft. Floodway and the 0.2-ft. Floodway are outlined in Chapter 4.5 - Natural Hazard and Hillside Development Provisions.

Highly Protected Riparian Corridors along the Willamette and Mary's Rivers	**Drainage channel + 75 ft. from Top-of-bank; or The boundary of the 0.2- ft. Floodway, whichever is greater[2]**
All other Highly Protected Riparian Corridors	**Drainage channel + 50 ft. from Top-of-bank; or The boundary of the 0.2-ft. Floodway, whichever is greater[2]**
Note: The area between the outer edge of the easement boundary and the outer edge of the Riparian Corridor is regulated by sections 4.13.50 and 4.13.60.	

3. **If the 0.2-ft Floodway boundary, as determined by maps on file with the City Engineer, extends beyond the required width as specified in "2," above, additional easement width shall be provided as needed to encompass the Floodway.**

4. **If, through the provisions of Chapter 4.11 - Minimum Assured Development Area (MADA), it is determined that encroachment into a Riparian Corridor area is necessary to allow for utilization of the Minimum Assured Development Area, any associated easement requirement shall be relaxed to the extent necessary to allow for the minimum necessary encroachment into the resource area.**

5. **Easement widths wider than required in "2," above, may be accepted to cover the full Riparian Corridor, as determined per Section 4.13.40.a.1.**

Flood Plain and 0.2 Floodway Protections

According to the City's Natural Hazards map, the 0.2-foot floodway encroaches onto the property. The subject property is outside of the detailed study area of the 1984 Flood Insurance Study for the City of Corvallis. There are no flood elevations noted on the FEMA maps in this area. According to the May 1981 Corvallis Drainage Plan, Appendix B, sheet 2 of 26, the approximate elevation of the floodplain in this area varies from 250-252.5 from east to west across the site. According to LDC Section 4.11.50.05, no encroachments are allowed in the 0.2-foot floodway.

As part of the application review, and per **LDC § 4.5.50.04**, the City requested that the applicant provide additional studies or information including accurate topographical information for the site to determine the limits of the floodplain in this area. The applicant submitted a Flood Study which is included in the application as attachment AA (**see Attachment H - page 165)**. Results of the Flood Study are shown on Sheet SP 1.9 (**see Attachment G - page 16**).

This sheet includes floodplain elevations at various cross sections through the site. The results of the Flood Plain Study were similar to City data in the 1981 Corvallis Drainage Master Plan Flood Profiles (Sheet 2 of 26). Staff have reviewed the study and concur with its conclusions. Encroachments into the floodplain are allowed per MADA as stated in **LDC § 4.5.50.07.b.8**, and these areas of floodplain encroachment are re-classified as Formerly Constrained Areas, as noted in the discussion above under Natural Resource Protections. Proposed encroachments in the floodplain are shown on **Attachment G - Page 16.** Per **LDC § 4.5.50.02.e**, all necessary

permits from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, as amended, shall be obtained, or obtaining such permits shall be a Condition of Approval to be satisfied prior to issuance of any construction permit **(see Condition # 34)**. Also see **Development Related Concern A** regarding upcoming FEMA Changes.

The applicant's floodplain study considers pre- and post- development floodplain impacts, including an analysis of potential impacts to the 0.2-ft. floodway. Based on the proposal and analysis, the development is consistent with the 0.2-ft. floodway protections of **LDC § 4.5.50.06.** No private development, other than the proposed Dunawi Creek crossing, is located within the bounds of the mapped 0.2-ft. floodway. The applicant has provided a construction detail for illustrating construction of buildings and site improvements adjacent to the 0.2-ft. floodway, which indicates all construction will be set back from the floodway (**see Condition # 19**). Bridges are allowable encroachments, per **LDC § 4.5.50.06.a,** where it can be demonstrated that the encroachment will not result in an increase in flood levels exceeding the 0.2-ft. standard. The applicant's floodplain study has demonstrated compliance with these standards.

Drainage Easement

Per **LDC § 4.13.70.20.d** and LDC Table 4.13-2, the drainage easement required along the Dunawi Creek should be 50 feet wide, as measured from the top-of-bank on each side of the creek. The area between 50 and 75 feet is part of the base riparian area, but is not required to have a drainage easement. Due to MADA (**LDC § 4.11.50.04.c.2** and **LDC § 4.13.70.02.d.4**), the easement is reduced on the south side of Dunawi Creek and varies in width as shown on the applicant's plan. The reduction in the easement width still maintains the boundary of the 0.2 floodway per **LDC § 4.11.50.05**. The applicant has labeled the 50-foot setback line on the plans which shows what development encroaches in the usual drainage way easement area. The easement will need to follow the grading limits line as shown on sheet SP1.5 on the south side of the creek and 50 feet from the top of bank on the north side of the creek. Since the limits of grading will be the easement line and in some cases the 0.2 floodway line, Building B will need to be setback 3 feet from this line as shown in the applicant's attachment DD. Additionally a public storm drainage easement will be needed under or through the private creek crossing on the east end of the project up to SW 53rd Street **(see Condition # 39-d).**

Given the Conditions of Approval cited above and the applicant's proposal, no additional improvements to the City's storm drainage system are required to meet applicable Land Development Code criteria.

Conclusion on Natural Hazards Provisions

The subject site is constrained by a 100-Year Floodplain, as determined through a combination of City data and a floodplain study provided by the applicant. MADA provisions of LDC Chapter 4.11 allow some level of encroachment into the 100-Year Floodway Fringe, through re-classification of the subject areas as Formerly Constrained. With the exception of the stream crossing located at the northeast corner of the site, all other proposed improvements are required to be located outside of the 0.2-ft. Floodway. As proposed and conditioned, the CDP/DDP is consistent with the Natural Hazards provisions of LDC Chapters 4.5 and 4.11.

Minimum Assured Development Area (MADA)

As noted in **LDC § 4.13.50** (Riparian Corridor protections), **LDC § 4.13.80.01** (Wetland protections), **LDC § 4.5.50.06** (0.2-ft. Floodway protections), and **LDC § 4.5.50.07** (100-Year Floodplain protections), development associated with the proposed CDP/DDP is generally prohibited within identified Natural Resource and Hazard areas. However, the provisions of LDC Chapter 4.11 have been established to ensure a minimum level of permissible development activities, even on sites that are heavily constrained by Natural Features. This is known as Minimum Assured Development Area, or MADA.

In cases where MADA applies, the LDC provides specific exemptions to the protection requirements noted above. Areas that have been determined to be suitable for development, following the MADA provisions, are re-classified as Formerly Constrained Areas, and the protections noted above no longer apply to the areas delineated as Formerly Constrained.

The applicant has provided an in-depth analysis of the amount of Constrained Area on the development site, as well as calculations that represent the MADA allowances (**see Attachment G - pages 12 through 15**). A summary of the MADA allowances are included in the table below:

TABLE G:
Summary of Minimum Assured Development Area Calculations

	Tax Lot 500	Tax Lot 600
Site Area:	202,170 sq. ft (4.64 acres)	86,912 sq. ft. (1.99 acres)
Constrained Area:	124,425 sq. ft. (62% of site)	48,393 sq. ft. (56% of site)
Unconstrained Area:	77,745 sq. ft. (38% of site)	38,519 sq. ft. (44% of site)
Base MADA:	90,968 sq. ft.	39,108 sq. ft.
MADA Credits (**LDC § 4.11.50.02.c**):		
1. Excess Capacity Right-of-Way Dedications	6,933 sq. ft.	2,470 sq. ft.
2. DSL approved wetland mitigation *	19,564 sq. ft.	3,043 sq. ft.
3. Above ground stormwater detention facilities	2,730 sq. ft.	2,007 sq. ft.
4. Trails required by Corvallis Transportation Plan or Park and Recreation Facilities Plan	10,862 sq. ft.	3,043 sq. ft.
Additional MADA Credits:	40,089 sq. ft.	10,563 sq. ft.
Total Allowed MADA *:	131,057 sq. ft.	49,671 sq. ft.

*** subject to DSL approval for wetland mitigation credits**

TABLE H:
Summary of MADA and Proposed Development Area

Total MADA:	180,728 sq. ft.
Proposed Development Area:	179,319 sq. ft.
Remaining MADA:	+ 1,409 sq. ft.

Based on the provisions of **LDC § 4.11.50.02**, the Creekside Center site has a MADA allowance of 180,728 sq. ft. The applicant is proposing to develop 179,319 sq. ft. Therefore, the proposal falls within the allowed development area, with a balance of 1,409 sq. ft. of additional development area possible. Because of the methodology used in determining MADA credits allowed under **LDC § 4.11.50.02.c** (See Table G above), there is some uncertainty regarding the exact calculation of MADA which cannot be alleviated until final construction drawings and supplemental documentation have been provided by the applicant. This uncertainty primarily concerns application of the MADA credit identified in **LDC § 4.11.50.02.c.2**, which involves wetland mitigation credits that have been authorized for purchase by the Department of State Lands. Because a portion of the proposed development involves area outside of the scope of the active DSL fill permit and currently authorized mitigation, MADA credits available under **LDC § 4.11.50.02.c.2** do not become available until the applicant has received a second DSL fill permit and has submitted documentation outlining the actual area credited for wetland mitigation by DSL.

The same holds true for two of the other MADA credits identified under **LDC § 4.11.50.02.c.** Credits are based on the actual area developed after construction drawings have been finalized, in order to account for the above-ground stormwater facilities and the public multi-use paths. The applicant has provided sufficient detail with the CDP/DDP to illustrate construction of the stormwater and public multi-use path facilities consistent with City adopted standards to show that utilization of the MADA credits is feasible, while leaving limited flexibility for the construction phase with an additional 1,409 sq. ft. of development potential. A portion of Phase 1 (Phase 1, 1A, 1B, and 1C) includes development area that is permissible as verified through the MADA calculations noted above, because that portion is not reliant on a secondary DSL mitigation credit verification, since the development activities in this Phase fall within the scope of the activities authorized under the active DSL permit and approved mitigation. However, the remainder of Phase 1 (Phase 1D and 1E), and Phase 2 either is not authorized under the current DSL fill permit, or relies on MADA credits that exceed what can be verified through the active DSL permit. Prior to Phase 2 construction, and with submittal of the site construction permit applications, the applicant is required to re-calculate MADA and additional credits available under **LDC § 4.11.50.02.c**, to verify compliance with LDC Chapter 4.11 **(see Condition # 7).**

<u>Natural Resources and Natural Hazards Variation Criteria</u>

Refer to the discussion under Compensating Benefits related to the proposed variation to the MADA order of encroachments. As noted in the discussion above, the proposal includes compensating benefits which support the requested variation. The criterion in **LDC § 2.5.40.04.b** is met.

Conclusion on Natural Features and MADA

As discussed above, the site is constrained by presence of a Highly Protected Riparian Corridor, Riparian-related Areas, Locally Protected Wetland, 0.2-ft. Floodway, and associated 100-Year Floodplain. Based on MADA provisions and the definition of Formerly Constrained Areas, some level of encroachment is permissible, while the remaining area required to be protected per LDC Chapters 4.5, 4.12, and 4.13 will be protected during construction, as noted in the CDP/DDP.

The MADA development allowances include additional area credits related to public street right-of-way dedications for the site's Arterial Street frontages, for wetland mitigation credits associated with DSL fill-permit approval, for security associated with construction of a public multi-use path located along the north side of Dunawi Creek, and for above-ground stormwater facilities. The portion of the MADA area credits related to Arterial street excess capacity right-of-way dedications and public multi-use path construction can be confirmed at this time. However, portions of the MADA area credits associated with DSL wetland mitigation credits and above-ground stormwater facilities cannot be verified until documentation related to the final site construction drawings has been obtained. The applicant has provided sufficient detail within the CDP/DDP to illustrate that site development components associated with the DSL wetland mitigation credits and above ground stormwater facilities can be reasonably accommodated, and that the MADA credits proposed are feasible and consistent with the MADA provisions in **LDC § 4.11.50.02.c**. As conditioned, all applicable Natural Feature and Natural Hazard requirements will be met. The compatibility criteria in **LDC § 2.5.40.04.a.14** and **LDC § 2.5.40.04.b** are satisfied.

D. CONCLUSION AND RECOMMENDATION - CONCEPTUAL AND DETAILED DEVELOPMENT PLAN

Staff find that the requested CDP/DDP is supported by the compatibility review criteria of **LDC § 2.5.40.04.a**, the Natural Features protection criteria in **LDC § 2.5.40.04.b**, and except where specific variations have been requested, the proposal is consistent will all applicable LDC standards. Staff find that the requested variations are supported by their associated compensating benefits. Based on this analysis, staff recommend **Approval** of the Conceptual and Detailed Development Plan request, as outlined in **Part I** of this staff report.

PART II

CONDITIONAL DEVELOPMENT PERMIT

A. BACKGROUND

As noted in Part I of this staff report and per **LDC § 3.19.30.f.13**, the MUCS zone requires approval of a Conditional Development Permit for drive-through facilities. The proposed Walgreens' store includes a drive-through along the north facade of the building. A discussion of the applicable Review Criteria is provided below.

B. CONDITIONAL DEVELOPMENT PERMIT REVIEW CRITERIA

Applicable LDC Review Criteria
2.3.30.04 - Review Criteria
Requests for Conditional Developments shall be reviewed to ensure consistency with the purposes of this Chapter, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City Council. The application shall demonstrate compatibility in the following areas, as applicable:

a. Basic site design (the organization of Uses on a site and the Uses' relationships to neighboring properties);
b. Visual elements (scale, structural design and form, materials, etc.);
c. Noise attenuation;
d. Odors and emissions;
e. Lighting;
f. Signage;
g. Landscaping for buffering and screening;
h. Transportation facilities;
I. Traffic and off-site parking impacts;
j. Utility infrastructure;
k. Effects on air and water quality (note: a DEQ permit is not sufficient to meet this criterion);
l. Consistency with the applicable development standards, including the applicable Pedestrian Oriented Design Standards; and
m. Preservation and/or protection of Significant Natural Features, consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Streets shall also be designed along contours, and structures shall be designed to fit the topography of the site to ensure compliance with these Code standards.

Any Conditional Development request on residentially designated property shall also result in a clear and objective set of development standards, between the Conditional Development proposal, required adherence to this Code, and Conditions of Approval.

Section 2.3.20 - PURPOSES
Procedures and review criteria for Conditional Developments are established for the following purposes:

a. Permit certain types of public and private development that provide a community service in locations related to their service areas;
b. Permit commercial development in locations related to its service area;
c. Ensure that Conditional Development is compatible with its immediate area and the affected part of the community;
d. Permit Uses when potentially adverse effects can be mitigated; and
e. Permit a mixture of residential development types.

Purposes of a Conditional Development Permit (CDP)

The applicant is proposing a drive-through facility, which includes a window and allows the public to remain in their vehicles while making purchases from the Walgreen's store. This provides a convenient and efficient way for customers to make small purchases such as prescription drugs or photographic orders. In this case, the CDP process permits a certain type of commercial development which can cover a broad service area, given the development site's access to a major State highway and urban Arterial street. The proposal is consistent with the specific purposes of a CDP, as outlined in **LDC § 2.3.20(a) and (b).**

However, there are attributes of drive-through facilities that may cause adverse impacts on neighboring properties, such as noise from the public address system used in most drive-through facilities, the impacts caused by standing and operating motor vehicles, potential conflicts between pedestrians and vehicles, and visual impacts related to the design of the drive-through lane and abutting building facade. The purposes outlined in **LDC § 2.3.20(c) and (d)** address the compatibility issues that may arise with uses that require a CDP, and the criteria in **LDC § 2.3.30.04** are designed to help address and mitigate for potential adverse impacts. A discussion of the applicable CDP compatibility criteria is noted below, for those aspects of the drive-through facility that raise compatibility concerns. Comprehensive Plan policies have been provided where necessary, in order to help clarify the intent of the CDP criteria.

Some of the compatibility criteria noted in **LDC § 2.3.30.04** are intended to address overall site development, and the drive-through facility may not have a direct relationship to these specific criteria. In these cases, as noted below, there are matching compatibility criteria for a Conceptual and Detailed Development Plan, and a more in-depth discussion of these criteria is included in Part I of this staff report. As noted in the discussion above, and as further discussed below, the proposed CDP is consistent with the Purposes identified in **LDC § 2.3.20.**

Basic Site Design

Applicable LDC Criteria - LDC § 2.3.30.04

a. Basic site design (the organization of Uses on a site and the Uses' relationships to neighboring properties);

A thorough discussion of the overall site design is included in Part I of this staff report. For brevity, the discussion of this CDP criterion will focus on the area of the site that immediately abuts the drive-through facility, and how the facility location might impact neighboring properties.

The drive-through facility consists of a vehicle travel lane, constructed of permeable paving, and is approximately 1,854 sq. ft. in area (18-ft.(w) x 103-ft. (l)). The facility includes an awning over the drive-through window, which provides some weather protection for employees that staff the window, as well as customers sitting in their vehicles at the drive-through. The drive-through facility is centrally located on the development site, approximately 300 feet to the nearest residence, which helps to buffer the facility from neighboring properties in terms of visual and noise impacts. The facility is also located such that the remaining commercial buildings on the site obscure the facility from adjacent public rights-of-way.

In terms of vehicle circulation, customers will be required to be heading in a westerly direction to access the facility. The drive-through has a dedicated vehicle queuing lane which allows for continuous two-way vehicle movement north of the facility, and does not interfere with vehicles exiting parking spaces to the north. Drivers entering the facility will be required to cross the lane of eastbound vehicles. However, the entrance to the drive-through is near a pedestrian crosswalk, which provides a visual stopping point for drivers. A painted stop bar has been provided at the northwest corner of the Walgreen's building, at the drive-through exit point, and immediately adjacent to the Walgreen's loading facility, to help avoid potential vehicle collisions at this location. As designed, the facility is placed in an efficient manner on the development site, and is compatible with neighboring properties and consistent with the criterion in **LDC § 2.3.30.04.a.**

Visual Elements

Applicable LDC Criteria - LDC § 2.3.30.04
b. Visual elements (scale, structural design and form, materials, etc.);

As noted in the discussion above, the facility includes an awning over the drive-through window (**see Attachment G - page 24**). The window and awning provide some visual relief to an otherwise blank building facade, and are proportioned well given the length, height, and massing of the building facade. The awning is constructed of materials compatible with the other awnings on the Walgreen's building. This criterion is satisfied.

Noise Attenuation

Applicable LDC Criteria - LDC § 2.3.30.04
c. Noise attenuation;

As noted above, the drive-through facility is located approximately 300 feet from the nearest residence to the west. Additionally, the drive-through is shielded from that residence by Building F. Noise from the drive-through facility's public address system will be directed northward given the facility's orientation, and thus the criterion for noise attenuation is satisfied.

Odors and Emissions

Applicable LDC Criteria - LDC § 2.3.30.04
d. Odors and emissions;

There are no anticipated odors from the drive-through facility. Standing vehicles do emit noxious

gases. However, the level of these emissions is anticipated to be compatible with the level of motor vehicle activities that is expected in a commercial development along a State highway. The criterion in **LDC § 2.3.30.04.d** is satisfied.

Lighting

Applicable LDC Criteria - LDC § 2.3.30.04
e. Lighting;

The application narrative indicates that "downward casting lights" are proposed to illuminate the drive-through facility. The lights are illustrated on the north facade of the Walgreen's building (**see Attachment G - page 24**). As noted in the discussion in Part I of this staff report, all exterior lighting is required to be consistent with the full-cut off and bulb visibility standards of **LDC § 4.2.80.** A condition of approval has been provided to ensure that these standards are satisfied (**see Condition # 15**). As proposed and conditioned, the criterion in **LDC § 2.3.30.04.e** is satisfied.

Signs

Applicable LDC Criteria - LDC § 2.3.30.04
f. Signage;

The proposed Conditional Development Permit application does not indicate that signs are associated with the drive-through facility, although it is anticipated that Walgreen's may request sign permits in the future to advertise for the convenience of the facility. Any proposed signs will need to comply with the standards in LDC Chapter 4.7 (**see Condition # 37**). The application narrative (**see Attachment H - page 19**) indicates that there are no proposed LDC variations associated with signs. As proposed and conditioned, this criterion is satisfied.

Landscaping for Buffering and Screening

Applicable LDC Criteria - LDC § 2.3.30.04
g. Landscaping for buffering and screening;

There is no landscaping proposed specifically to address compatibility issues with the drive-through. However, the Conceptual and Detailed Development Plan (**see Attachment G- page 9**) includes multiple landscape buffers within the development and between the drive-through and adjacent public rights-of-way, which effectively buffers the facility from most view points. This criterion is satisfied.

Transportation Facilities

Applicable LDC Criteria - LDC § 2.3.30.04
h. Transportation facilities;

There is no direct correlation between public transportation facilities and the proposed drive-through. Refer to the discussion below for anticipated immediate impacts to local traffic and off-site parking. This criterion is satisfied.

Traffic and Off-Site Parking Impacts

Applicable LDC Criteria - LDC § 2.3.30.04

l. Traffic and off-site parking impacts;

The exit of the drive-through is approximately 100 feet east of the proposed Shopping Street. The exit is also adjacent to a loading zone for the Walgreen's building, which is anticipated to have intermittent use. Because of the interior, central location of the drive-through facility on private property, and positioning of the entrance and exit to the facility, there are no anticipated impacts to traffic and off-site parking. The criterion in **LDC § 2.3.30.04.l** is satisfied.

Utility Infrastructure

Applicable LDC Criteria - LDC § 2.3.30.04

j. Utility infrastructure;

There are no proposed utilities associated with the drive-through facility (**see Attachment G - page 10**). This criterion is satisfied.

Effects on Air and Water Quality

Applicable LDC Criteria - LDC § 2.3.30.04

k. Effects on air and water quality (note: a DEQ permit is not sufficient to meet this criterion);

It is anticipated that standing vehicles at this drive-through will have negligible impacts to overall air quality in Corvallis. As noted in Part I of this staff report, the applicant proposes to construct the 1,854 sq. ft. queuing lane with permeable pavement. The permeable pavement is expected to help with stormwater management, and infiltration of stormwater into soils provides a limited level of water quality improvement by trapping suspended solids prior to discharge into Dunawi Creek. There are no anticipated impacts to air and water quality from the drive-through facility. Therefore, the criterion in **LDC 2.3.30.04.k** is satisfied.

Applicable Development Standards Including Pedestrian Oriented Design

Applicable LDC Criteria - LDC § 2.3.30.04

l. Consistency with the applicable development standards, including the applicable Pedestrian Oriented Design Standards; and

The MUCS zone does not contain any applicable development standards that apply specifically to the proposed drive-through facility. The associated Walgreen's building and applicable development standards are discussed in Part I of this staff report. As noted in Part I, the Walgreen's building is in compliance with the MUCS zone development standards, other than the requested variation in the size of the Retail Sales use. As discussed in the compensating benefits section of Part I of this staff report, the criteria have been satisfied for the requested

increase in use size, in order to accommodate the proposed drive-through facility. The following Pedestrian Oriented Design Standards from LDC Chapter 4.10 apply to drive-through facilities:

Applicable LDC Standards - 4.10.70.04.e

> **e. Drive-through Facilities**
> **1. Internal driveways are prohibited between buildings and streets to which the building entrances are oriented, except for car washes and fuel sales pursuant to "3," below. Examples of correct and incorrect locations of these facilities are shown on the next page in Figure 4.10-21 - Drive-through Facilities.**
>
> **2. Drive-through Facilities Uses are prohibited in the Minor Neighborhood Center (NC) Zone. In other commercial zones, Drivethrough Facilities are allowed provided "1," above is met. Pedestrian areas shall be buffered from drive-through vehicles in accordance with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting.**

The proposed drive-through facility is oriented such that there are no direct conflicts between pedestrian walkways and the entrance or exit of the drive-through. The drive-through queuing lane is not located between the Walgreen's building and the street (SW Philomath Blvd.) to which the Walgreen's building entrances are oriented. A landscape buffer has been provided between the nearest pedestrian walkway / driveway crossing, just east of the entrance to the drive-through. It should be noted that this pedestrian connection, which runs along the east facade of Walgreen's, is not the primary pedestrian path associated with the building's street-oriented facade, as it serves as a secondary means of pedestrian access for parking and buildings to the north of the internal drive aisle. The applicable Pedestrian Oriented Design Standards in **LDC § 4.10.70.04.e** are satisfied, and the criterion in **LDC § 2.3.30.04.l** is satisfied.

Natural Features Protections

Applicable LDC Criteria - LDC § 2.3.30.04

> **m. Preservation and/or protection of Significant Natural Features, consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Streets shall also be designed along contours, and structures shall be designed to fit the topography of the site to ensure compliance with these Code standards.**

The drive-through facility is located outside of the 100-ft. Riparian Corridor setback. However, it is located within the delineated Locally Protected Wetland accepted by DSL, and within the modeled Highly-Protected 100-Year Floodplain. As discussed in Part I of this staff report, the proposed Conceptual and Detailed Development Plan and all site plan elements, including the drive-through facility, are consistent with the Natural Features protections required for the site's 100-Year Floodplain, Highly Protected Riparian Corridor, and Locally Protected Wetland, due to the encroachment allowances provided by MADA. It is not proposed that the development plans will impact the site beyond what is permissible per MADA, and therefore, Significant

Natural Features have been protected consistent with LDC provisions. The proposed drive-through facility is consistent with the Natural Features protection criteria outlined in Article IV of the LDC and with the criterion in **LDC § 2.3.30.04.m**, noted above.

C. CONCLUSION ON CONDITIONAL DEVELOPMENT PERMIT REQUEST

As discussed above, the proposed Drive-through facility is consistent with the compatibility criteria listed in **LDC § 2.3.30.04**. The Drive-through facility has been located in the center of the site and should have minimal impacts on neighboring properties and on-site pedestrian circulation.

Based on this analysis, staff recommend **Approval** of the Conditional Development Permit request, as outlined in **Part II** of this staff report.

PART III

TENTATIVE SUBDIVISION PLAT

A. BACKGROUND

The applicant is proposing to divide the existing parent parcels into seven lots or tracts. The subject parent parcels are illustrated on Benton County Assessor's Map #12-5-05 DD, as tax lots 500 and 600. The proposed Tentative Subdivision Plat is illustrated on Sheet SP1.10 (**see Attachment G - page 17**). Two of the proposed lots are intended to be set aside as private Tracts for purposes of Natural Features protection, public multi-use path access, and drainageway conveyance for Dunawi Creek. Two lots are proposed to be dedicated as Tracts for purposes of encapsulating the proposed private Shopping Street (to be constructed in two phases). The remaining three lots are commercial subdivision lots, encapsulating the building footprints and related site improvements. The applicant has indicated a desire to further subdivide proposed Lot 500 into five separate lots as part of a future commercial condominium, which is not part of this Tentative Subdivision Plat request.

A Subdivision, as defined in Chapter 1.6 of the LDC, is a division of land that creates four or more lots within a calendar year when such lots exist as a unit of land under a single ownership at the beginning of such year. The review criteria used in evaluating the proposed seven lot/tract Tentative Subdivision plat are noted below.

B. REVIEW CRITERIA FOR A TENTATIVE SUBDIVISION PLAT

LDC § 2.4.30.04.a provides review criteria for non-residential Tentative Subdivision Plat applications. The criteria are as follows:

Applicable LDC Review Criteria : LDC Section 2.4.30.04.a :

2.4.30.04 - Review Criteria

a. Nonresidential Subdivisions - Requests for the approval of a nonresidential Tentative Subdivision Plat shall be reviewed to ensure consistency with the purposes of this Chapter and the following: the City's development standards outlined in the applicable underlying Zoning Designation standards in Article III of this Code; the development standards in Article IV of this Code; the standards of all acknowledged City Facility Master Plans; the adopted City Design Criteria Manual; the adopted Oregon Structural Specialty Code; the adopted International Fire Code; the adopted City Standard Construction Specifications; the adopted City Erosion Prevention and Sediment Control Ordinance; the adopted City Off-street Parking Standards; and any other applicable policies and standards adopted by the City Council.

The Purposes of a Tentative Subdivision Plat are noted in **LDC § 2.4.20.**

Applicable LDC Section 2.4.20 : Purposes of Tentative Subdivision Plat
Section 2.4.20 - PURPOSES
Land Division review procedures are established in this Chapter for the following purposes:
a. Ensure that building sites are of sufficient size and appropriate design for their intended uses and that lots to be created are within density ranges permitted by the Comprehensive Plan;
b. Minimize negative effects of development upon the natural environment and incorporate natural features into the proposed development where possible;
c. Ensure economical, safe, and efficient routes for pedestrians, bicycles, and motor vehicles;
d. Create residential living environments that foster a sense of neighborhood identity and that are protected from the adverse effects of heavy traffic and more intensive land uses; and
e. Promote energy efficiency.

The Purposes of the Land Division standards are to ensure that building sites are of sufficient size and appropriate design for their intended uses. In this case, the Tentative Subdivision Plat application is accompanied by a requested Conceptual and Detailed Development Plan, which illustrates a development plan that is consistent with LDC development standards, as discussed in Part I of this staff report. Since the subject site is zoned MUCS and the applicant is proposing commercial uses only, residential density standards do not apply to the requested Tentative Subdivision plat. Refer to the discussion below under Article IV standards to understand the relationship between the proposed Tentative Subdivision Plat and Natural Features protections, and pedestrian, bicycle, and motor vehicle circulation patterns. The purposes identified in **LDC § 2.4.20(d)** are not applicable, since the proposal is for a non-residential Tentative Subdivision Plat. Purposes in **LDC § 2.4.20 (b),(c), & (e)** are discussed in relationship to the general review criteria of **LDC § 2.4.30.04** below, where applicable. As discussed above, and in further detail below, the proposed Tentative Subdivision Plat is consistent with the Purposes of a Tentative Subdivision Plat identified in **LDC § 2.4.20.**

The MUCS zone does not contain minimum lot area or lot width standards. Therefore, the majority of standards that will apply to the proposed Tentative Subdivision Plat are located in Article IV of the LDC. The following standards apply:

Chapter 4.0: Improvements Required with Development

Applicable LDC Standards
Section 4.0.20 - TIMING OF IMPROVEMENTS
a. All improvements required by the standards in this Chapter shall be installed concurrently with development, as follows:

1. Where a Land Division is proposed, each proposed lot shall have required public and franchise utility improvements installed or secured prior to approval of the Final Plat, in accordance with the provisions of Section 2.4.40.08 of Chapter 2.4 - Subdivisions and Major Replats.

2. Where a Land Division is not proposed, the site shall have required public and franchise utility improvements installed or secured prior to occupancy of structures, in accordance with the provisions of Section 2.4.40.12 of Chapter 2.4 - Subdivisions and Major Replats.

b. Where specific approval for a phasing plan has been granted for a Planned Development and/or Subdivision, improvements shall be phased in accordance with that plan.

The proposed Tentative Subdivision Plat is a Land Division, and timing of installation of required improvements is outlined in **LDC § 4.0.20.a.1.** This LDC section requires that the improvements be installed or secured prior to approval of the final plat. As mentioned in Part I of this staff report, the applicant has submitted a phasing plan, and has provided a discussion of the intended time lime for construction of associated public and private infrastructure improvements. As proposed and conditioned, the Tentative Subdivision Plat complies with the phasing and timing of improvement requirements outlined in LDC Chapter 4.1.

Shopping Street Tract and Easement

Applicable LDC Standards for Shopping Streets and Land Divisions
Section 4.0.60 - PUBLIC AND PRIVATE STREET REQUIREMENTS
m. Designated Shopping Streets associated with Minor and Major Neighborhood Centers shall adhere to the following standards -

2. Shopping Streets may include streets falling within the categories in "a," and "b," below. See also Table 4.0-2 - Shopping Street Standards for specific elements required with Shopping Streets.

b) Private Streets - Designed to City street standards for either the Local or Local Connector and for Shopping Streets as provided by this Section. For purposes of other development standards, such as setback requirements, private Shopping Streets shall provide the same features as required for public streets. However, the City shall not be responsible for maintenance of private Shopping Streets, and the applicant and/or owner shall be responsible for construction of the private Shopping Street and its maintenance in accordance with the standards herein. Private streets as provided by this Section shall have public access easements recorded and shall be platted in a separate tract per Section 4.0.60.d.4 .

The applicant is proposing to construct a private Shopping Street within the development site, which will provide public access to the site from SW Philomath Boulevard and from the new local public street, which divides Tax Lot 600. While the Shopping Street is typically associated with the Neighborhood Center zone, the MUCS zone does allow the Shopping Street as an alternative design that can be used to satisfy Pedestrian Oriented Design Standards, and Block Perimeter and local street standards, as required per **LDC § 4.0.60.c**. Private Shopping Streets are required to be contained within separate, dedicated Tracts, per **LDC § 4.0.60.d.4** and **LDC § 4.0.60.m.2.b**.

The proposed Tentative Subdivision Plat illustrates that the Shopping Street will be provided within two separately dedicated Tracts ("Lot 551" - Phase I and II). With the final plat, the property owner is required to dedicate the Shopping Street Tract and provide a public access easement over the associated Tract (**see Condition # 39-c**). The standards in **LDC § 4.0.60.d.4** and **LDC § 4.0.60.m.2.b** are satisfied.

Chapter 4.4: Land Division Standards

Applicable LDC Land Division criteria, identified in LDC Chapter 4.4, are as follows :

Applicable LDC Section 4.4.20 : Land Division Standards

Section 4.4.20 - GENERAL PROVISIONS
4.4.20.01 - Applicability
All Land Divisions shall be in compliance with the requirements of the applicable zone and this Chapter, as well as with all other applicable provisions of this Code. Modifications to these requirements may be made through the procedures in Chapter 2.5 - Planned Development.

4.4.20.02 - Blocks
a. General - Length, width, and shape of blocks shall be based on the provision of adequate lot size, street width, and circulation; and on the limitations of topography.
b. Size - Blocks shall be sized in accordance with the Block Perimeter provisions within Section 4.0.60.n of Chapter 4.0 - Improvements Required with Development.

As discussed in Part I of this staff report, the applicant is proposing a variation to the LDC Block Perimeter standards identified in **LDC § 4.0.60.n**. As discussed in Part I, the review criteria for a Conceptual and Detailed Development Plan are considered to be satisfied. Therefore, the proposed Tentative Subdivision plat is consistent with the standards for block size and layout, per **LDC § 4.4.20.02**.

Applicable LDC Section 4.4.20 : Land Division Standards (continued)
4.4.20.03 - Lot Requirements
a. Size and Shape - Lot size, width, shape, and orientation shall be appropriate for the location of the Subdivision and for the Use Type contemplated. No lot shall be dimensioned to contain part of an existing or proposed street. All lots shall be buildable, and depth shall generally not exceed 2.5 times the average width. Lot sizes shall not be less than required by this Code for the applicable zone. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street parking and service facilities required by the type of use proposed, unless off-site parking is approved per Chapter 4.1 - Parking, Loading, and Access Requirements.

As previously noted, the MUCS zone does not prescribe a minimum lot size or minimum lot area. Based on the proposed Conceptual and Detailed Development Plan, the proposed lots are considered buildable, and sized appropriately to provide for the required off-street parking and service facilities, as demonstrated by the discussion in Part I of this staff report. For the lots that are intended for commercial development, the depth of each lot is generally less than 2.5 times the average width. Therefore the criterion in **LDC § 4.4.20.03.a** is considered to be satisfied.

Applicable LDC Section 4.4.20.03 : Land Division Standards (continued)
b. Access - Each lot shall abut a street other than an alley for a distance of at least 25 ft. unless:

The proposed Tentative Subdivision Plat includes three lots and four Tracts, which all have public or private street frontage of at least 25 feet. Lots 500 and 550 have greater than 25 feet of frontage on public streets. Lots 600 and 602 have more than 25 feet of frontage on the proposed private Shopping Street. Lot 601 (drainageway Tract) has greater than 25 feet of frontage on the proposed local public street. Lot 551 (both Phase I and II) is intended to be a Tract set aside for the proposed private Shopping Street. Therefore, the proposed Tentative Subdivision Plat is consistent with the applicable land division standards in **LDC § 4.4.20.03.b**.

Applicable LDC Section 4.4.20.03 : Land Division Standards (continued)

c. Through Lots - Through Lots shall be avoided except where essential to overcome specific disadvantages of topography and orientation. A planting screen easement at least 20 ft. wide shall be required between Through Lots and adjacent streets, in accordance with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting. No vehicular rights of access shall be permitted across this planting screen easement. All Through Lots with frontage on parallel or approximately parallel streets shall provide the required front yard on each street, except as specified in Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting.

As illustrated on Sheet SP1.10 (Tentative Subdivision Plat - **see Attachment G - page 17**), none of the proposed lots are Through Lots. The proposed Tentative Subdivision plat is consistent with the Through Lot requirements of **LDC § 4.4.20.03.c**.

Applicable LDC Section 4.4.20.03 : Land Division Standards (continued)

d. Lot Side Lines - Side lines of lots, as much as practicable, shall be at right angles to the street the lots face.

e. Lot Grading - Lot grading shall conform to Chapter 4.12 - Significant Vegetation Protection Provisions; and the City's excavation and fill provisions.

Based on the established and proposed street network, the proposed lot lines are generally consistent with the criterion in **LDC § 4.4.20.03.d** . See Part I of this staff report for a discussion about the proposed Grading Plan. As proposed and conditioned, the Tentative Plat is consistent with these criteria.

Applicable LDC Section 4.4.20.03 : Land Division Standards (continued)

f. Building Lines - Building setback lines may be established in a final plat or included in covenants recorded as a part of a final plat.

g. Large Lots - In dividing land into large lots that have potential for future further Subdivision, a conversion plan shall be required. The conversion plan shall show street extensions, utility extensions, and lot patterns to indicate how the property may be developed to Comprehensive Plan densities and to demonstrate that the proposal will not inhibit development of adjacent lands.

The applicant is not proposing to establish building setback lines on the final plat. However, approval of a Conceptual and Detailed Development Plan formalizes approval of the site plan, and building setbacks will be required to be consistent with these plans. The Planned Development Overlay and associated Conceptual & Detailed Development Plan establishes the

approved development pattern for the subject site. There is no logical reason for the property owner to further divide the subject lots, other than for purposes of establishing a commercial condominium, as discussed in the narrative. However, if the development plans change for the site, the Planned Development Overlay would require approval of a new Conceptual and Detailed Development Plan, and may require approval of a Tentative Subdivision Plat modification. The standards in **LDC § 4.4.20.03.f** and **LDC § 4.4.20.03.g** are satisfied.

Applicable LDC Section 4.4.20 : Land Division Standards (continued)

h. Minimum Assured Development Area - For property with Natural Resources or Natural Hazards subject to Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.12 - Significant Vegetation Protection Provisions, or Chapter 4.13 - Riparian Corridor and Wetland Provisions, lots created through a Subdivision, Partition, or Lot Line Adjustment process shall be consistent with the provisions of Chapter 4.11 - Minimum Assured Development Area (MADA) are met.

As discussed in Part I of this staff report, the proposal is consistent with the Minimum Assured Development Area requirements of LDC Chapter 4.11. The proposed Tentative Plat is consistent with the Purposes in **LDC § 2.4.20.b**, and criteria in **LDC § 4.4.20.03.h**.

Natural Hazards and Natural Resources Protections / Tract Requirements

Applicable LDC Standards

Section 4.13.50 - USE LIMITATIONS AND EXCEPTIONS WITHIN HIGHLY PROTECTED RIPARIAN CORRIDORS AND RIPARIAN-RELATED AREAS
Highly Protected Riparian Corridors are those which have been identified as warranting a high level of protection due to their environmental importance and Natural Resource quality. Riparian-related Areas are defined as Proximate Wetlands, drainage easements and drainage dedications under the City's jurisdiction, and open space tracts that have been created for Riparian Corridor protection purposes. Additionally, 100-year Floodplain area serves an important Riparian Function. This area is mapped on the City's Natural Hazards Map, and is subject to the protections outlined in Chapter 4.5 - Natural Hazard and Hillside Development Provisions.

In addition to the requirements of the underlying zone, the following limitations and exceptions shall apply to activities within Highly Protected Riparian Corridors and Riparian related Areas, as mapped on the City's Riparian Corridors and Wetlands Map.

e. Subdivisions, Land Partitions, and Property Line Adjustments - For properties with Natural Resources or Natural Hazards subject to Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.12 - Significant Vegetation Protection Provisions, or Chapter 4.13 - Riparian Corridor and Wetland Provisions, no Subdivision, Partition, or Lot Line Adjustment shall create new lots or parcels unless:

1. Each new and remaining lot or parcel contains an area unconstrained by Natural Resources or Natural Hazards; and

2. The unconstrained area in "1," above, is equal to or greater than the Minimum Assured Development Area for the zone or zones in which the development site falls.

Exceptions to this requirement are lots created for public park purposes and privately- or publicly-owned lots completely contained within land zoned Conservation-Open Space. New Subdivisions and Partitions may contain common open space tracts for the purpose of protecting Natural Resources and/or avoiding Natural Hazards.

The subject property contains Natural Hazards and Natural Resources. Per **LDC § 4.13.50.e**, the proposed Tentative Subdivision Plat cannot be used to create new lots unless each new lot contains an area unconstrained by Natural Resources or Natural Hazards, and the unconstrained area is equal or greater than the MADA for the zone. The applicant is proposing to create common open space Tracts that will contain the protected portions of the Riparian Corridor and associated proximate wetlands (Lots 550 and 601), and the remaining lots outside of the protected Tracts are no longer constrained due to MADA allowances. Therefore, the standards in **LDC § 4.13.50.e** are satisfied.

Other Applicable Standards Referenced by Review Criterion 2.4.30.04

The proposed Tentative Subdivision Plat is not directly affected by criteria in the adopted Oregon Structural Specialty Code; the adopted International Fire Code; the adopted City Standard Construction Specifications; the adopted City Erosion Prevention and Sediment Control Ordinance; and the adopted City Off-street Parking Standards. However, the adopted Codes and Standards do apply, in many cases, to the proposed Detailed Development Plan, and are discussed in further detail in Part I of this staff report, where applicable. Compliance with these standards is typically determined at time of construction permit issuance.

Criteria in **LDC § 2.4.30.04.a** continues, as follows :

Applicable Comprehensive Plan Policies

Additionally, pursuant to Comprehensive Plan Policy 3.2.7, the application shall also demonstrate compatibility in the areas in "1-13" below, as applicable.

1. Basic site design (the organization of Uses on a site and the Uses' relationships to neighboring properties);
2. Visual elements (scale of potential development, etc.);
3. Noise attenuation;
4. Odors and emissions;
5. Lighting;
6. Signage;
7. Landscaping for buffering and screening;
8. Transportation facilities;
9. Traffic and off-site parking impacts;
10. Utility infrastructure;
11. Effects on air and water quality (note: a DEQ permit is not sufficient to meet this criterion);
12. Consistency with the applicable development standards, including the applicable Pedestrian Oriented Design Standards; and
13. Preservation and/or protection of Significant Natural Features, consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development

Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Streets shall also be designed along contours, and structures shall be designed to fit the topography of the site to ensure compliance with these Code standards.

The compatibility criteria above have been previously discussed in Part I of this staff report. As noted in that discussion, and as conditioned, the proposed Conceptual and Detailed Development Plan and related Tentative Subdivision Plat are consistent with the applicable compatibility review criteria. The development plans have been reviewed by the City's Fire Department for compliance with the adopted Fire Code. Fire Department staff are satisfied with the proposed development, as illustrated in **Attachments G & H**, and as conditioned. As noted in the discussion above, the proposed Tentative Subdivision plat complies with the criteria in **LDC § 2.4.30.04.a**.

C. CONCLUSION ON CONSISTENCY WITH TENTATIVE SUBDIVISION PLAT REVIEW CRITERIA

The proposed Tentative Subdivision plat request involves creation of three commercial subdivision lots and four Tracts. The proposed lots comply with the applicable LDC standards of the MUCS zone, and the land division standards noted in Chapter 4.4 of the LDC. The proposed tracts comply with the applicable Natural Features protections requirements of Chapters 4.5, 4.11, 4.12, and 4.13, and Shopping Street standards identified in LDC Chapter 4.0. The Tentative Subdivision Plat request complies with all applicable criteria in **LDC § 2.4.30.04.a**.

Based on this analysis, staff recommend **Approval** of the Tentative Subdivision Plat request, as outlined in **Part III** of this staff report.

PART IV

CONCLUSION AND RECOMMENDATIONS

Based on the criteria, findings, and conclusions discussed in Parts I, II, and III above, staff recommend that the Planning Commission **Approve** the request as described in **Attachments G & H**, and as conditioned in this staff report.

RECOMMENDED MOTION FOR APPROVAL OF A CONCEPTUAL & DETAILED DEVELOPMENT PLAN (PLD09-00004)

Motion: **I move to approve the proposed Conceptual and Detailed Development Plan for the Creekside Center I & II development, as conditioned. The request and approval includes proposed variations to specific LDC requirements, as described in Attachments G & H. My motion is based upon the staff recommendation to the Planning Commission.**

RECOMMENDED MOTION FOR APPROVAL OF A CONDITIONAL DEVELOPMENT PERMIT (CDP09-00003)

Motion: **I move to approve the proposed Conditional Development Permit for the proposed drive-through facility, as described in Attachments G & H, and as conditioned. My motion is based upon the staff recommendation to the Planning Commission.**

RECOMMENDED MOTION FOR APPROVAL OF A TENTATIVE SUBDIVISION PLAT (SUB09-00002)

Motion: **I move to approve the proposed seven-lot tentative Subdivision plat, as described in Attachments G & H, and as conditioned. My motion is based upon the staff recommendation to the Planning Commission.**

MEMORANDUM

DATE: June 12, 2013

TO: City Council

FROM: Jason Yaich, Associate Planner

SUBJECT: Additional Written Testimony Submitted Regarding the Creekside Center I & II application - LUBA Remand Hearing (PLD09-00004 / CDP09-00003 / SUB09-00002)

Written testimony, associated with the case referenced above, has been received after publication of the June 10, 2013, Staff Memorandum to the City Council, and is included as an attachment to this memorandum.

June 11, 2013

Mayor and City Council
City of Corvallis
501 SW Madison Avenue
Corvallis, OR 97333

Re: Written Testimony regarding Creekside Center Remand
PLD09-00004, CDP09-00003, SUB09-00002

Dear Mayor Manning and City Councilors:

This letter addresses my objections to portions of the Applicant's Narrative in Support of the Applications on Remand (Narrative), revised 4/19/13, and to the Applicant's Site Plan as submitted on 4/15/13. I may provide additional testimony after the Staff Report is available.

For each area of objection, I will first address points made in the applicant's Narrative on that subject, followed by additional issues.

Location of Multi-Use Path

The 12-foot-wide multi-use path, with a 15-foot-wide "area of disturbance," is proposed to be routed through a Locally Significant and Highly Protected Wetland, a Highly Protected Riparian Corridor, and a Highly Protected Floodplain. The placement of a wide paved path through a rare, highly valued forested wetland, and the damage its construction would cause, is inconsistent with Comprehensive Plan policies and Stormwater Master Plan policies, which were presented in the written testimony of the League of Women Voters dated October 21, 2010, and is included here by reference. The Path does not meet the various exceptions provided in the Land Development Code (LDC) for construction in these protected areas, nor does it meet the locational criteria in the Parks & Recreation Facilities Plan, details of which are provided below.

Placing a 12-foot-wide paved path through a densely forested wetland would require extensive cutting of trees to accommodate a wide, engineered path with gentle turns for users, placement of fill to level the path on the existing slope, and potential placement of extensive fill to raise the path above the typical winter wetland flow level. Cutting trees in a forested wetland allows light intrusion that will result in invasive species (such as blackberry) replacing the existing shade and wetland plants, and a change in the microclimate. In our desire to bring residents in to appreciate a locally rare wetland type, we will destroy what makes it unique.

Applicant's Narrative addressing Multi-Use Path:

1. The applicant's Narrative (p. 17-20) presents three reasons to make the case that a Multi-Use Path is required in this location, in order to have MADA credits approved for the Path under **LDC 4.11.50.02.c.4**, which allows MADA credits for:

> *Trails required by the Corvallis Transportation Plan or City of Corvallis Park and Recreation Facilities Plan, or necessary to provide public access to and through designated open space areas.*

It should be noted that the loss of these MADA credits, if the Path is not allowed, would not affect the remainder of the development. In all three reasons presented, the applicant errs in concluding that a Multi-Use Path in this location is a ”required” trail:

a. A multi-use path is not required in this location by the **Corvallis Transportation Plan** (CTP), contrary to the applicant’s assertion in the Narrative (p. 19). The original Trails Master Plan (incorporated into the CTP by reference), the Park & Recreation Facilities Plan, and the West Corvallis/North Philomath Plan, each have sections that refer to the mapped proposed trail alignments (including this trail) as “conceptual.” The Trails Master Plan (TMP) does include a map showing a “future trail" route from 53rd Street to Bald Hill Park paralleling Dunawi Creek. However, the Goal of the TMP (p. 3 of TMP Excerpts, attached as **Attachment A**), clarifies that the map is **conceptual**. A number of these trails were anticipated to be pedestrian trails, as shown in the attached excerpt with a description of Trail 18 (Squaw Creek from Sunset Park to Bald Hill)—all were not assumed to be paved multi-use paths. The conceptual nature of the TMP can be seen in other developments over time where a mapped trail segment was not implemented, e.g., Waste Water Treatment Plant upgrades (connection between 2nd Street and RR tracks), North Hills Baptist Church (South Dixon Creek trail, and Timberhill (powerline trail). The TMP and other trail plans completed prior to our Natural Features Inventory tended to route trails along stream corridors both for scenic value and because it was assumed at that time that the drainageway dedications then required with development would be adequate for trails, without awareness of the impact on stream health or knowledge of adjacent wetlands. Alternative routes are available with future development to provide a connection between 53rd Street and Bald Hill Park without harming a valuable wetland, as noted below.

b. Contrary to the applicant’s assertion in the Narrative (p. 19), a multi-use path in this specific location is not required by the **Park & Recreation Facilities Plan** (PRFP), but is instead a **conceptual** route for either a trail or multi-use path, as clearly noted on the PRFP Trails Plan map in the applicant’s Narrative Exhibit F. Both that Trails Plan map and the Trails Comparison map in the PFRB include the statement,

> *“This is a conceptual plan intended to guide development. The map is not intended to identify specific affected properties, rather, it represents the needs, standards, and/or aspirations of the community.”*

This statement is applied to both the trails illustrated as “Proposed Trails” and as “Adopted Trails,” with the only distinction being that the “Adopted Trails” are already included as **conceptual** routes in the Transportation Plan (Trails Master Plan). The PRFP (Table 13, p. 5-6) lists the T13 Squaw Creek Trail (South) as “paved/unpaved,” indicating even the conceptual nature of the type and size of

trail. Construction of a paved Multi-Use Path in this location actually conflicts with the design standards in the PRFP, as described in more detail below. As noted in Council Findings (p. 14) from the original Creekside process:

> *"The Council concurs with the LWVC that standing alone, the conceptual trails depicted in the Trails Master Plan and the Parks & Recreation Facilities Plan may not justify this location for the Trail."*

Instead, Council relied on elements of the West Corvallis/North Philomath Plan to justify the trail, which I will address in Section 3 below. However, to earn MADA credits under **LDC 4.11.50.02.c.4**, the Path must be required by the TMP or PRFP.

c. Contrary to the applicant's assertion in the Narrative (p. 20), a multi-modal path in this location is neither required nor "necessary to provide public access to or through designated open space areas," for any of the reasons given by the applicant.

   i. The wetland Path is not needed to satisfy the **block perimeter standard** cited by the applicant, which actually is already better met by the east-west pedestrian sidewalks and crossings connecting 53rd Street and the new Local Street, fronting the northern buildings in the development. Adopted final Findings from the previous Council approval (Formal Findings and Conclusions, p. 42), indicate that this was found to satisfy the block perimeter standard in the previous site plan, and is just as workable in the revised Site Plan.

   ii. Contrary to the applicant's assertion, **Comprehensive Plan 40.4.3** does not require a Path in this location. As part of Article 40, the Comp Plan Map Legend, this section describes the intended uses of the **Open Space-Conservation** designation, which are "reserved for general community use, and/or natural hazards/resource preservation," with the Comp Plan map designation applied in this location for protection of the stream corridor. The description notes that "limited development may be permitted on private lands, provided that the development provides access to and through the OS-C zone areas for public infrastructure." However, this is not directly applicable to this site because a corresponding LDC zoning district has not been applied, and would require a zone change to implement. In any case, the allowed "limited development" in the OS-C area on this site is proposed on the south side of Dunawi Creek, and public infrastructure through this OS-C area has been provided in the form of the north-south Local Street in the site plan. If Council finds that additional public access is required along the stream corridor (in addition to the drainageway easement), it can be provided by an additional public access easement allowing for an unpaved nature trail, rather than a wide paved path that damages the wetland.

   iii. Contrary to the applicant's assertion in the Narrative (p. 20), a Multi-Use Path in this location is not "necessary to maintain a functional [path] system." As noted in more detail below, a Multi-Use Path in this location cannot be constructed in a way that will be functional year-around for all intended users

of a multi-use path. Unless built on a berm that would disrupt wetland flow toward the stream (even with culverts), a paved path will be underwater during the winter. A raised boardwalk cannot safely accommodate many users, including cyclists, skateboarders, and skaters. There are alternative locations that will be described below that can provide a safe and functional multi-use path connection.

CONCLUSION: The Multi-Use Path is not required by the Transportation Plan or Park & Recreation Facilities Plan, nor is it necessary to provide public access to a designated open space area. Therefore, it does not qualify for MADA credits under under LDC 4.11.50.02.c.4. This has ramifications for allowing placement of the trail, as discussed in Section 2 below.

2. **LDC 4.13.50.b** prohibits building, paving, and grading (such as the Multi-Use Path) in a Highly Protected Riparian Corridor and Riparian-Related Area. The applicant's Narrative (pp. 20-22) attempts to justify the placement of a Multi-Use Path as one of the exceptions to this prohibition, based on the Path qualifying for MADA credits under the applicant's justifications given in Section 1 above. The exception cited by the applicant for constructing the Path in this protected area is LDC 4.13.50.b.6:

   b. Building, Paving, Grading Activities – The placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, are prohibited. Exceptions to the drainageway restrictions may be made for the purposes identified in items 1-7 of the Section, provided they are designed and constructed to minimize adverse impacts to Riparian Corridors and Riparian-related Areas.

   …

   2. *Development associated with the Minimum Assured Development Area that would be allowed in accordance with Chapter 4.11 – Minimum Assured Development Area (MADA); and …*

   As discussed in Section 1 above, the applicant has failed to justify the awarding of MADA credits under LDC 4.11.50.c.4. Therefore, the proposed Multi-Use Path does not meet this exception criterion for paving and grading in a Highly Protected Riparian Corridor and Riparian-Related Area.

   The applicant's Narrative (p. 22) notes that LUBA did not require the City to reconsider whether the Path complied with the language in 4.13.50.b above, "provided that they are designed and constructed to minimize adverse impacts to Riparian Corridors and Riparian-related Areas," and the applicant does not address this issue further. Compliance with this criterion merits reconsideration, since the application is being reconsidered "in whole," and since the Revised Site Plan refines the description of the Path (p. 18), from that available with the initial application:

   "On remand, Applicant is proposing to dedicate a fifteen (15)-foot wide right-of-way for the Path across the Property (although the Path itself will only be twelve (12) feet in width). The Path will be located within a forty (40)-foot wide area shown on the plans."

   The following are factors that I believe indicate that the location, design, and construction of the Path as proposed will not "minimize adverse impacts" on the wetland and riparian corridor, and the Path needs to located elsewhere:

a. **The Path needs to be 12 feet wide and paved.** The Park & Recreation Facilities Plan (PRFP) Glossary (p. 2) and the Comprehensive Plan (Article 50) both define a Multi-Use Path as a "paved path entirely separated from the roadway and used by pedestrians, roller bladers, joggers, and cyclists." LDC 4.0.40.c.3 specifies that "in areas with projected high bicycle volumes or multiple use by bicyclists, pedestrians, and joggers, multi-use paths shall be 12 ft. wide." The PRFP (p. 5-4) states that "off-street multi-purpose trails may vary in width from 5'-12', with 12' width being optimum because it permits access for maintenance and security vehicles." Given the planned regional purpose of a multi-use path in this general area, connecting 53rd Street with Bald Hill Park, a high volume of many user types can be anticipated, and a 12-foot paved path is needed to fulfill the purpose of this trail segment.

b. **A paved path or a boardwalk along the proposed route are unsafe.** During the original hearing process, substantial testimony by local experts in bicycle and pedestrian transportation indicated that multi-use paths must be paved in order to accommodate many user types. Testimony noted that the siting of high volume multi-use paths should avoid densely forested areas with significant leaf litter or ice in winter. A boardwalk was suggested by staff during the previous hearing process, and substantial testimony noted that boardwalks do not provide a safe or passable surface for cyclists, skateboarders, or rollerbladers. The substitution of a boardwalk through a segment of a long multi-use path would leave some users blocked from completing their trip safely. Substantial testimony was also presented that the convergence of the proposed Path, the 53rd Street multi-use path, and the 53rd Street access drive would make an unsafe bike-ped crossing even more dangerous.

c. **Construction of a 12-foot paved path or a boardwalk in the location proposed cannot avoid damaging the rare, forested wetland.** This remnant ash forest wetland was once common in the Corvallis area, but now exists in only a few places. It generally consists of closely spaced ash trees with low herbaceous plants growing in filtered shade. During the rainy seasons, there is ponding and sheet flow of water that collects in streamlets before flowing into Dunawi Creek. Some annual flooding was reported in testimony by the neighbor to the north. The 15-foot "area of disturbance" to construct either a paved path or a boardwalk will involve significant removal of the closely spaced trees in order to build the gentle curves required for a high volume multi-use path. Tree removal will open the canopy to more direct sun, and increase the presence of invasive non-shade species, such as blackberry. Any paved path will require fill for leveling—a path at ground level will flood in winter and be impassable for extended periods; a path elevated on fill with culverts will significantly change the flow regime in the wetland. The high volume of users will bring noise and high activity that will change the behavior and visibility of wildlife. If it is desirable to give the public access to this area to appreciate this rare wetland type, an unpaved nature trail is more suitable.

d. **The Park & Recreation Facilities Plan design guidelines for multi-use paths are not adequate to protect this wetland.** The PRFP contains well-intended design guidelines for trails (pp. 5-2 to 5-5). One guideline states that:

> *"Trails should be planned, sized, designed and located to minimize their impacts on the ecological functions or stream corridors and to minimize the impacts of unplanned access in and near these drainageways. Where adequate lands are available, multi-purpose trails running parallel to stream corridors should generally be sited at least 50' from top of back and further when near sensitive areas."*

The illustration for Off-Street Multi-Use Trail (Fig. 8, p. 5-4) shows a 50-foot minimum setback "near waterway or sensitive areas." Given that this wetland is both a waterway and a sensitive area, the proposed location of the Path violates this locational criterion. However, if Council approves this location for the Path, the PRFP design guidelines cannot be relied on to adequately protect this site, since the guidelines do not specifically address wetlands. The lack of specificity of the guidelines means that Condition of Approval 10, requiring path design to be consistent with PRFP guidelines, will not be sufficient to protect this highly valued wetland. In addition, the requirement in Condition 10 that "final path alignment shall occur so as to minimize impacts to the properly functioning condition of the riparian corridor / drainageway" does not address the wetland, and so is inadequate to protect the properly functioning condition of the wetland.

CONCLUSION: The proposed Multi-Use Path does not meet the exception criterion for building, paving, and grading in a Highly Protected Riparian Corridor and Riparian-Related Area in **LDC 4.13.50.b.6**, and should not be approved on that basis as a portion of the Revised Site Plan. (Note: A discussion of another exception criterion, LDC 4.13.50.b.2, is presented below.) The 12-foot wide paved path needed to implement a planned regional trail in this general area cannot be constructed in a way that will "minimize adverse impacts" to the rare forested wetland, as required in LDC 4.13.50.b. The Park & Recreation Facilities Plan design guidelines are not adequate to protect the wetland, and Council should decide that this conceptual location for a high volume multi-use path is not appropriate.

Additional Issues Relating to the Multi-Use Path:

3. For the Multi-Use Path to be located in this Highly Protected Riparian Corridor and Riparian-Related Area, it must meet one of the exceptions listed in **LDC 4.13.50.b.** As noted in Section 2 (p. 4) above, it does not meet the exception in LDC 4.13.50.b.6, because it does not meet criteria for MADA credits. Neither does it meet the exception in **LDC 4.13.50.b.2**:

   b. Building, Paving, Grading Activities – The placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, are prohibited. Exceptions to the drainageway restrictions may be made for the purposes identified

> *in items 1-7 of the Section, provided they are designed and constructed to minimize adverse impacts to Riparian Corridors and Riparian-related Areas.*
>
> …
>
> 2. *The location and construction of streets, utilities, bridges, bicycle, and pedestrian facilities within Highly Protected Riparian Corridors and Riparian-related Areas* ***must be deemed necessary to maintain a functional system*** *by the City Engineer.* ***This Code, City Transportation and Utility Master Plans, and other adopted City plans shall guide this determination.*** *The design standards of Chapter 4.0 – Improvements Required with Development shall be applied to minimize the impact to the subject area; …* [emphasis added]

To be "necessary to maintain a functional system," it has to be demonstrated that the Path has to be located through this wetland in order for the planned multi-use trail system to be functional. It also has to be demonstrated that a Multi-Use Path in this location will be more functional for all intended users than another location that can implement the system, and that no other location outside the Highly Protected Riparian-related Area is functional.

a. **The Path in this location is not functional.** As noted in Section 2.b (p. 5) above, a paved multi-use path through the wetland will be flooded and unusable in the rainy season, will experience hazardous leaf litter in the Fall (or requiring staff removal), and is routed to the east into an already unsafe convergence of the 53rd Street multi-modal path and the 53rd Street access drive into the development. Construction of a paved path on a berm with culverts will seriously alter the wetland flow regime, and does not "minimize the impact" as required in the Code. Construction as a boardwalk is not functional, because it deprives a large number of users (cyclists, skateboarders, rollerbladers) from a facility that, by this Code standard, has to be critical to the community trails network. And construction as a narrower path would not accommodate the volume of users expected on a major trail, or would put different user types dangerously close together.

b. **The Path is not required to be in this specific location by City Plans.** As noted above in Sections 1.a & b (pp. 3-4), and supported by Council Findings (noted on my p. 4), the Trails Master Plan (incorporated into the Transportation Plan) and the Park & Recreation Facilities Plan present a conceptual routing of a multi-use path through this area. The prior approval relied instead on the West Corvallis / North Philomath Plan (WCNPP), which in Figure V-2 (p. 40) shows a proposed trail paralleling Dunawi Creek, along the same route as the conceptual maps in the TMP and PRFP. This trail route is shown going through a shaded area labeled in the Key as "Riparian corridors, wetlands and fault zone" which was claimed to indicate an intent to route the trail through this wetland. However, another trails map in Figure VI-1 (p. 46) clearly states that, "Locations of trails are **conceptual** and may vary as more detailed plans are drafted." The following WCNPP policies were cited to support of the Path through the stream corridor and wetland:

> *OS-I-1: Work with private landowners to obtain dedications of open space lands for trails and preservation of natural systems.*

> *OS-I-7: Where feasible, incorporate trails as part of stream corridors as identified on the Circulation Plan, Figure VI-1.*
> *OS-I-9: Locate trails at the edge of riparian buffer zones to minimize impacts on the natural functioning of the stream corridor and to preserve stream capacity.*

To me, these policies argue for siting trails along the edge of stream corridors in a manner that protects the properly functioning conditions of the stream. Although wetlands are not directly addressed in the policies, the properly functioning conditions of a proximate wetland is tied to the stream's healthy functioning. The guidance is for protection, while encouraging trail routes near natural features. They clearly do not mandate the placement of a trail where it will damage a rare forested wetland, but instead give guidance to locate trails where they will "minimize impacts."

c. **All of these Plans were adopted before the completion of the Natural Features Inventory.** The placement of conceptual trail routes without the benefit of knowing the specific character, value, or sensitivity of the natural features should not bind decision-makers now that we have designated certain areas for High Protection or as Locally Significant. The process for that designation balanced the economic, social, environmental, and energy costs and benefits of protection on a community-wide scale, so that balancing did not occur property-by-property.

d. **Alternative routes are available that will better implement a "functional system."** Although shown on all the trail maps, it is not likely there will ever be a multi-use path following Dunawi Creek to the east of 53rd Street, since it is fully developed north of the creek and there is no safe crossing at the intersection of the creek with 53rd Street or farther downstream with Philomath Blvd. That means this planned trail route can start from the existing 53rd Street Multi-Use Path anywhere between Philomath Blvd and West Hills Road, and head west and then north toward Bald Hill Park. **Attachment B** shows a potential route that starts north of the existing developed parcels north of the development site, then generally follows (upon development) the south edge of the farmed portions of these large parcels, along the north side of the tree line that generally shows the most critical riparian and wetland habitat. This allows trail users to be close to the riparian corridor and forested wetland without damaging its functioning. (Of course, the route should remain flexible as future wetland delineations in these parcels provide more information to guide the route.)

CONCLUSION: The proposed Multi-Use Path routed through this rare, sensitive forested wetland is neither functional for the intended users, necessary at this location to provide a functional trail system, nor required in this location by City Plans. It therefore does not meet the criterion of **LDC 4.13.50.b.2** allowing construction in the wetland, and cannot be allowed. In addition, since deletion of the trail will in no way impact the remainder of the development, the City Council can use this opportunity to interpret its trails plans in a flexible manner that routes major paved trails where they can view natural features without degrading them.

Stormwater Detention Facilities Encroaching into Riparian Corridor

Although the new plan shows the location of the two above-ground stormwater detention facilities farther from the creek than in the original plan, they are both still located within the Highly Protected Riparian Corridor and Riparian-related Area. Given the overall impacts to the riparian corridor on the south side of the creek, the above-ground facilities should be removed, and replaced with underground detention facilities under the street or parking lot.

Applicant's Narrative addressing stormwater detention facilities:

4. LDC 4.0.130.b.1 requires projects over a certain size to implement stormwater detention and retention consistent with the Corvallis Design Criteria Manual. **LDC 4.0.130.b.2.b** requires that:

   > *"Detention facilities shall be designed to maximize storm water infiltration. Detention or retention facilities shall be located outside the 10-year Floodplain or the riparian easement area, whichever is greater. The riparian easement area is identified in Section 4.13.70 and this standard shall apply regardless of whether or not an easement has been granted."*

   The eastern stormwater facility, within Lot 500, is within the 50-foot Riparian Easement Area. The applicant states in the Narrative (p. 23) that, since MADA credits are now determined, encroachment is now necessary into the Riparian Corridor to allow for utilization of MADA.

   However, the Corvallis Design Manual allows both above-ground and underground stormwater facilities, and each has its strengths. An underground facility is located on Lot 500 to the east.

   CONCLUSION: In order to protect the Riparian Corridor, and especially to protect the Riparian Easement Area, Council has the ability to require the above-ground stormwater facility in Lot 500 to be underground, in a location away from the stream, such as under the Shopping Street or in the drive west of the existing underground facility.

Additional Stormwater Facility issues:

5. The applicant's Revised Plan, Map SP1.3B, shows the pre-development 100-year floodplain (speckled area), and the post-development 100-year floodplain dashed line.

   a. **LDC 4.0.130.b.2.b** (quoted above) requires that detention facilities be located outside the 10-year floodplain. The applicant has never mapped the 10-year floodplain to show that the above-ground stormwater facility in Lot 600 is outside the 10-year floodplain. (Even in its new location, it is within the pre-development 100-year floodplain.) The applicant has claimed that it is not necessary to map the 10-year floodplain, because the facility is outside the **post**-development 100-year (and therefore 10-year) floodplain. However, the original legislative intent of LDC 4.0.130.b.2.b was to avoid the placement of above-ground stormwater facilities in the **pre**-development 10-year floodplain. Otherwise, the Code

language would have been phrased to simply require the facility to be constructed with fill to above the 10-year floodplain level.

b. In the area of the Lot 600 stormwater facility, Map SP1.3B shows a significant change between the boundary of the pre- and post-development 100-foot floodplain. Assuming this is accomplished with fill, there are two issues: 1) The plan does not demonstrate how fill in this area will not adversely change flood flows in the unmodified 100-year floodplain of the property to the west. 2) The area of fill to accomplish the change from pre- to post-development 100-year floodplain in this area must counted as developed acreage and appears to exceed the available acreage of their MADA.

CONCLUSION: Council should find that the Lot 600 stormwater facility does not meet the requirements of **LDC 4.0.b.2.b**, and should be converted to an underground stormwater facility, possibly under the new east-west local street.

MADA Credits for 53rd Street Access Drive

The applicant claims MADA credits for the area of wetland mitigation for the access drive from 53rd Street (see **Attachment C**). This is not a legitimate application of the LDC allowance for MADA credits for mitigation.

LDC 4.11.50.02.c.2 provides additional allowances over the base MADA for:

> *"The area of Wetland mitigation that is required by the Department of State Lands and/or the U.S. Army Corps of Engineers when **infrastructure** must be extended through a Wetland. The area credited shall be based upon the written requirements of the associated permit approval of the Department of State Lands and/or the U.S. Army Corps of Engineers, whichever is greater."* [emphasis added]

"Infrastructure" for this exception was intended to be limited to public infrastructure, such as public roads. The rationale was that the property owner should be compensated with additional MADA credits for wetland mitigation needed for public infrastructure required as part of the development. In this application, wetland mitigation for the new north-south local street is an example. In contrast, in this application, no MADA credits are awarded for other required private infrastructure, such as the areas of the parking lot or internal drives that require mitigation.

It is not sufficient to say that ODOT, County, and City standards require the main access drive to be off 53rd Street rather than Hwy 20/34, or that standards require any access drive to be at least 150 feet from an intersection. These are routine requirements of any development along the highway, or near an intersection, and should not be treated differently than requirements for parking spaces.

CONCLUSION: Council should find that the access drive does not meet the requirements for additional MADA credits in **LDC 4.11.50.02.c.4**.

Thank you for your efforts in working through this very complex application!

Sincerely,

Tony Howell
2030 SE DeBord Street
Corvallis, OR 97333
541-753-9318
howellt@peak.org

Attachments (3)

Attachment A-1

Trails Master Plan Excerpt

Trails Plan
June 1990

Corvallis, through the generosity of its citizens, enjoys a community laced with parks: hillside parks such as Chip Ross and Bald Hill; open meadows such as Walnut, Starker Arts/Sunset Parks; river oriented Avery and Willamette Parks. These parks contain either bicycle, equestrian and/or pedestrian trails.

The Benton County Fairgrounds and OSU Golf Course are adjacent to the city limits. In addition, Oregon State University research and agriculture lands weave through the city. McDonald Forest and the Peavy Arboretum cover about 7,000 acres of forested land to the north of Corvallis (at the closest point only about 500 feet from the city limit). The Forest offers opportunities for trail-related activities such as hiking, walking, jogging, bird watching, horse back riding, and mountain biking.

Corvallis has a strong on-street bikeway system. It also has several off-street bikepaths including the Campus Way, and Corvallis-to-Philomath bikepaths.

Due to Corvallis' scenic setting and gentle terrain, segments of the trails network will have potential for use by both commuters and recreationists.

E. GOAL

To provide a conceptual trail corridor network map and implementation methods which will serve as a "blueprint" to guide future efforts to establish a vital, comprehensive, non-motorized trails system.

F. OBJECTIVES

1. Develop trails that provide for a variety of nonmotorized recreational experiences such as hiking, jogging, walking, bicycling and horse back riding.

2. The Trails Network Plan, as a part of the Transportation Plan, will link existing parks, open space and trails with residences, schools, places of employment and shopping areas.

Trails Master Plan Excerpt

Attachment A-2

system. (Please see description in next section.)

16A -- The first connection would follow Goodnight Avenue east from Willamette Park (#2), cross Highway 99 and follow Wake Robin Road to the Mary's River.

16B -- The second connection trail would cross from east to west between the Willamette and Mary's Rivers roughly following Airport Road.

Anticipated users: pedestrians

17. Main Fork Squaw Creek

This corridor begins at 35th Street across from Adams School and follows the bike path through Bruce Starker Arts Park, leaving the bike path at Sunset Park and crossing the Sunset Shopping and Research Technology Center. The bike path parallels the heavily wooded Squaw Creek drainageway before passing through the landscaped Bruce Starker Arts Park. This trail in conjunction with trail #18 would provide a link between Avery, Starker Arts/Sunset and Bald Hill Parks.

Anticipated users: pedestrians

18. Squaw Creek from Sunset Park to Bald Hill

This trail would travel up the Main Fork of Squaw Creek between 53rd Street and Reservoir Road. Please see description of trail #17 for potential connections.

Anticipated users: pedestrians

19. North Fork Squaw Creek

This section of the North Fork Squaw Creek stretches from the intersection of the Southern Pacific Railroad line and 53rd Street to West Hills Road. Opportunity exists for a connection between 53rd and 35th Streets to form a loop trail with trail #22.

Anticipated users: pedestrians

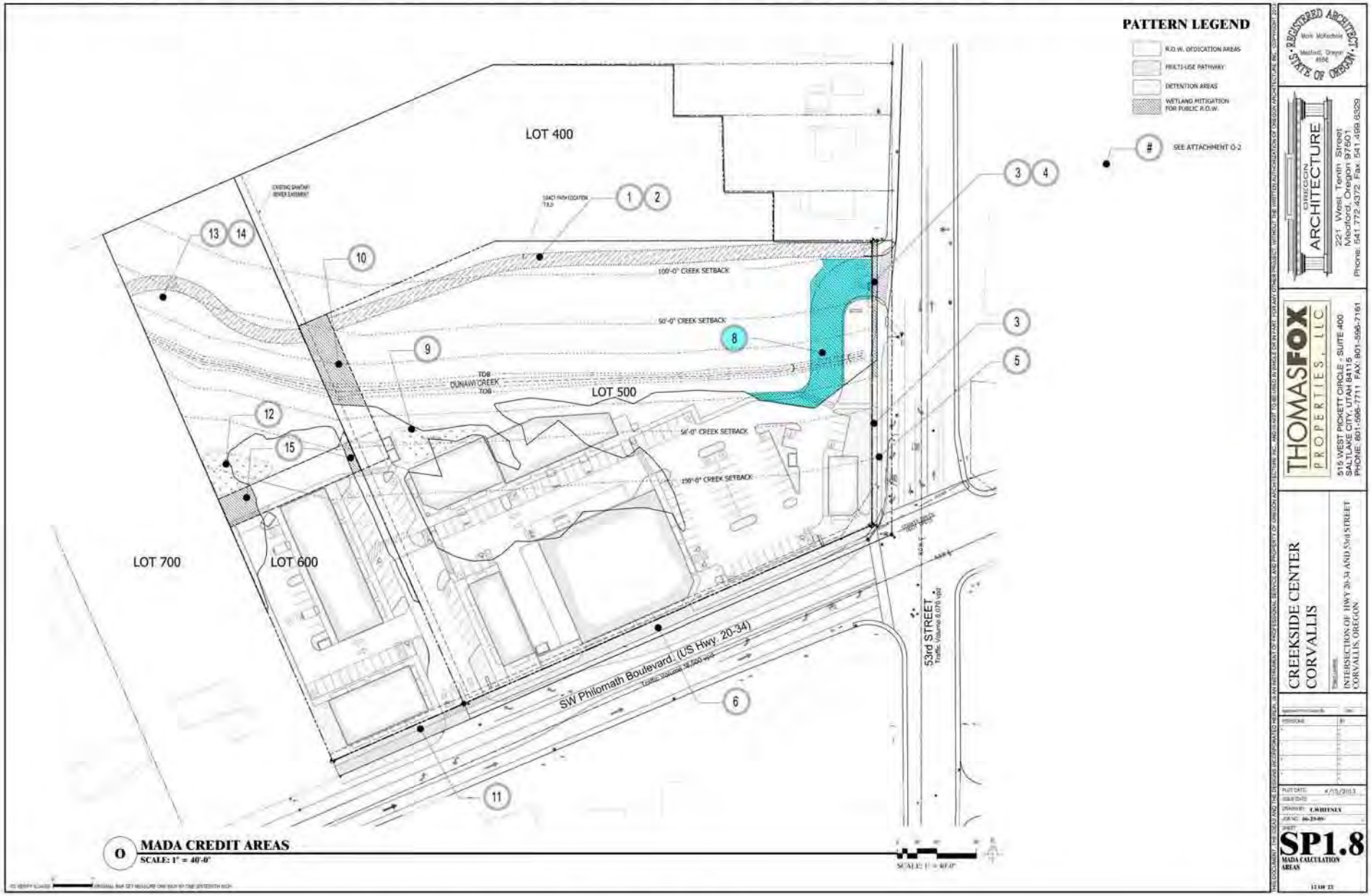
Attachment B

Conceptual Alternative Multi-Use Path Route

Tony Howell: Testimony for Creekside Land Use Hearing, June 17, 2013

Attachment C

MADA Credits for Access Drive off of 53rd Street



RECEIVED
RAR
JUN 12 2013
Community Development
Planning Division

Subject: Creekside Center

Dear Council,

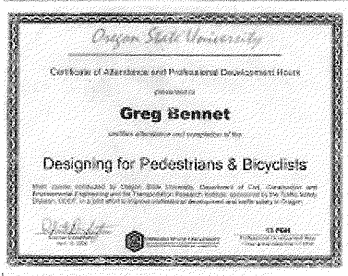
In previous testimony, the dangers and conflicts for all users (bike, ped, auto) of adding an additional curb cut to the existing multi-use path along 53rd Street was expressed through the city's BPAC, myself, and others.

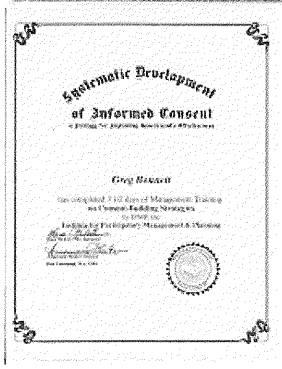
These concerns were dismissed by the proponents as not coming from "experts" and therefore not valid.

Fair enough; by all means please bring on the experts. It is the prudent thing to do, and it has not been done. For example, the council has not consulted the well trained and knowledgeable "Transportation Specialist" at the city's public works department. He is our in-house expert in bike/ped transportation design and safety issues. There are numerous experts for hire in this field who can articulate exactly why this proposed design has major flaws and liabilities. The council owes it to the community to know exactly what they are voting for.

The council can also consult independently the documents the city, county and state use in regards to this type of facility.

Sincerely,
Greg Bennett





RECEIVED

JUN 12 2013

Community Development
Planning Division

To: Mayor and City Council

From: Greg Bennett

Subject: Creekside Center I & II Multi-Use Paths

The Parks Director, Parks Planner, Community Development Department and the developer of Creekside Center have proposed to consider building a Multi-Use Path through the Creekside Center wetlands. They cite the Corvallis Transportation Plan, the Trails Plan in the Parks and Recreation Facilities Plan, and the need to provide a link in the transportation network as rational. Observations as to the unsuitable location have already been made clear in previous testimony.

If the conversation now leads to the idea of providing a pedestrian only nature path such as the boardwalk at Sunset Park instead of a Multi-Use Path, I offer these considerations.
This would provide much less public amenity. How much is hard to quantify. The City's bike-ped mode splits may give some guidance. They do not account for skaters; nor the health and recreation benefits provided. City surveys show that M.U.P.s are the most well used recreational opportunity offered in Corvallis. Observation shows that Multi-Use Paths are much more used than pedestrian only paths. Multi-Use Paths advantage a larger community and accommodate a wide array of abilities and disabilities through a larger geographic area. A pedestrian only nature path in the proposed location would primarily be an amenity to the immediate residential development, increase the desirability of living nearby and be a selling point that will benefit the developer. To a greater degree the same is true for a properly sited M.U.P.

The existing 53rd Street Multi-Use Path crossing the development's proposed access-way will have most of the same impacts and results as the 3rd Street-Chapman Place to Crystal Lake Drive similarly sited Multi-Use Path. To address the numerous crashes and daily conflicts at the 3rd Street facility, many safety refinements have been made in conjunction with O.D.O.T., the land owners and the City over many years. These include modifications to the Multi-Use Path curb cuts, signage, pavement markings, landscape modifications, law enforcement, education and outreach. The conflicts and crashes persist and for many years this has been a perennial agenda item for the City's Bicycle and Pedestrian Commission. The thinking for years has always advocated providing alternatives to this route, which means trying to get fewer people using this very popular but poorly sited Multi-Use Path.

To replicate this situation now at 53rd Street will result in the same outcome—perhaps worse because the 53rd Street path has no feasible alternative route and the completion of the bike lanes on 53rd is a long way off.

Sincerely,

Greg Bennett

June 11, 2013

Mayor and Corvallis City Council
City of Corvallis
501 SW Madison Ave.
Corvallis, OR 97333

Re: Written Testimony regarding the Creekside Center I and II Remand
(PLD09-00004, CDP09-00003, AND SUB09-00002)

Dear Mayor Manning and City Councilors:

I hope that this MADA schematic can help folks understand a part of the MADA concept.

I first drew this schematic for myself to try and understand how MADA works for the "Additional Allowances for Determining the Minimum Assured Development Area."

It illustrates that the MADA "credit" – can be achieved either by:

1. being allowed to place, let's say a required detention pond, within the protected natural feature or floodplain, or;

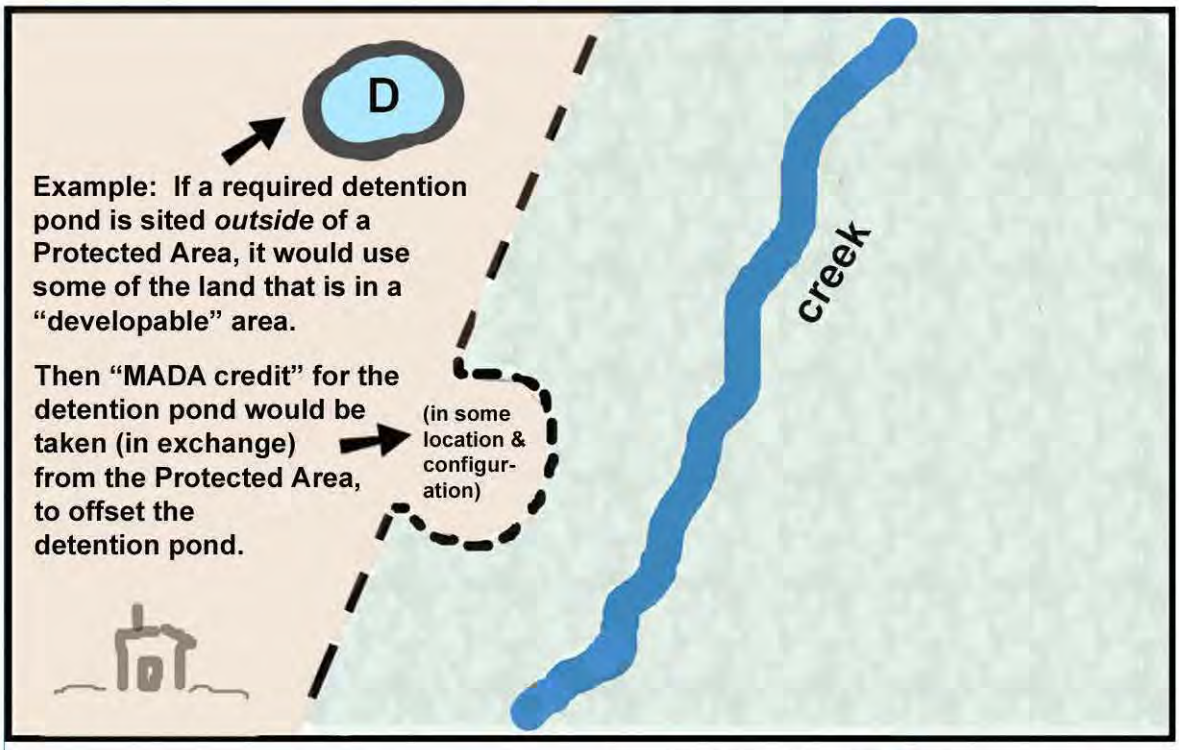
2. being allowed to expand the development footprint by the amount that is the equivalent of the square footage of the detention pond, into the protected natural feature or floodplain. This would be a "trade" for the land that the detention pond used within the developable land. This would be either the developable land that is allowed outright, or a part of a base MADA.

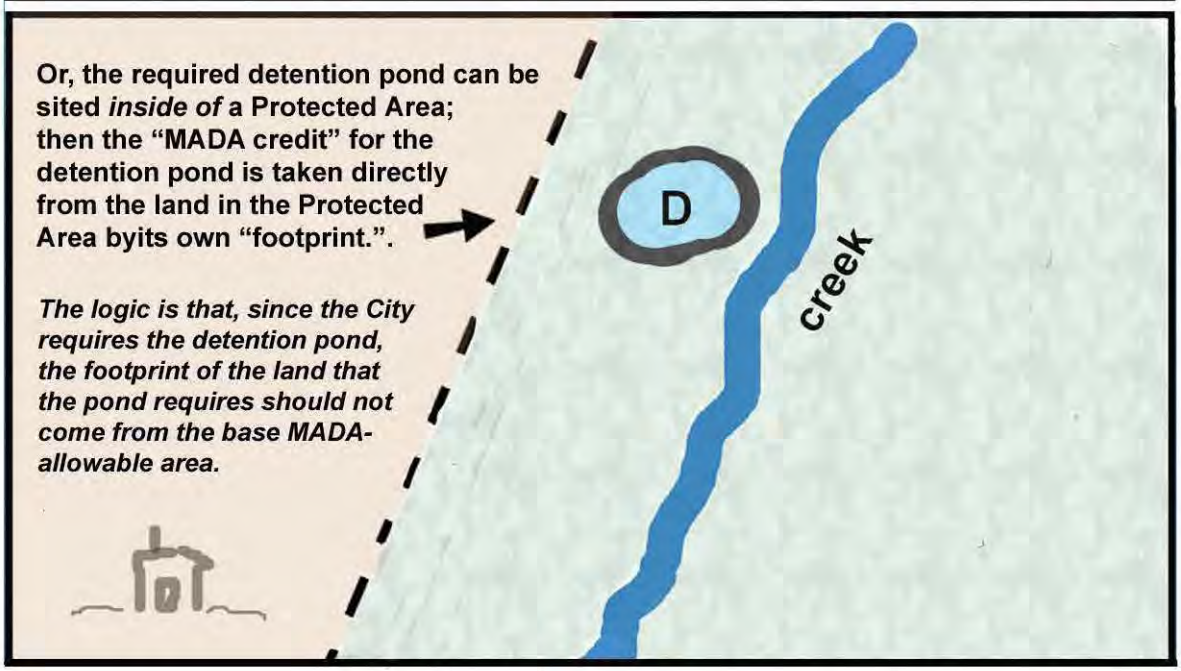
I know that there is much to read for this hearing, and I hope that this schematic might help a little bit. I will submit my other written testimony later.

Sincerely,

Patricia Benner

How "MADA credits" for certain infrastructure are applied at a development site that includes Protected Natural Areas. It is basically an "*exchange*" of land in one of two ways:





The green area in the maps schematically represents a Highly Protected Natural Area (includes floodplain, wetland, and riparian corridor).

The tan area schematically represents the land to be developed (includes formerly protected floodplain, wetland & riparian corridor).

CORVALLIS
ENHANCING COMMUNITY LIVABILITY

MEMORANDUM

DATE: June 17, 2013

TO: City Council

FROM: Jason Yaich, Associate Planner

SUBJECT: Additional Written Testimony Submitted Regarding the Creekside Center I & II application - LUBA Remand Hearing (PLD09-00004 / CDP09-00003 / SUB09-00002)

Written testimony, associated with the case referenced above, has been received after publication of the June 10, 2013, Staff Memorandum to the City Council, and is included as an attachment to this memorandum. **This testimony is in addition to the written testimony packet provided on June 12, 2013.**

Yaich, Jason

From: Liz Frenkel [lizbobfrenkel@
Sent: Friday, June 14, 2013 4:13 PM
To: Mayor and City Council
Cc: City Manager; Louie, Kathy; Yaich, Jason; City Attorney Fewel; MRobinson@perkinscoie.com
Subject: CC Public Hearing Creekside Remand June 17th
Attachments: Liz Frenkel.vcf; CCS Letter to LWVC 13-06-14.pdf

Importance: High

June 14,2013

Dear Mayor and City Council Members,

Attached is part of the League of Women Voters of Corvallis' testimony for the City Council Public Hearing on the Creekside Remand on Monday, June 17th.

We were told this morning by staff that, as both Kathy Louie and Jason Yaich are out of the office today, our testimony could not be distributed by the City Office to Council Members, the City Attorney's office and others.

Kathy Louie had indicated on Thursday that citizens do email testimony directly to the Mayor and City Council as long as a copy is sent to her and other appropriate City staff.

We are not familiar with the type of hearing and had questions. We asked our attorney for her opinion which we are sharing with you.

Sincerely,
Liz Frenkel

cc. to:
Jim Patterson, City Manager
Kathy Louie, City Recorder
Jason Yaich, City Planner
Scott Fewel, City Attorney's Office
Mike Robinson, Perkins Coie

Liz Frenkel

Corvallis, OR 97333
(541)
****

LAW OFFICE OF

CORINNE C. SHERTON

A PROFESSIONAL CORPORATION

OREGON LAND USE LAW

CORINNE C. SHERTON

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June 14, 2013

Ann Brodie, President
League of Women Voters of Corvallis
PO Box 1679
Corvallis, OR 97339-1679

Re: LUBA Remand of Creekside Center I & II
PLD09-00004 / CPD09-00003 / SUB09-00002
Scope of City Proceeding on Remand

Dear Ms. Brodie:

You have asked me for my legal opinion regarding whether the City of Corvallis can reconsider aspects of its initial decision approving the above referenced Creekside Center I and II applications that are not required to be reconsidered by LUBA's remand, and whether the City can change interpretations of its Comprehensive Plan (Plan) and Land Development Code (LDC) that it made in its initial decision.

Legal Opinion

It is generally recognized that after a decision is remanded by LUBA, the local government is entitled to limit the scope of its remand proceeding to correcting the deficiencies that provided the bases for LUBA's remand. *Siporen v. City of Medford*, 55 Or LUBA 29, 48 (2007). However, if modifications to the application or development plan are proposed, the local government must also offer all parties the opportunity to submit evidence and argument with respect to the proposed modifications. *Friends of the Metolius v. Jefferson County*, 48 Or LUBA 466, 486 (2005). This is the **minimum** scope of the proceeding that a local government must provide after remand by LUBA.

The **maximum** scope of the proceeding that a local government can provide after remand by LUBA is less clear. It is frequently said that "law of the case" principles prohibit a local government from reconsidering aspects of its initial decision that were not remanded by LUBA. Such statements most often rely on *Beck v. City of Tillamook*, 313 Or 148, 153, 831 P2d 678 (1992) (when the record is reopened at LUBA's direction on remand, the "new issues" by definition include the remanded issues, but not the issues that LUBA affirmed or reversed on their merits, which are old, resolved issues).

I do not agree that "law of the case" principles prohibit the City of Corvallis from reconsidering aspects of its initial decision that were not the bases for LUBA's remand. *Beck* is primarily concerned with whether an appellate court can review issues that LUBA decided, not in the decision under review, but rather in an earlier decision in the same case, for which judicial review was not sought. *Beck, supra*, 313 Or at 151. *Beck* does not address a local government's authority to expand its remand proceeding to include reconsideration of aspects of its initial decision, including interpretation of its comprehensive plan and land use regulations, that were not remanded by LUBA.

Shorty after the Oregon Supreme Court's decision in *Beck* was issued, the issue of the permissible scope of local government proceedings on remand from LUBA was addressed in *Schatz v. City of Jacksonville*, 113 Or App 675, 835 P2d 923 (1992). After noting that the *Beck* Supreme Court decision was mainly concerned with the application of "law of the case" principles to the review of land use decisions by LUBA and the courts, *Schatz* held that while "LUBA may *require* local governments to resolve certain questions before making a new decision; * * * it cannot *prevent* them from considering other questions." (Emphasis in original.) *Schatz*, 113 Or App at 680.

Schatz has never been overruled, but rather continues to be relied on to support the principle that a local government may choose to expand the scope of its remand proceeding beyond the minimum scope required by LUBA's remand. *CCCOG v. Columbia County*, 44 Or LUBA 438, 444 (2003). Thus, a local government is entitled to decide to accept new evidence and argument on all issues in its remand proceeding, and may reconsider whether the subject application meets applicable criteria.

The authority of a local government in remand proceedings specifically includes changing prior interpretations of local comprehensive plan and land use regulation provisions made in its initial decision – with certain limitations. *Bemis v. City of Ashland*, 48 Or LUBA 42, 55-57 (2004), *affd* 197 Or App 124 (2005).

A local government cannot act arbitrarily or inconsistently from case to case in changing its interpretations. *Alexanderson v. Clackamas County*, 126 Or App 549, 552, 869 P2d 863 (1994).

In the context of a "permit" or zone change proceeding subject to ORS 227.178(3) ("fixed goal post" statute), a local government cannot change its interpretation regarding whether a particular plan or land use regulation provision is an applicable approval criterion. *Holland v. City of Cannon Beach*, 154 Or App 450, 457-60, 962 P2d 701 (1998). However, *Holland* does not limit a local government's ability to change its interpretation regarding the **meaning** of an applicable approval criterion. *Jefferson Westside Neighbors v. City of Eugene*, 57 Or LUBA 421, 433 (2008).

Finally, where a local government's change of its previous interpretation is "beyond the range the parties could reasonably have anticipated at the time of their evidentiary presentations," the

local government must provide parties an opportunity to present evidence and argument responsive to the new interpretation. *Gutowski v. Lane County*, 155 Or App 369, 374-75, 963 P2d 145 (1998).

Conclusion

In its proceeding on remand from LUBA's decision in *League of Women Voters of Corvallis v. City of Corvallis*, 63 Or LUBA 432 (2011), the City of Corvallis has the authority to expand the scope of its remand proceeding to include reconsideration of any and all aspects of its initial decision. The motion adopted by the City Council on May 6, 2013, regarding the Creekside remand reflected this intent by stating the City Council would "take new testimony to consider the case in whole."

Additionally, the City may, in its proceeding on remand, adopt interpretations of Plan and LDC provisions different from those in its initial decision on the Creekside application, so long as it does not act arbitrarily, does not change its interpretations with regard to whether particular Plan or LDC provisions are applicable approval criteria, and if the new interpretations could not reasonably have been anticipated, provides the parties with an opportunity to submit evidence and argument regarding the new interpretations. This last item should be satisfied in any case by the June 17, 2013 evidentiary hearing on remand before the City Council.

Please contact me if you have additional questions.

Sincerely,

Corinne C. Sherton

Corinne C. Sherton

cc: Elizabeth Frenkel
Annette Mills
Rochelle Murphy

PLEASE DONT OVER KILL THE AREA!

NOTICE OF CITY COUNCIL PUBLIC HEARING

CORVALLIS
ENHANCING COMMUNITY LIVABILITY

RECEIVED
JUN 14 2013
Community Development
Planning Division

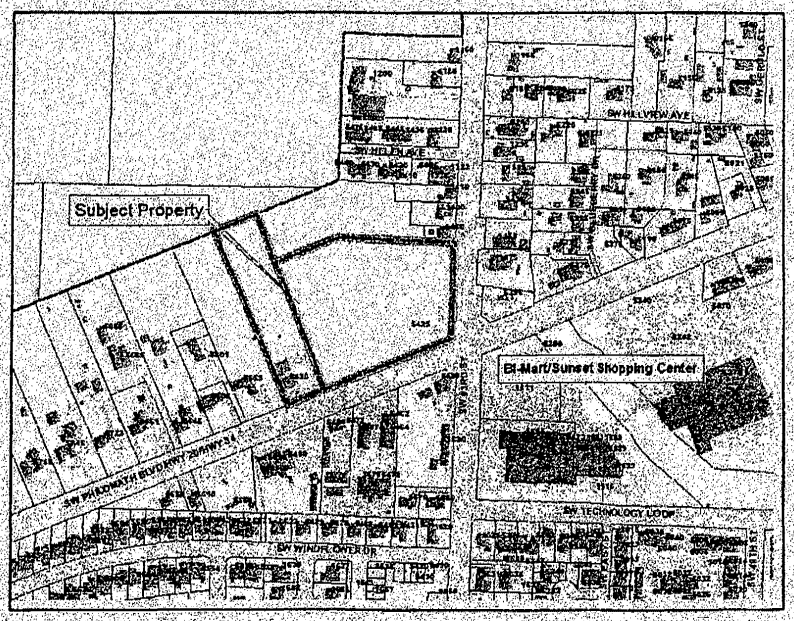
Monday, June 17, 2013, 7:30 PM
City of Corvallis City Council
City Fire Station Meeting Room, 400 NW Harrison Boulevard

LEAVE IT ALONE

CASE: **Creekside Center I & II (PLD09-00004, CDP09-00003, SUB09-00002)**

TOPIC: Review of a Land Use Board of Appeals (LUBA) remand of a City Council decision to approve a Conceptual and Detailed Development Plan, Conditional Development Permit, and Tentative Subdivision Plat for development of a commercial shopping center.

SITE LOCATION:
The subject site is located at the northwest corner of SW 53rd Street and Highway 20/34 (SW Philomath Blvd.) The site is currently vacant. The subject site is also identified on Benton County Assessor's Map 12-5-05 DD, as Tax Lots 500 and 600.



APPLICANT:
Oregon Architecture Inc
221 W 10th St
Medford, OR 97501

OWNERS:
Apple Creek I LLC
PO Box 4460
Medford, OR 97501

ThomasFox Properties LLC
515 W Pickett Circle - Suite 400
Salt Lake City, UT 84115

BACKGROUND:
On December 20, 2010, the City Council approved the land use applications mentioned above, with conditions. The City Council decision was appealed to LUBA. On June 28, 2011, LUBA remanded the case to the City for additional findings on specific issues listed below. On April 5, 2013, the applicant submitted a request initiating the remand proceedings. On May 6, 2013, the City Council voted to conduct a hearing on remand to be held at the date, time, and location listed on this notice.

I WOULD OF TYPED THIS
NO COMPUTER OR TYPE UP. I WRITTEN
ON THIS DAY WHEN I WAS
READING ABOUT THIS PROBLEM

THE CORNER HAS ENOUGH ACTION ALL READY
DONT RUN DOWN THE LOOK OF THE AREA —

DONT MESS UP THE WETLANDS
TO THE CITY OF
CORVALLIS
DO TO
THE BIRD, TREES BEES
RIVER, LANDSLOPE PARKING
PROBLEMS ALL LUBA PROBLEMS PLANS
ALL LUBA PROBLEMS. CITY
PARK PROBLEMS BIKE PATH
WALKING PATH OVER ~~ELSE~~
ALL TO MANY BILDING ON
THE CORNER OF 53 ~~RD~~ ST.
AND PHILOMATE BLVD.
ALL LUBA PROBLEMS?
STOP THE BILDING

PO BOX 674 RAINBOW
AND THE FOOD MART
JOSEPH Carlson

STOP BILDING
A MESS, IT A MESS Joseph Carlson
AND DAVID CASE IMA

DONT MAKE A MESS RADIO-DJ

Yaich, Jason

From: Patricia Benner [bennerp@
Sent: Sunday, June 16, 2013 1:52 PM
To: Mayor and City Council
Cc: Louie, Kathy; City Manager; Yaich, Jason
Subject: Creekside Hearing testimony -- City Council, June 17th, 2013
Attachments: Andrea Michalek testimony -- Creekside remand hearing on June 17, 2013 -- pdf.pdf

June 16, 2013

Dear Mayor and City Council Members,

Attached is Andrea Michalek's testimony for the City Council Public Hearing on the Creekside Remand on Monday, June 17, 2013.

It is the same testimony that she submitted (both oral and written) during the Planning Commission and City Council land use hearings for the Creekside proposal in the fall of 2010.

She requested that I submit her testimony for her, because she is out of town.

The minutes of the Planning Commission (September 1, 2010) and the City Council (November 1, 2010) are also included.

Sincerely,

Patricia Benner

copies to:
Jim Patterson, City Manager
Kathy Louie, City Recorder
Jason Yaich, City Planner
Scott Fewel, City Attorney's Office
Mike Robinson, Perkins Coie

June 15, 2013

Mayor Manning and Members of the City Council
Corvallis City Hall
501 SW Madison Avenue
Corvallis, Oregon 97333

Re: Testimony regarding Creekside Center Remand
PLD09-00004, CDP09-00003, SUB09-00002

Dear Mayor Manning and City Councilors:

Ms. Andrea Michalek will be out of town on June 17, 2013, and asked that her testimony from the first Creekside hearings in 2010 be submitted for the record on her behalf.

She is the immediate neighbor to the north, and brings experience to the discussion regarding the regular flooding and wetland annual ponding water along this section of the Dunawi Creek's corridor, as well as information regarding the traffic congestion issues on 53rd St..

Andrea submitted a map and several photographs in 2010. The 2010 hearings were transcribed by citizens involved in the LUBA process, and so her oral testimony is also included in this submittal.

Thank you,

Patricia Benner, on behalf of Andrea Michalek

Andrea Michalek written testimony to Planning Commission, on September 1, 2010.

I am writing in response to your query dated August 18, 2004 regarding application #App0032863. My name is Andrea Michalek and I reside at sw 53rd st., tax lot , located on the north boundary of the proposed site. My property would be adversely affected by the location of the access road into this development.

Squaw creek overflows it's banks annually through the landfill area for the proposed access road from 53rd st. to the future development. As it is now, the creek overflows and the water completely covers from inside of my yard all the way to Squaw creek, which runs parallel to my house. This flood water has a strong current and it builds up into my yard. The proposed road will dam up these flood waters on to my property and the backs of all other adjoining properties. In addition the landfill and construction would be replacing permeable soil with non permeable surfaces on both sides of the creek, which will further increase flooding on the north side of the creek.

The city of Corvallis has filled in the drainage ditch on the west side of 53rd street, and installed inadequate drainage grates so the storm water now runs as a creek down the bike path in front of my house, and the first winter has yet to occur.

I also have an objection to the traffic layout for the development. I can not see how traffic can leave or enter the proposed road on 53rd street safely. Traffic is backed up to lot line 300 daily. I can not cross the road to get my mail during peak periods at all. I can not see how traffic can access 53rd street from the development without gridlock or a traffic accident or a major inconvenience to all involved; especially with the increased volume of traffic that this size enterprise would incur. This access is way too close to a busy intersection.

Cross turning

I find the drainage and traffic situation totally inadequate to 'okay' this project.

Sincerely,

Andrea Michalek

Sept 15th.

(PLD09-00004 / CDP09-00003 / SUB09-00002) - CREEKSIDE CENTER I & II
10/22/2010 MEMORANDUM TO COUNCIL
EXHIBIT I - 4

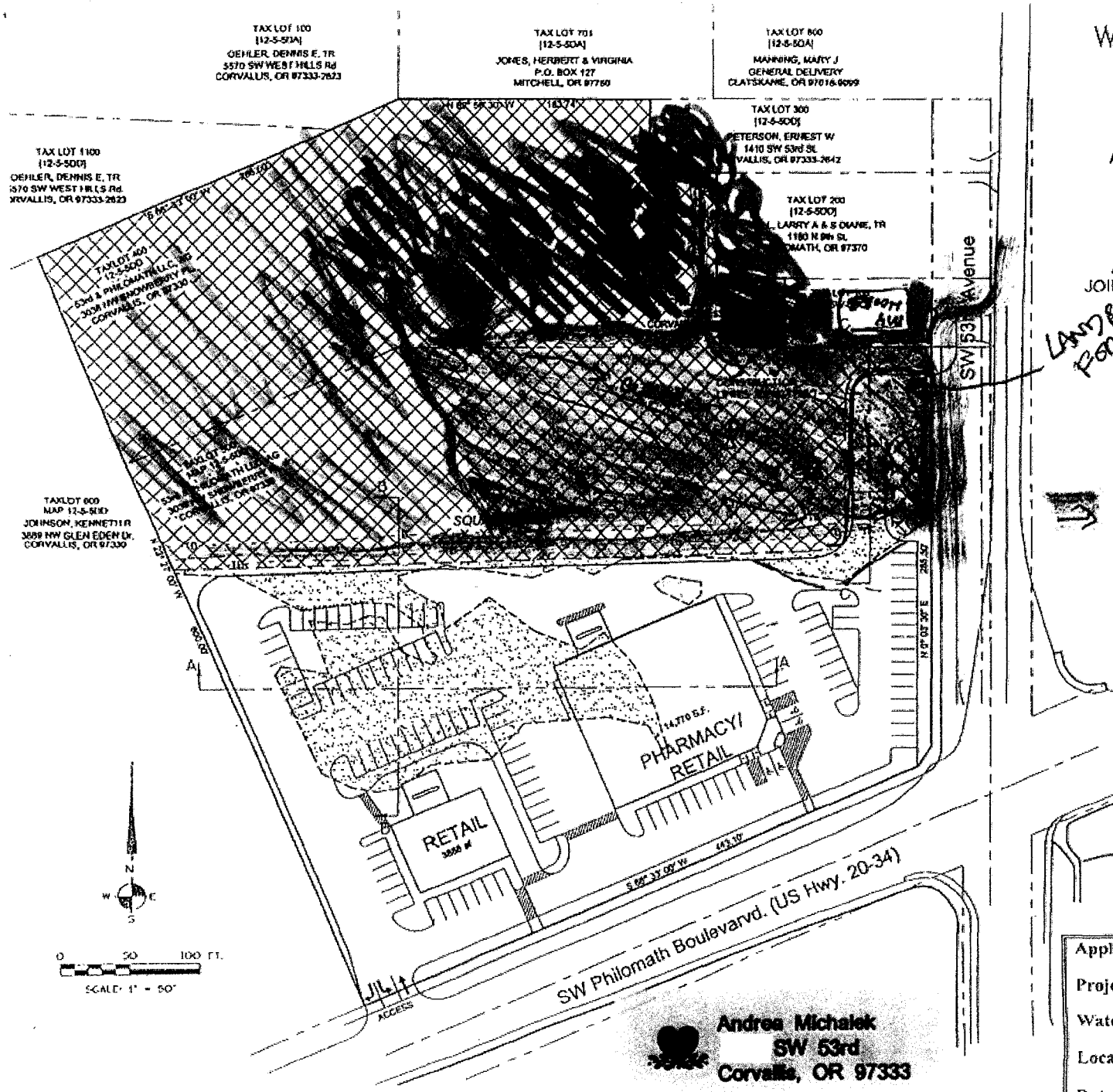
WETLANDS JOINT PERMIT SITE PLAN

LOCATED IN

TAX LOT 400 AND 500
ASSESSORS MAP 12-5-5DD
CITY OF CORVALLIS
BENTON COUNTY, OREGON

APPLICANT: JOHN BATZER, LLC
APPLICANTS REPRESENTATIVE BRET FOX,
JOINT VENTURE PARTNER W/ JOHN BATZER, LLC

JUNE 15, 2004



LEGEND:

NON-IMPACTED JURISDICTIONAL WETLANDS 150,230 sf.

JURISDICTIONAL WETLANDS IMPACTED BY DEVELOPMENT 24,838 sf. 0.60 acres

WETLAND IMPACT CROSS SECTION (SEE SHEET 2 OF 2)

TOTAL LOT AREA: 6.56 acres

TOTAL JURISDICTIONAL WETLAND AREA: 4.46 acres

TOTAL WETLANDS AREA: 2.10 acres

TOTAL AREA: 6.56 acres

2 MAJOR PHARMACY
SAFEWAY
BIMART

NOTES:

1) JURISDICTIONAL WETLANDS PER CONCURRENCE LETTER WD# 04-0169 DATED JUNE 3, 2004

COE File No. 200400519

Applicant: John Batzer, LLC

Project: Pharmacy Retail Center

Waterway: Squaw Creek

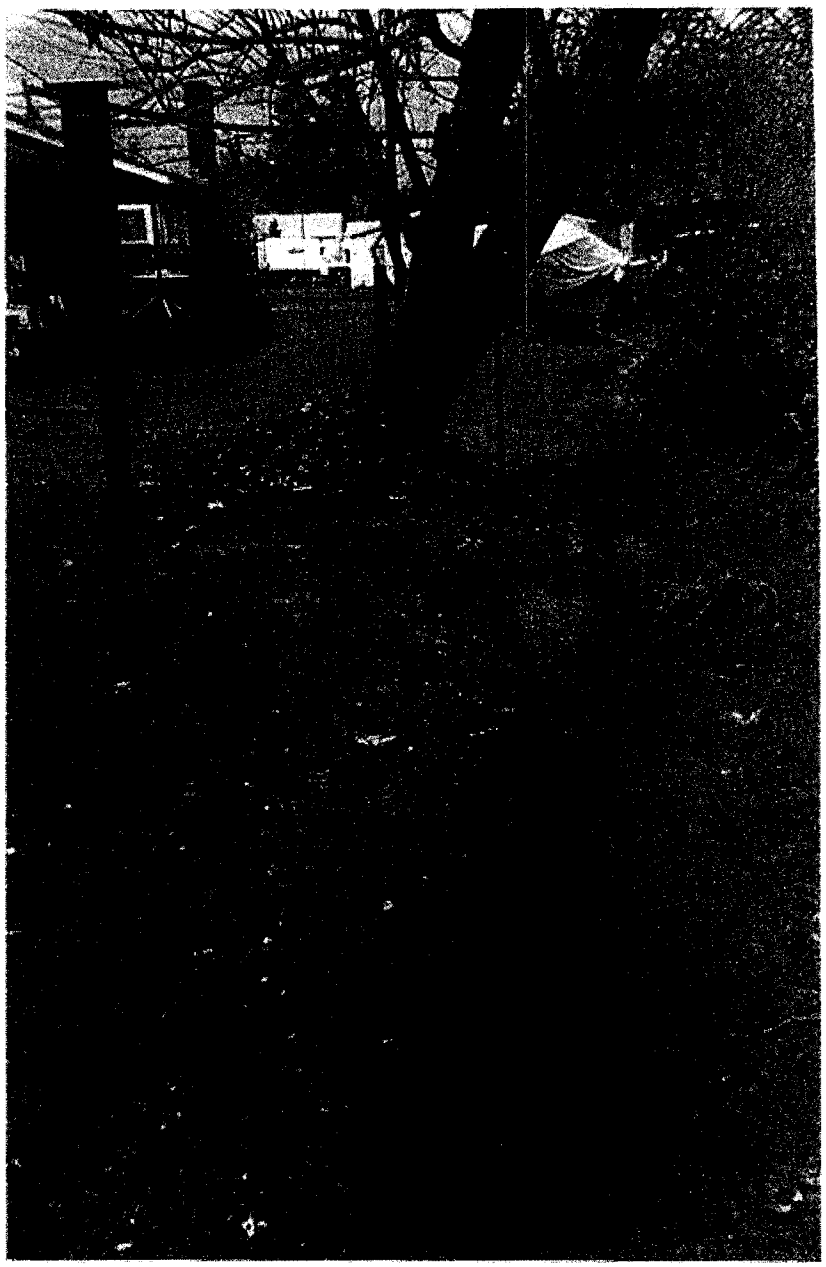
Location: At Corvallis, Oregon

Date: August 2004

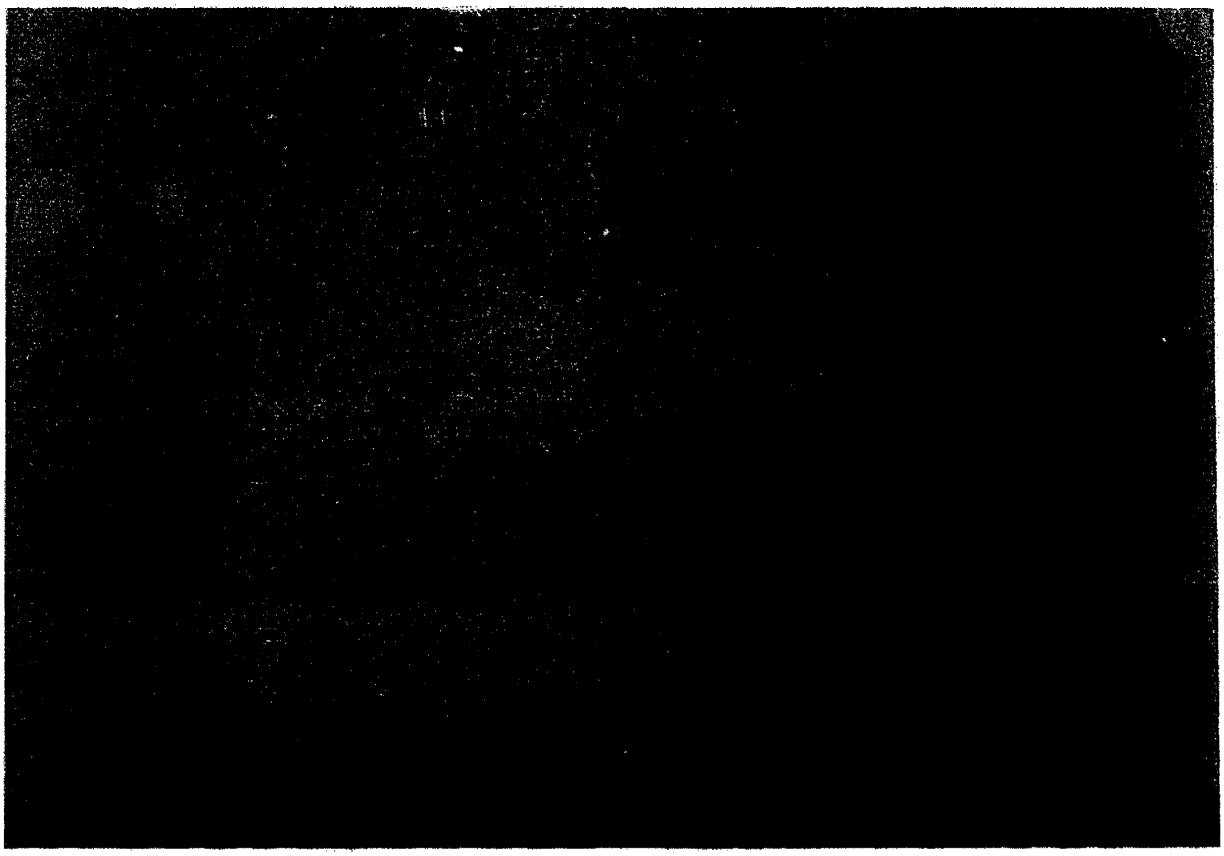
Sheet 2 of 3

Andrea Michalek
SW 53rd
Corvallis, OR 97333

Andrea Michalek flood photos at her property (testimony in 2010)



Andrea Michalek flood photos at her property (testimony in 2010)



Ms. Andrea Michalek's Testimony
Transcription of the September 1, 2010 Planning Commission Hearing for the Creekside Center I and II

Ms. Andrea Michalek: My name is Andrea Michalek. And, I live right here. This floods every year the creek backs up. The current flows down here right to this landfall. In addition, where the landfill is toward the road, in addition, the water runs down the bike path. The City fills in the drainage ditch, so the water runs down the driveway and runs down the bike path and then drains into the ditch. So on heavy rainy days you have a gully going down the bike path and drains into here. On 100-year floods, the water goes right up to the sill of my house, of the foundation. With all this additional asphalt, I can't see anything but additional flooding over here. The 100-year flood has both back yards full, and all the way around here and the front driveway full of water. So, in combination with the creek flooding, and this, the regular rain drainage down the bike path, which is now the drainage ditch for 53rd, it's really going to be a lot worse if they are going to put a bunch of asphalt and fill.

Ms. Andrea Michalek: In addition, I also object to all the congestion. Daily, the traffic backs up to Helen Street, just to get through the regular intersection. I can't imagine what it's going to be with this additional traffic for people trying to get across it. I guess they are going to make it so they can't get across. But, it's already jammed and noisy, but, you know, this is where I live. I suspect it's going to be noisy, but I can't see how they are going to get that extra traffic in there as access to that corner lot. That's what I have to say.

Commissoner Howell: So, I guess the years that you were talking about the 100-year flood when you --.

Ms. Andrea Michalek: The 1996 flood.

Commissoner Howell: -- 1996. O.K. And that's something that we may ask staff to look at, because that was a 14-year event in the Willamette, but Dunawi Creek, and others, it could have been more than a 100-year event at that point. So, part of what we may have to check is, kind of the analysis of the study that provided the line for the 100-year flood and see what, kind of actually, what level of flood that was in that year, to see if that map is accurate.

Ms. Andrea Michalek: But, every year it floods like this. This is an annual event. I can look out. I have pictures. I can look out my side window and see that the whole forest is water, because it backs up where there is a side drainage tributary goes in to Dunawi, and that is where it backs up, and it just comes all the way around.

Commissioner Howell: Is that information that you can provide for us in terms of your drawing or something like that?

Ms. Andrea Michalek: Yes.

Commissioner Howell: It would be through the recording secretary and they can make comments that we can get before we look at it in two weeks. And then, so were you saying that kind of on an annual basis you get some flooding on your property, or is it just like ponding in the wetlands?

Ms. Andrea Michalek: No, it's got a current, annually. Yes.

Commissioner Howell: OK, thank you very much.

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Ms. Andrea Michalek's Testimony
Transcription of the November 1, 2010 City Council Meeting
City Council Hearing for Creekside Center I and II
PLD09-00004 and SUB09-00002 and CDP09-00003

Andrea Michalek: My name is Andrea Michalek. I've lived for 37 years on property 100, and I'll show you where that is. That's my, this is my house right up here.

Andrea Michalek: Every year, this creek floods from the tributary right down here. There's a tributary that runs back here, and the creek is so full of debris that it backs up all the way through this whole woods. And the current runs down right down here to a ditch that's parallel to the bike path. Meanwhile, all the drain water runs down all these hard bits, everybody's driveway, and runs down the bike path and then dumps into this ditch right here where they're planning this road. That's where the current runs in and that's where all the water runs in, right in there. And this ditch runs down here and dumps into Dunawi Creek. This happens every year. We've had one flood that had the water up to the sill of our house. In November 200—I mean 1995. That's when we had a record-setting 24-hour rainfall. So I brought these objections up before, and so, their solution was to not hold the City culpable for any flooding I might have. And also for the developers to put, not-raise the landfill any higher than my property. And I don't see how they could ever do that and still have a road. And it can be level right next to my property but still drain down into my property. And I'm finding, now put in a situation where I'm now going to have to get flood insurance because this really increases the chance of more major flooding besides the regular flooding that just happens every year. I'm planning on retiring next year, so I'm going to be living on about $1000 a month. And I can see no way that I can afford flood insurance. My solution would be that the developers purchase my flood insurance.

So, my other objection is this path to nowhere. We've had a problem with transients in the past, and there was a camp right over here at one time with mattresses and aerosol cans from huffing. And up here, there is a camp. So, this gives the public access to my back yard, this path to nowhere. And it gives the transients a good place to go set up camp back here.

The congestion backs up right up here every day at rush hour, clear up to Helen Ave. And they're adding an extra lane that will relieve the congestion. Well, the traffic's already built their extra lane there. They're using a lane there whether there's one built there or not.

They've got a turn lane there that they pull over into. I can't even get across to my mailbox as it is. And right here, they're going to be putting in a, an island so they can't turn around and enter from accessing this road from this lane, from the right-hand lane. So that makes it so that I can't get out of my driveway unless I turn right or I can't get into my driveway unless I come up and turn around and come in. So it's blocking my egress and exit and access to my driveway too.

Andrea Michalek: My summary is the path is just a transient attraction because it goes nowhere. If it had a loop around somewhere and it runs right by my back yard, it just gives the public access to my back yard. The solutions to the exit, increased chance of flooding my property are unsatisfactory because I don't see any way they're going to build a road there without putting some fill in there. And it's going to have to be higher than my property. And the congestion is just going to get more intense.

Excerpt of Andrea Michalek's testimony to the City Council, Creekside hearing. November 1, 2010

Approved as submitted, October 6, 2010
CITY OF CORVALLIS
PLANNING COMMISSION MINUTES
September 1, 2010

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

H. Public Testimony in opposition to the applicant's request:

Annette Mills submitted and read a statement from the League of Women Voters of Corvallis **(Attachment B)** in opposition to the proposal based on three main areas of concern: implementation of the Land Development Code, water quality, and pedestrian traffic.

Andrea Michalek submitted written comments, photos, and a drawing showing areas of flooding **(Attachment C)**. She pointed out her property on the north boundary of the proposed site and expressed concern about flooding, which she expects to worsen with this development. She also expressed concern about congestion, noting that

traffic backs up daily, and said she is concerned about the impact of the additional traffic associated with this proposal.

Robert Frenkel said that he tricycles daily during the week. He parks in the lot provided by BiMart because he cannot wend his tricycle across 53rd Street to get to his fitness class. He has to sprint across the street in order to get across before the signal light changes. This is a minor aspect of the congestion that now exists; he cannot see how the congestion will improve with this development.

Marilyn Koenitzer came forward to request that the record be held open for additional written testimony.

I. Neutral testimony:

Excerpt of Andrea Michalek's testimony to the City Council, Creekside hearing. November 1, 2010

CITY OF CORVALLIS
COUNCIL ACTION MINUTES
November 1, 2010

Public Testimony – Opposition

Andrea Michalek has lived on Tax Lot 100 for 37 years. Dunawi Creek floods every year and debris fills the creek through the nearby woods. Runoff feeds to a ditch parallel with the bicycle path and water flows across all nearby driveways. In 1995, flood water rose to the sill of her house. The proposed solution releases the City from liability for flooding she might experience and directs the developer to not allow fill at an elevation higher than her property. Building a road within this development will most likely require fill higher than her property. Even if it is level with her property, the road will drain onto her property. Because of the increased chance of major flooding she will be forced to purchase flood insurance. She proposed that the developers pay for her flood insurance.

The proposed multi-use path goes nowhere and provides public access to her backyard. The development site has had issues with transient camps in the past and the proposed path will encourage that behavior.

Traffic on SW 53rd Street, especially during rush hours, is highly congested. An additional lane will be added next year; however, the public already uses the street as if it had an additional lane. Adding an "official" lane will not decrease current congestion and this development will increase traffic. Because of the proposed median, she will only be able to turn right out of her driveway and must take a completely different route to get back home.

Perkins Coie

1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
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Seth J. King
PHONE: (503) 727-2024
FAX: (503) 346-2024
EMAIL: SKing@perkinscoie.com

June 17, 2013

VIA EMAIL

Mayor Julie Manning
Corvallis City Council
PO Box 1083
Corvallis, OR 97339-1083

Re: City Council Agenda Item XII.B. - Scope of LUBA Remand of Creekside Center I & II Approval (PLD09-00004/CDP09-00003/SUB09-00002)

Dear Mayor Manning and Councilors:

This office represents the applicant and developers of the proposed Creekside Center I & II retail project in the City of Corvallis ("City"), which the City Council previously approved and will reconsider on remand from the Land Use Board of Appeals ("LUBA") at tonight's meeting (City Council Agenda Item XII.B). The purpose of this letter is to confirm the scope of the remand hearing before the City Council.

1. The City Council should define the scope of the remand hearing consistent with its direction on May 6, 2013, and the subsequent public notice.

Consistent with the City Council's direction on May 6, 2013, and the ensuing public notice, the City Council is to consider testimony and evidence on two primary groups of issues at the remand hearing. First, the City Council is to consider the four issues remanded to the City Council by LUBA:

- Whether the proposed multi-use path ("Path") qualifies for an increase in the Minimum Assured Development Area ("MADA") because it is required by the Corvallis Transportation Plan or the City Park and Recreation Facilities Plan, or is necessary to provide public access to or through designated open space areas, as required by Land Development Code ("LDC") 4.11.50.02.c.4;

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MENLO PARK · PHOENIX · PORTLAND · SAN FRANCISCO · SEATTLE · SHANGHAI · WASHINGTON, D.C.
Perkins Coie LLP and Affiliates

- Whether the area of wetland mitigation for the Path qualifies for an increase in the MADA because it is required by the Department of State Lands and/or the U.S. Army Corps of Engineers, as required by LDC 4.11.50.02.c.2;

- Whether, based upon the above findings, the City has awarded a sufficiently large number of MADA credits to allow development in protected areas in the amount proposed by the applicant, as permitted under LDC 4.13.50.b.6 and LDC 4.13.80.01.c.2; and

- Whether, based upon the above findings, it is necessary to allow a stormwater detention facility to encroach within the riparian easement area on Tax Lot 500 in order to allow utilization of the MADA for the project, as required by LDC 4.13.70.02.d.4.

The second group of issues for the City Council's consideration concern modifications to the site plan made by applicant to address issues on remand. The City Council is to consider these proposed modifications and new, unresolved issues that relate to these proposed modifications.

In the course of considering these issues, the City Council is to consider the "case in whole." However, under the doctrine of the "law of the case," the City Council is not to reconsider issues that have already been addressed and are thus resolved:

> "The logical corollary is that parties may not raise old, resolved issues again. When the record is reopened at LUBA's direction on remand, the 'new issues' by definition include the remanded issues, but not the issues LUBA affirmed or reverse on their merits, which are old, resolved issues."

Beck v. City of Tillamook, 313 Or 148, 153, 831 P2d 678 (1992). LUBA has further held that "resolved issues" include: "(1) [I]ssues presented in the first appeal and rejected by LUBA; and (2) issues which could have been, but were not, raised in the first appeal." *Louisiana Pacific v. Umatilla County*, 28 Or LUBA 32, 35 (1994).

2. Arguments to the contrary lack merit.

Although Corinne Sherton's June 14, 2013, letter contends that the "law of the case" doctrine does not preclude the City Council from reconsidering aspects of its initial decision that were not the basis for LUBA's remand, the City Council should deny this contention for two reasons. First, for the reasons explained above, Ms. Sherton's position is not consistent with the scope of remand defined by the City Council in May 2013 and subsequently advertised to the public.

Second, Ms. Sherton misconstrues the only two cases cited in support of its contention. For example, although Ms. Sherton contends that *Schatz v. City of Jacksonville*, 113 Or App 675, 835 P2d 923 (1992) supports the proposition that LUBA may not prevent local governments from considering additional questions on remand, Ms. Sherton reads this case too broadly. Properly construed, the decision in *Schatz* provides that a local government errs when it fails to apply its land use regulations to an application on remand, even if those regulations were not in effect when the local government made its initial decision on the application. The Court reached this conclusion in *Schatz* because the regulations at issue had not yet been acknowledged at the time of the initial proceedings, but they were acknowledged at the time of the remand proceedings, and the acknowledgment order directed the city to apply them on remand. Thus, the Court's holding is actually consistent with *Beck* because compliance with the regulations was not and could not be resolved in the initial decision and thus was properly within the scope of the remand. Thus, the Court's holding does not support the conclusion that the City Council may revisit any and all issues on remand—simply those that were not resolved in the first proceeding.

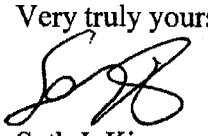
Additionally, although Ms. Sherton contends that LUBA continues to rely upon the proposition in *Schatz*, Ms. Sherton cites to only a single example—*Columbia County Citizens for Orderly Growth v. Columbia County*, 44 Or LUBA 438 (2003)—in support of this contention. Moreover, the holding in *Columbia County* does not support Ms. Sherton's position. In *Columbia County*, LUBA initially remanded the county's decision on very narrow grounds—for the county to adopt findings resolving an evidentiary conflict between the staff, which counted 14 dwellings within the subject area, and the intervenors, who identified 11 dwellings in the same area. On remand, the county decided to consider additional issues and accepted evidence on these additional issues. However, in its decision, the county narrowed the scope of the decision to addressing only the remand issues identified in the LUBA opinion. LUBA upheld this approach. *Id.* Thus, *Columbia County* did not ratify the decision in *Schatz*. Rather, it reinforced the "law of the case doctrine" from *Beck* that the local government is only required on remand to consider those issues identified by LUBA.

3. Conclusion.

Based upon the foregoing, the City Council should construe the scope of the remand consistent with the public notice and limit it to the two groups of issues identified above. Please place a copy of this letter in the official Planning Department file, and please consider it before tonight's public hearing in this matter. Members of the applicant's team will attend the hearing in this matter, and we are happy to answer any questions at that time.

Thank you for your consideration of the points in this letter.

Very truly yours,



Seth J. King

SJK

cc: Kathy Louie (via email)
City Attorney (via email)
Jason Yaich (via email)
Bret Fox (via email)
Mark McKechnie (via email)
Michael Robinson (via email)

Creek side I and II (PLD09-00004,
CDP09-00003, SUB09-00002
Corvallis, City Council

June 17, 2013,

Dear Mayor and City Council,

This application is different then the original application presented to the public, Nov. 1, 2010. Current development is showing seven buildings as opposed to two, Tax lot 600 is know part of the process, as are tax lot 600's riparian area: floodplain, wetland's, so these are significant changes of this applicants land use and development request.

I have trouble reviewing this application as it appears more difficult and confusing to consider the facts, so hope the decision's made on June 17 are to allow more time for the public to be informed and remain involved, keeping the need to understand all aspects of this request to develop in mind.

Tax lot 600 appears to have significant wetland and is relied upon for the larger phase of the development's buildings and placement of storm water detention impacts to the various flood plain elevations, 50ft and 100ft are focused on open ground here.

How are MADA credits used in relation to developing tax lot 600 together with tax lot 500? Was wetland data for tax lot 600 included in the MADA if developer is putting detention facility here?

The developer has reduced impact to 0.2 foot floodway, but has added more buildings to their development area (tax lot 600) hopefully all the specific MADA calculations are correct, and outdoor drive up window area is, or should be considered as part

of the building square footage (outside sales area) is able to be calculated as square foot of building space as it directly is used for 24hr sales area.

I concur with the eleven page testimony submitted, June 11, 2013 by Tony Howell presented in the wetland chapter of the online staff report.

Mr. Howell's June 11, testimony and comments provided appear to need clarification and discussion and are relevant and important arguments to consider.

Traffic circulation:

How is the developer protecting bike and ped safety in the main access from 53rd, to Walgreen Pharm, and Pharm Drive Up? Hopefully the traffic study and use of 24 hour drive up window as a sales area, has been factually represented to the City by the developer, for the continuous night and day use of volume of traffic to the drive up window or window's should some of the other buildings be 24 hour use and have drive up window. Hopefully the traffic study has fully disclose this to the City, of the future dedicated use of buildings for 24 hour car access.

Does the 53rd Street access get blocked visually, creating hazardous use from area restricted by bridge construction, signage, lighting, parked cars, landscaping working together in this tiny area to create further dangerous, 24 hour a day, hazardous conditions for this highly used ped and bike pathway on west side of 53rd?

How are cars coming and going into all access points for Tax Lot 500 and 600 alerted to issues with pedestrian and bike use? Will the developer post mirrors and signs warning their customers of this hazard? If someone is hurt in the bike lane by a Tax Lot 500 and 600 customer, how are they covered by the developer? Who is liable if a biker, or a ped gets hurt/run over by users of Tax Lot 500 and 600? If alcohol is sold here, how safe are area bike

and ped users if drunk customers use the 24 hour drive up window to by alcholol?

Will lighting for these tax lot cover their 24 hour use and abuse the locals by creating light pollution? With 24 hour vehicle traffic how is noise considered in this application? Air pollution is increased by idling and so will this damage area residence if idling fills the area with exhaust?

Will the function LOS/safety of the intersection of highway 20/34 and 53rd be changed by this development together with annexation of 45th?

For location near the riparian, wetland, floodplain hopefully the area landscaping will not force the developer to spray constantly into the whatever may remain of area wetland, riparian area, floodplain. Living with Walgreen, I note they look bad after a few months, visually, used by a huge group of people coming and going all the time by car and on foot. If litter enters the creek here will the culvert have a trash rack since this developer will not maintain this area after build out? This trash rack will collect debris over time and allow stuff coming off these tax lots to not coat the creek downstream from these parcels. Trash may be so large here that it plug the trash rack and backs up flood flows.

Drive through will continously contribute hydrocarbon pollution to Danawi and area wetlands. How is the drive -thru constructed to reduce contaminant transfer to area wetland and waterway since possibly drainage of parking lots is to next lowest location, Dunawi Creek and local wetlands?

Will easements which create issues with area wetland and flooding be able to be fixed/relocated in the future when they are found to be degrading or damaging to area creeks, wetlands and private property (ie. Homes in tax lot 400 impacted more by flooding because of displacement in the floodway in this drainage)?

How well will the developer manage issues with flood flows backing up in the area if most of the wetland/floodplain in tax lot 600 is filled? Deflation of floodwater into tax lot 600 should be part of site review. See 2012 flood photos, new revised FEMA Floodplain map, new wetland delineation for tax lot 600. Hardening into tax lot 600 will take away this floodplain,wetland area, pushing/displacing floodwater/watertable someplace else.

Hopefully FEMA has provided DSL and ACOE with the most recent floodplain revised map and flooding in 2012 can be noted to which elevation it came. Developer has filled in much of the area abutting Highway 20/34, so hopefully wetland delineation of tax lot 600, DSL and ACOE have noted recent new fill materials here.

For Tax Lot 400 will a dedicated set of SDC's, or other funds be set aside to be fully able to develop utilities/infrastructure linked to this land use for city transportation plan the future?

Thanks, Rana Foster

Corvallis, Oregon

CORVALLIS
ENHANCING COMMUNITY LIVABILITY

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FAX: (541) 766-6780
e-mail: mayor@council.ci.corvallis.or.us

June 10, 2013

Tim Weber
Hewlett-Packard
1100 NW Circle Blvd.
Corvallis, OR 97330

RE: Hewlett-Packard property tax refund

As you may know, in July Benton County will process a property tax refund of around $9.5 million with accrued interest at 12% annually as the result of Hewlett-Packard prevailing in its appeal of its real market value. I understand that the decision to appeal its valuation was a business decision made by Hewlett-Packard's corporate office.

The impact of this decision will be felt in FY 13-14 by all of the taxing jurisdictions in Benton County, including (among others): school districts in Corvallis, Philomath, Albany, and Harrisburg; Linn-Benton Community College; the Cities of Corvallis, Philomath, Monroe, Adair Village, and Albany; the Benton County Library Service District; and numerous rural fire and road districts. For the City of Corvallis, the estimated loss is $2.3 million, or about 10% of our FY 13-14 estimated property tax revenue. This will have a significant impact on services we provide to our citizens.

In light of this impact, I am writing to ask you to help facilitate discussions with appropriate parties inside HP that could result in the company either waiving the interest payment altogether, or making a tax-deductible donation of the difference between the 12% to be paid and what HP would have made at market rates. The donation could be made to the local governments that will pay for the refund, or to a local tax-exempt entity such as the Benton County Foundation to fund services in these communities county-wide.

Thank you for considering this request.

Sincerely,

Julie Jones Manning

Julie Jones Manning
Mayor

2038

6-17-13

Update - Rapid Assessment for Special Levy Discussion

Logistics

1. This is a City survey; however we are amending our current contract with the OSU Survey Research Center and Dr. Lesser has agreed to review our questions for bias and construction.

2. City will temp hire Brittany Heller, recent OSU graduate who is certified to conduct human subjects research and has conducted a survey in the past. She will work no more than 100 hours at $13.60 an hour to both conduct and tabulate the survey.

3. Hopefully we can complete 300-400 surveys in a rapid assessment format. If that is not possible, Brittany may need to do one on one interviews to get as many responses as possible.

4. We will begin surveying at the Farmers' Market on June 26th. Councilors are welcome to work with Brittany during the surveys. All the surveys will be done and tabulated in spreadsheet format by Wednesday, July 10th to get into the July 15th Council packet.

5. Proposed survey locations include Farmers' Market, Red, White and Blues Festival, one downtown business and one grocery store entrance. In addition, please let Kathy know if you are willing to host and participate in an outreach session in your ward.

6. The survey will be included in the July Newsletter with a link for electronic response. We will keep responses from each location separate.

7. We will determine Corvallis voters with dot colors or just asking if we need to do walk-up surveys.

Questions:

(Note: We will work with the OSU Survey Research Center on question wording that will ask respondents to indicate preference for a levy amount and for how the funding would be distributed in support of City services.) Part of the question wording could be something similar to:

1) Please help us build a levy. If voters pass an operating levy for the City of Corvallis in November, how much would you be willing to spend on each of the following programs? Indicate the levied amount for each program in dollars for a home with an assessed value of $200,000. The current levy amount is $.45 per thousand dollars or $90 total for a $200,000 home.

Police (including school resource officers)

$10 $20 $40 $60 $80

Fire and emergency medical services

$10 $20 $40 $60 $80

Parks and Recreation

$10 $20 $40 $60 $80

Library

$10 $20 $40 $60 $80

Long range community planning

$10 $20 $40 $60 $80

Aquatic center\pool

$10 $20 $40 $60 $80

Senior Center

$10 $20 $40 $60 $80

2) The current special levy was passed in 2011 and was used to preserve services at the library, pool, and senior center. How satisfied are you with what resulted from the passage of that levy?

Very satisfied Satisfied Not satisfied Very unsatisfied

3) How does the financial future look for you and your ability to pay for City services?

Improving Stable Slightly declining Significantly declining

4) Please rank the following options for Corvallis to consider as it balances its budget with 1 the highest and 4 the lowest (rotate)? – Nancy's first choice is income tax and second choice sales tax and Julie should decide which one we include in the survey. We do not need the combination question, which can be answered through the ranking.

City Income Tax

1 2 3 4

Reduce City services through staff layoffs

1 2 3 4

Special levy

1 2 3 4

City sales tax

1 2 3 4

Reduce City services through negotiating reduced hours for all staff

1 2 3 4

CITY OF CORVALLIS
COUNCIL WORK SESSION MINUTES

June 13, 2013

The work session of the City Council of the City of Corvallis, Oregon, was called to order at 5:24 pm on June 13, 2013, in the Madison Avenue Meeting Room, 500 SW Madison Avenue, Corvallis, Oregon, with City Council President Hervey presiding.

I. ROLL CALL

PRESENT: Council President Hervey, Councilors Hogg, Brown, Beilstein, Hirsch, Sorte, Traber, Brauner

ABSENT: Mayor Manning and Councilor York (both excused)

II. NEW BUSINESS

A. Council Discussion

Council President Hervey and Councilors reviewed the interview questions for the two Commissions. Councilor Sorte proposed and Councilors agreed to add a new question to the Historic Resources Commission interviews.

Councilors then briefly discussed the voting procedure to be used at the June 17 Council meeting. They concurred to use the first ballot to vote for the Historic Resources Commissioners with terms expiring on June 30, 2016, until a majority is reached. The Council will use the same process to fill the three Planning Commission vacancies.

B. Historic Resources Commission Applicant Interviews

Historic Resources Commission applicants Rosalind Kenney, Cathy Kerr, and Eric Hand were interviewed.

All candidates were informed that selection will occur at the June17 City Council meeting.

C. Planning Commission Applicant Interviews

Planning Commission applicants Steve Redman, John Morris, and G. Tucker Selko were interviewed.

All candidates were informed that selection will occur at the June 17 City Council meeting.

At the conclusion of the interviews, Councilor Brown proposed and Councilors concurred to revise some interview questions for both Historic Resources and Planning Commissions to be used next year.

III. ADJOURNMENT

The meeting was adjourned at 7:36 pm.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY RECORDER

June 17, 2013

Mayor Manning and Members of the City Council
City of Corvallis
501 SW Madison Avenue
Corvallis, OR 97333

Re: Additional Written Testimony regarding Creekside Center Remand
PLD09-00004, CDP09-00003, SUB09-00002

Dear Mayor Manning and City Councilors:

This letter supplements my testimony of of June 11, 2013, in order to address additional issues raised in the Staff Report dated June 10, 2013.

Location of Creek Multi-Use Path

In my earlier written testimony, I addressed reasons that locating the proposed Multi-Use Path north of Dunawi Creek is not in compliance with several cited criteria in the Land Development Code (LDC). The Staff Report (page 18) notes an additional criterion (LDC 4.13.80.01.c.2) related to path placement:

4.13.80.01 – Use Limitations and Exceptions Within Locally Protected Wetlands

c. Building Paving, Grading Activities *– Within LPV areas, the placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, is prohibited, except as outlined below. Exceptions to the LPW restrictions may be made for the purposes identified in "1," and "2," below, provided they are designed and constructed to minimize adverse impacts to Wetland Functions.*

****

2. Activities outlined in sections 4.13.50.b.2, 4.13.50.b.5, 4.13.50.b.6.

The three exceptions cited are the exceptions in a parallel section in 4.13.50.b, outlining protections governing Riparian Corridors and Riparian-related Areas, of which only two exceptions are relevant to this case:

4.13.50 – Use Limitations and Exceptions Within Highly Protected Riparian Corridors and Riparian-related Areas

b. ***Building, Paving, Grading Activities*** *– The placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, are prohibited. Exceptions to the drainageway restrictions may be made for the purposes identified in items 1-7 of the Section, provided they are designed and constructed to minimize adverse impacts to Riparian Corridors and Riparian-related Areas.*

****

2. *The location and construction of streets, utilities, bridges, bicycle, and pedestrian facilities within Highly Protected Riparian Corridors and Riparian-related Areas* ***must be deemed necessary to maintain a functional system*** *by the City*

> *Engineer.* ***This Code, City Transportation and Utility Master Plans, and other adopted City plans shall guide this determination.*** *The design standards of Chapter 4.0 – Improvements Required with Development shall be applied to minimize the impact to the subject area; ...* [emphasis added]
>
> ****
>
> 6. *Development associated with the Minimum Assured Development Area that would be allowed in accordance with Chapter 4.11 – Minimum Assured Development Area (MADA); and ...*

As discussed in my written testimony of June 11, 2013, and summarized below, the application does not meet either of these criteria for placement of the Path through a Wetland **or** Riparian-related Area:

1) **4.13.50.b.2:** The Multi-Use Path does not meet this exception criterion because it is neither **necessary** in this specific location, nor can it be constructed in a way that is **functional** for the intended users. A Path in this general area is **conceptually** outlined in the Trails Master Plan, Transportation Plan, Park & Recreation Facilities Plan, and West Corvallis/North Philomath Plan. As noted in my June 11 testimony, that conceptual Path can be implemented nearby along a route that does not damage the rare forested wetland and will allow a **functional** year-around path **system** for all users.

2) **4.13.50.b.6:** The Path does not meet this criterion because it fails to meet the applicable criterion for eligibility for MADA credits, in **4.11.50.02.c.4**:

> *"Trails* ***required*** *by the Corvallis Transportation Plan or the City of Corvallis Parks & Recreation Facilities Plan, or* ***necessary*** *to provide public access to or through designated open space areas."* [emphasis added]

Both of these circumstances are addressed in detail in my June 11 testimony. The Staff Report (p. 12) contradicts the Council Findings (original p. 14; Staff Report Exhibit D, p. 64) that concluded that these plans did not require a trail in this location. (If the Trails Master Plan Map is mandatory, I will be expecting to see a trail required through the WasteWater Reclamation Plant property as a condition of their next building permit.) As noted in my other testimony, public access to and through the open space area is adequately provided by the new north-south local street, and the block perimeter standard is adequately met by the pedestrian walkways and bicycle access through the development. It has also been routine to allow exceptions to the block perimeter standard due to site constraints (such as Cascade Crest).

Since the Path meets neither of these criteria, it cannot be built in this sensitive Wetland and Riparian-related Area.

Council Allowed to Change Interpretation of LDC Standards

I have written my testimony under the assumption that Council's decision to conduct the hearing "in whole" means that Council can consider or re-consider issues not contained in the remand or not specifically modified in the revised application.

I feel supported in this assumption by the Staff Report (p. 12), noted above, in which staff ask Council to reconsider its interpretation that the Trails Master Plan and Park & Recreation Facilities Plan presented conceptual trails that "may not justify this location for the Trail." Staff and the applicant recommend a revised interpretation that the trail is mandated by these documents. Although I do not agree with their recommended interpretation, I think it is legitimate for Council to consider this and other re-interpretations of applicable standards in this hearing.

The LDC standards applying to this application are complex and interwoven. I think Council can legitimately make different interpretations of standards, cite applicable standards or portions of Plans not addressed in the previous process, and come to different conclusions based on additional information, deeper understanding, and your own good judgment.

Thank you again for all your work in reviewing this material.

Sincerely,

Tony Howell

Corvallis, OR 97333
541-
howellt@

CORRECTION: Tony Howell
written testimony of June 11, 2013

of a multi-use path. Unless built on a berm that would disrupt wetland flow toward the stream (even with culverts), a paved path will be underwater during the winter. A raised boardwalk cannot safely accommodate many users, including cyclists, skateboarders, and skaters. There are alternative locations that will be described below that can provide a safe and functional multi-use path connection.

CONCLUSION: The Multi-Use Path is not required by the Transportation Plan or Park & Recreation Facilities Plan, nor is it necessary to provide public access to a designated open space area. Therefore, it does not qualify for MADA credits under under LDC 4.11.50.02.c.4. This has ramifications for allowing placement of the trail, as discussed in Section 2 below.

2. **LDC 4.13.50.b** prohibits building, paving, and grading (such as the Multi-Use Path) in a Highly Protected Riparian Corridor and Riparian-Related Area. The applicant's Narrative (pp. 20-22) attempts to justify the placement of a Multi-Use Path as one of the exceptions to this prohibition, based on the Path qualifying for MADA credits under the applicant's justifications given in Section 1 above. The exception cited by the applicant for constructing the Path in this protected area is LDC 4.13.50.b.6:

   b. *Building, Paving, Grading Activities – The placement of structures or impervious surfaces, as well as grading, excavation, and the placement of fill, are prohibited. Exceptions to the drainageway restrictions may be made for the purposes identified in items 1-7 of the Section, provided they are designed and constructed to minimize adverse impacts to Riparian Corridors and Riparian-related Areas.*

   6. ~~7.~~ *Development associated with the Minimum Assured Development Area that would be allowed in accordance with Chapter 4.11 – Minimum Assured Development Area (MADA); and ...*

   As discussed in Section 1 above, the applicant has failed to justify the awarding of MADA credits under LDC 4.11.50.c.4. Therefore, the proposed Multi-Use Path does not meet this exception criterion for paving and grading in a Highly Protected Riparian Corridor and Riparian-Related Area.

   The applicant's Narrative (p. 22) notes that LUBA did not require the City to reconsider whether the Path complied with the language in 4.13.50.b above, "provided that they are designed and constructed to minimize adverse impacts to Riparian Corridors and Riparian-related Areas," and the applicant does not address this issue further. Compliance with this criterion merits reconsideration, since the application is being reconsidered "in whole," and since the Revised Site Plan refines the description of the Path (p. 18), from that available with the initial application:

   "On remand, Applicant is proposing to dedicate a fifteen (15)-foot wide right-of-way for the Path across the Property (although the Path itself will only be twelve (12) feet in width). The Path will be located within a forty (40)-foot wide area shown on the plans."

   The following are factors that I believe indicate that the location, design, and construction of the Path as proposed will not "minimize adverse impacts" on the wetland and riparian corridor, and the Path needs to located elsewhere:

Creekside Remand Hearing
June 17, 2013

Tony Howell Testimony

Multi-Use Path Location

LDC 4.13.50.b

- Prohibits building, paving, grading in Riparian-related Area
- Allows two proposed exceptions for Path:
- **4.13.50.b.2** – if ***deemed necessary to maintain a functional system*** , as guided by City Plans, or
- **4.13.50.b.6** – has been found eligible for MADA credits in **4.11.50.c.4**

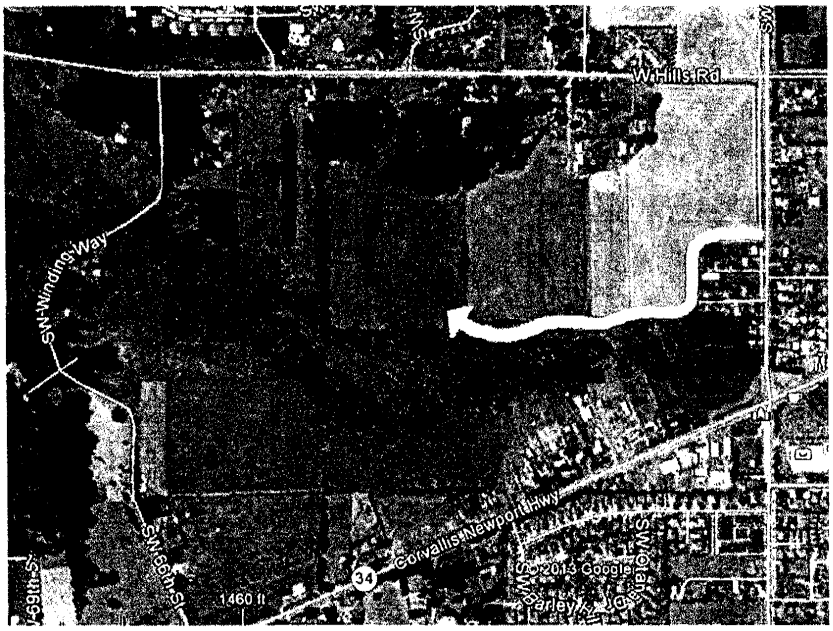
Multi-Use Path, cont.

LDC 4.13.50.b.2

- Must be ***deemed necessary to maintain a functional system*** , as guided by City Plans
- Path fails this criterion because:
  - **Not required** by City Plans in this location (all cited Plans describe route as conceptual)
  - **Not functional** for year-round use by all users
  - More functional locations, with no damage to forested wetlands, are available

Attachment B

Conceptual Alternative Multi-Use Path Route



Multi-Use Path, cont.

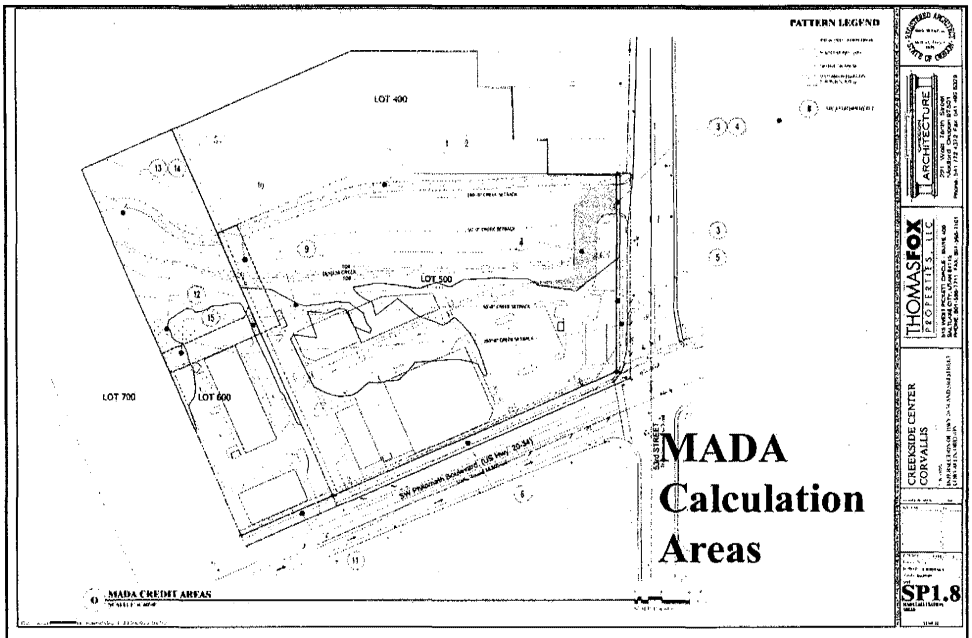
LDC 4.13.50.b.6

- Allows exception for development associated with MADA
- Path fails to meet criteria for MADA credit, specifically **4.11.50.02.c.4**:
- Must be trail **required** by Transportation Plan or Park & Recreation Facilities Plan, or **necessary to provide public access** to & thru **designated open space** areas.

Multi-Use Path, cont.

LDC 4.11.50.02.c.4

- Path in this specific location **not required** by **conceptual** routes in Transportation Plan or Park & Recreation Facilities Plan
- Not needed for access to and through designated open space
  - Comp Plan Map insufficient to "designate"
  - North-South local street provides access
  - Block perimeter standard already satisfied



Area 8: Mitigation area for access drive

53rd Street Access Drive

- Fails to meet criterion for MADA credit in **LDC 4.11.50.02.c.2**
- Credit only allowed when **infrastructure must** be extended through a wetland
- Intent of this section was MADA credit for required **public**, not private, infrastructure
- Other required private infrastructure in wetland (parking, internal sidewalks, etc.) don't receive MADA credits

53rd Street Access Drive, cont.

- Insufficient to claim that ODOT, County, or City standards require placement of driveway in wetland
  - Those distance standards apply to all developments
  - It is location of wetlands on this site, not standards, that dictate drive going through wetland
- Access drive location allowed, MADA credits not

LWV Corvallis
PO Box 1679 Corvallis, OR 97339-1679
541-754-1172 • http://www.lwv.Corvallis.or.us

June 14, 2013

Honorable Mayor Julie Manning and Members of the City Council
Corvallis City Hall
501 SW Madison Avenue
Corvallis, Oregon 97333

Re: Testimony regarding Creekside Center Remand
PLD09-00004, CDP09-00003, SUB09-00002

Dear Mayor Manning and City Councilors:

In 2011, the League of Women Voters of Corvallis appealed the decision on the Creekside Center development because of our commitment to protecting the interests of the community. The League does not oppose the entire Creekside development; rather, our goal is the protection of the natural resources that support our community.

We continue to be concerned about two elements of the proposed development that threaten the integrity of Dunawi Creek and the adjacent wetland: the multi-use path and the stormwater detention facilities. Our recommendation to Council is: 1) eliminate the path, and 2) move the detention facilities underground. These proposed elements are in direct conflict with the city's Comprehensive Plan, Land Development Code, and other city plans that were adopted after extensive public input and careful consideration by previous Councils. There are arguments that support elimination of the path and underground siting of the detention facilities, and these have been outlined in Tony Howell's letter of June 11 that you received in your packet. We concur with these arguments.

The area in question may look like nothing more than a wooded area next to a vacant lot. But the wetlands, riparian zone, and flood plain adjacent to Dunawi Creek are a remnant of the once prolific Willamette Valley ash wetlands, and they are designated on the city's Natural Resources Inventory as "Highly Protected." This area has certain functions that make it worthy of the city's highest level of protection. These are:

1) Reducing stream temperatures,
2) Filtering pollutants, and
3) Reducing downstream flooding.

At a time when Council has a legal mandate to decrease the temperature of the water entering the Willamette, it seems counterproductive to purposely expose the wetland and stream to increased temperature impacts caused by the construction of the path. Likewise,

since floodplains perform the valuable function of reducing downstream flooding, it seems counterproductive to purposely reduce the functionality of the floodplain and stream by placing detention facilities in the floodplain and creek corridor. In addition, the ecosystem services performed by this natural area lower the city's costs for stream water quality improvement and flood control. But, as proposed, the path and detention facilities will diminish the ability of these natural resources to benefit our community.

We understand that because the City Council has elected to open this remand proceeding to new evidence and to consider the case in whole, there is no legal impediment to the City Council changing its prior interpretation of Plan and Code provisions during this remand process. We encourage you to carefully consider public testimony and to exercise your authority to alter the interpretations supported during the initial proceeding.

To summarize, **the League of Women Voters of Corvallis recommends that:**

1. **the multi-use path should be deleted from this development plan; and**
2. **the two above-ground stormwater detention facilities should be replaced by underground detention.**

Thank you for your consideration of our testimony and recommended actions.

Sincerely,

Ann Brodie /AB

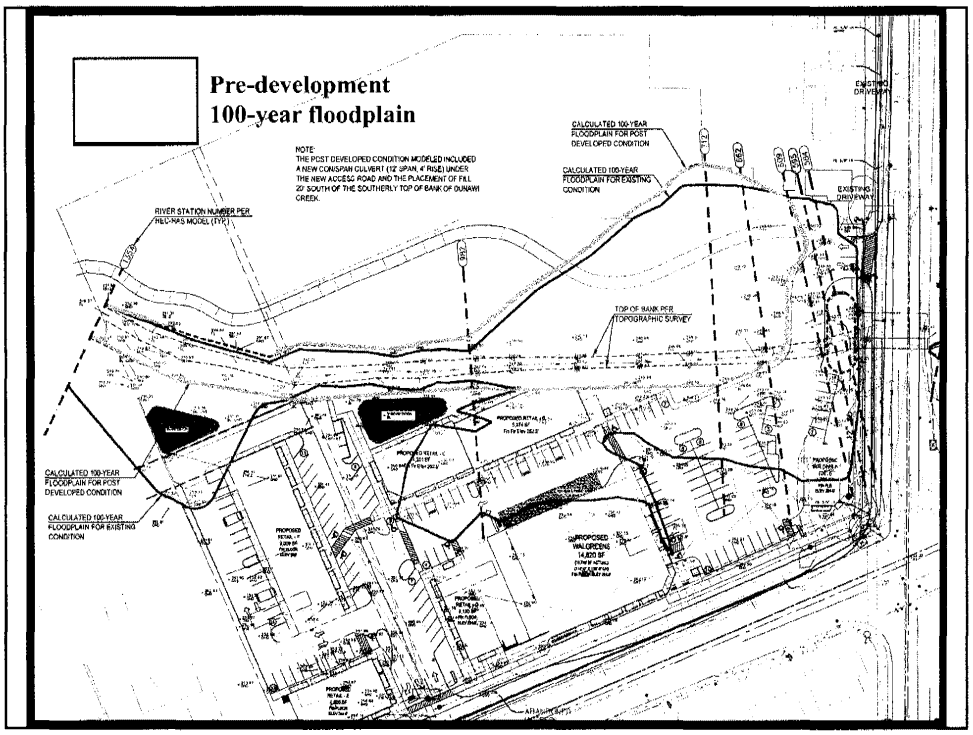
Ann Brodie, President
League of Women Voters of Corvallis

Creekside Remand Hearing
June 17, 2013

Patricia Benner Testimony
(former chairperson of the Stormwater Planning Committee)
I speak for myself, with institutional memory

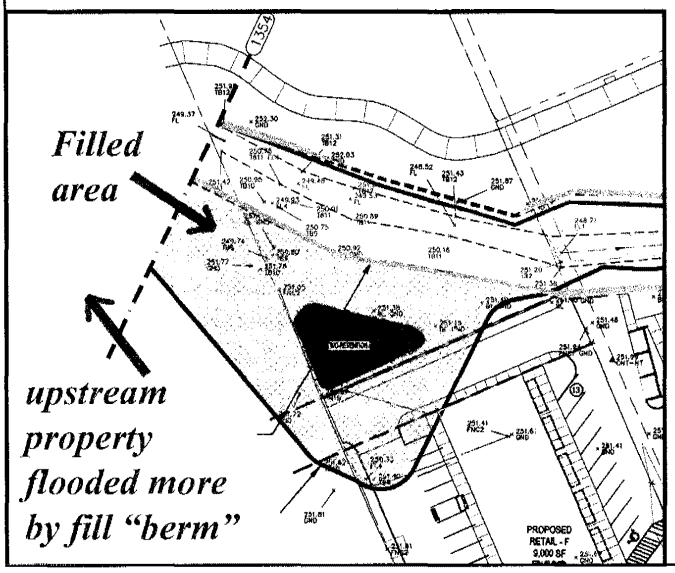
Function of detention ponds

- Detain water that runs off of impervious surfaces.
- Clean water of pollutants before it enters the ground or stream.
- **Detention ponds must be elevated above the 10-year floodplain, and so the western detention pond has to be located on land where fill is placed.**



Detention pond must be elevated above the 10-year floodplain (LDC)

(proposal: will fill above 100-year floodplain)



Filling of the 100-year floodplain will ***displace floodwaters*** & also back up water upstream

How to provide detention

Comprehensive Plan Policy 4.10.6

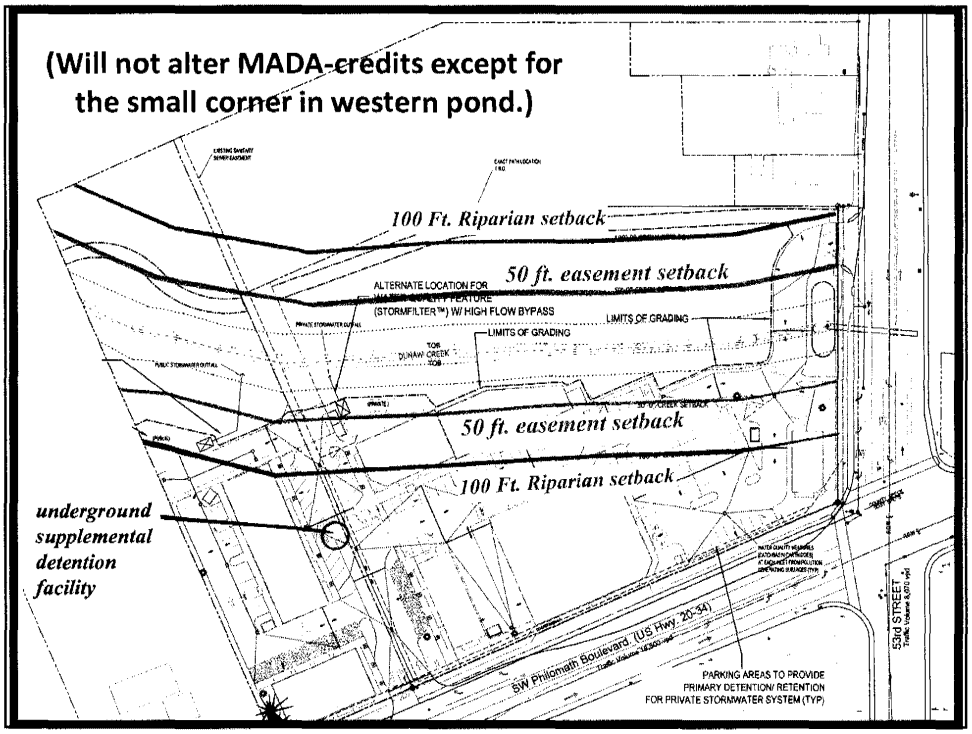
"In order to reduce peak runoff from impervious areas and maintain pre-development flow regimes, the City shall work to adopt standards such as the following:

I. **Develop sub-surface storage as well as surface detention facilities."**

Solution: balance all objectives for this site

Protect the floodplain where possible

- These detention ponds are *designed to be lined,* and so will not provide for infiltration *(applicant's testimony in 2010);*
- **Alternative solution: subsurface detention outside of the 100-ft riparian area to remove pollutants & detain stormwater.**
- **This will retain the floodplain's its natural flood management properties in this area.**
- This will also allow the revegetation of the riparian area in these locations.



Streams and Floodplains are the Core of the Stormwater Facility

- It is ironic that streets and roads are recognized as integral to urban infrastructure;
- But local stream floodplains are considered disposable by the MADA additional credit system.
- *Stormwater Master Plan* policy, *Comprehensive Plan* and *LDC* protect local stream floodplains and their hydrology.

Dunawi Creek forested ash wetland at Creekside

The *Natural Features Inventory* identifies this wetland adjoining Dunawi Creek ("proximate") as highly significant.

This Wetland's Functions are Intact

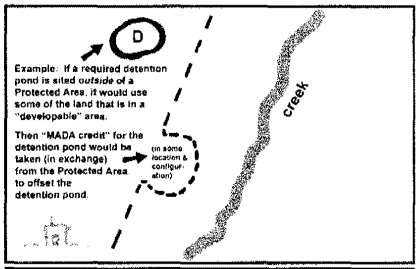
- ***Wildlife Habitat***: Wetland provides diverse wildlife habitat
- ***Fish Habitat***: Wetland's fish habitat function is intact
- ***Water Quality***: Wetland's water-quality function is intact
- ***Hydrologic Control***: Wetland's hydrologic control function is intact
- ***Sensitivity to Impact***: Wetland is potentially sensitive to future impacts

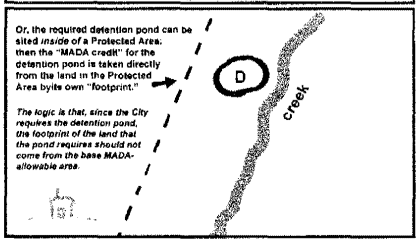
Natural Features Inventory, 2004

A multi-use corridor path:

- Must be elevated to function as a path the entire year; expensive to build & maintain; and if on fill ***will disrupt wetland hydrology***;
- A boardwalk structure unfriendly to roller blades & other small-wheeled transportation;
- Tree removal & trimming ***will allow sunlight into wetland floor, affecting the micro-climate*** including soil & air temperature and moisture;
- Deletion of the path will not affect the development (square footage, design, etc.).

How "MADA credits" for certain infrastructure are applied at a development site that includes Protected Natural Areas. It is basically an "*exchange*" of land in one of two ways:





The green area in the maps schematically represents a Highly Protected Natural Area (includes floodplain, wetland, and riparian corridor).

The tan area schematically represents the land to be developed (includes formerly protected floodplain, wetland & riparian corridor).

The two ways to receive land within a Protected Area from additional MADA credits

1. locate a required feature within a Protected Area
2. Exchange acreage for a feature sited in the initial developable area

June 17, 2013

To: Mayor and City Council Members
From: Liz Frenkel

Corvallis, OR 97333
541
lizbobfrenkel@

Re: Creekside Center Remand
PLD09-00004, CDP09-00003, SUB09-00002

The Creekside Center Planned Development, the subject of this public hearing on Remand, involves 6.64 acres of undeveloped land, bounded by Dunawi Creek (formerly Squaw Creek) to the north, 53d Street to the east and Philomath Highway to the south. The development proposal includes a multi-use trail on the north side of Dunawi Creek from 53d Street to the west border of the property.

I do not oppose the proposed development per se. My concerns are with the encroachment of the development into the flood plain, into the riparian corridor, and into the proximate wetlands covering much of the area north of Dunawi Creek. The encroachment includes the proposed a multi-use path through a Highly Protected Wetland and the encroachment into the Riparian Corridor in Tax Lot 500 by a surface detention pond.

The flood plain, riparian area and wetlands all require protection under our present Land Development Code. The many citizens who worked to develop this protection now find that protection compromised by a new chapter added to Land Development Code at the time of its approval. That chapter reads that it is designed to "provide relief from other ordinances to assure a minimum development area" for developers or land owners. Now referred to as MADA , the "Minimum Assured Development Area"was enacted to"[e]stablish a balanced, clear and objective mechanism to avoid an undue burden for property owners protecting Natural Resources on individual properties." This "minimum assured development area" is the result of complex calculations involved zoning and the total acreage made inaccessible due to location of the protected natural resources. Certain **additional** provisions for specific situations were added for MADA coverage:

1. For the area of public right-of-way dedications resulting from a required width in excess of the width needed for a local street, provided the required street is identified in the Corvallis Transportation Plan;
2. For wetland mitigation required by Department of State Lands and/or the U.S. Army Corps of Engineers;
3. **For stormwater detention facilities;**
4. **For trails required by the Corvallis Transportation Plan or the Corvallis Park and Recreation Facilities Plan, or necessary public access to or through designated open space areas.**

Taking advantage of MADA, the applicant was able to justify significant encroachments into the floodplain, the riparian corridor, and wetlands that were protected by the Land Development Code. Two of these encroachments are unnecessary and need not be allowed. The first is the Multi-Use Path and the second is the above ground detention pond in Tax Lot 500.

I suggest to you that, in agreement with Tony Howell's testimony, the Multi-Use Path is not required by the Corvallis Transportation Plan or the Corvallis Parks and Recreation Facilities Plan; nor is it necessary to provide public access by a wide, multi-purpose path to a designated highly sensitive open space area. In fact the applicant's states in the Applicant's Narrative [p. 22] "that developing the Path has a **net zero effect** on MADA availability for the development." *(Emphasis added.)*

Since the developer has stated that the proposed Trail does not affect the proposed development either way, I would suggest the City need not ear mark this particular site for a trail nor saddle itself with a trail with liabilities of ownership and funding questions. The City should err on the side of caution by abandoning this specific location and consider other less damaging routes.

I also recommend that in solving City's stormwater problems, the City should require underground storage rather than the proposed surface detention pond in Tax Lot 500.

I whole heartedly support the thoughtful documentation of both of the issues by Tony Howell and Patricia Benner as well as the testimony from the League of Women Voters of Corvallis.

As a co-petitioner in the LUBA appeal, I thank you for your consideration.

* * * MEMORANDUM * * *

JUNE 17, 2013

TO: **MAYOR AND CITY COUNCIL**

FROM: **KATHY LOUIE, ASSISTANT TO CITY MANAGER/CITY RECORDER**

SUBJECT: **SELECTION OF HISTORIC RESOURCES AND PLANNING COMMISSIONERS**

You interviewed three Historic Commission candidates and three Planning Commission candidates at your June 13 Work Session. Roger Lizut, the fourth Planning Commission candidate, was interviewed on Monday, June 17 at 5:30 pm.

The voting process you agreed to use on Monday is as follows:

Historic Resources Commission

- You will vote to fill the three 3-year term vacancies on the first ballot until a majority is reached. This means that if one or three persons receive a majority vote on the first ballot, they will all be appointed to the Commission.
- If no one receives a majority vote on the first ballot, the two receiving the most votes will be voted upon again to fill the first vacancy. After the first vacancy has been filled, the Council will use the same voting process to fill the other vacancies from all the remaining candidates. This process will be used until all three commissioners are selected by a majority vote. (Municipal Code Section 1.16.325(6)).

Your direction is requested on whether or not to reopen the recruitment to fill the partial term vacancy expiring on June 30, 2014.

Planning Commission

- You will vote to fill the three 3-year term vacancies on the first ballot until a majority is reached. This means that if one or three persons receive a majority vote on the first ballot, they will all be appointed to the Commission.
- If no one receives a majority vote on the first ballot, the procedure is the same as described above. (Municipal Code Section 1.16.235(3)).

The relevant Municipal Code sections on the two commissions and residency requirement for all boards and commission members are attached.

c: City Manager Patterson
City Attorney Fewel

Historic Resources Commissioners
Position Classification, Occupation, and Residence Ward

Position Classification	Commissioner's Name	Commissioner's Occupation	Ward
15	Geoffrey Wathen	mechanical engineer, martial arts instructor	4
12	Charles Robinson	analyst	1
2	Kristin Bertilson	professional organizer	1
12	Tyler Jacobson	corporate attorney	7
8	Lori Stephens	architect	2
	vacant		
	vacant		
	vacant		
	vacant		

(1) Archeology, (2) Architectural History, (3) Conservation, (4) Cultural Anthropology, (5) Curation, (6) Engineering, (7) Folklore, (8) Historic Architecture, (9) Historic Landscape Architecture, (10) Historic Preservation Planning, (11) Historic Preservation, (12) History, (13) Historic District, (14) Oregon State University, (15) General Public

Historic Resources Commissioner Applicants
Occupation and Residence Ward

Applicant's Name	Applicant's Occupation	Ward or UGB
Rosalind Keeney	architectural historian	7
Cathy Kerr	interior designer	2
Eric Hand	building science consultant	2

Municipal Code Section 1.16.090 Residency
Except as otherwise provided by ordinance, all members of a board or commission shall meet one of the following qualifications at their appointment and shall retain such status during their term of office: At least two-thirds of any board or commission shall be composed of persons who reside in the territorial limits of the City. The appointing authority may also appoint persons who are employed or self-employed full time in the City or who reside in the Urban Growth Boundary. (Ord. 81-99 § 9, 1981)

Section 1.16.325 Historic Resources Commission

1) A Historic Resources Commission (HRC) is hereby created for the City.

2) This Commission shall consist of nine members as described in "3.a" through "3.d" below, in the context of fulfilling at least one of the following three Primary Attributes for all Commission members:

a) A demonstrated positive interest, competence, or knowledge in historic preservation;

b) Prior experience in a quasi-judicial decision-making capacity; and/or

c) A community-wide perspective on balancing multiple objectives associated with community planning.

3) An individual appointed to the Commission may represent both "a" and up to one of the other categories in "b" through "d" below. However, an individual appointed to the Board may not be counted to satisfy representation for both "d" below and either "b" or "c." In addition, a member of the Planning Commission shall serve as an ex officio member of the Commission with all the rights and privileges attendant thereto except the right to vote.

a) To the extent that they are available in the community and fulfill at least one of the Primary Attributes outlined in "2" above, at least five members fulfilling one or more of the Federal Historic Preservation Professional Qualification Standards listed in 1-12 below. If a reasonable effort has been made to fill these five positions, the positions may be filled by persons fulfilling the qualifications in "b" through "d" below.

1) Archaeology: (a) Prehistoric Archaeology - Graduate degree in Anthropology or Prehistoric Archaeology, plus 2.5 years full-time professional experience; or (b) Historic Archaeology - Graduate degree in Anthropology or Historic Archaeology, plus 2.5 years full-time professional experience;

2) Architectural History: (a) Graduate degree in Architectural History or a closely related field, plus 2 years full-time professional experience; or (b) an undergraduate degree in Architectural History or a closely related field, plus 4 years full-time professional experience;

3) Conservation: (a) Graduate degree in Conservation or a closely related field, plus 3 years full-time professional experience; or (b) an undergraduate degree in Conservation or a closely related field, plus 3 years full-time apprenticeship in the field;

4) Cultural Anthropology: (a) Graduate degree in Anthropology with specialization in Applied Cultural Anthropology, plus 2 years full-time professional experience; or (b) an undergraduate degree in anthropology with specialization in applied cultural anthropology, plus 4 years full-time professional experience;

5) Curation: (a) Graduate degree in Museum Studies or a closely related field, plus 2 years full-time professional experience; or (b) an undergraduate degree in Museum Studies or a closely related field, plus 4 years full-time professional experience;

6) Engineering: (a) State Government-recognized license to practice Civil or Structural Engineering plus 2 years full-time professional experience; or (b) a Masters of Civil Engineering degree with course work in Historic Preservation or a closely related field, plus 2 years full-time professional experience; or (c) a Bachelor's of Civil Engineering degree with one year of graduate study in Historic Preservation or a closely related field, plus 2 years full-time professional experience;

7) Folklore: (a) Graduate degree in Folklore or a closely related field, plus 2 years full-time professional experience; or (b) an undergraduate degree in Folklore or a closely related field, plus 4 years full-time professional experience;

8) Historic Architecture: (a) State Government-recognized license to practice Architecture plus 2 years full-time professional experience; or (b) a Masters of Architecture degree with course work in Historic Preservation or a closely related field, plus 2 years full-time professional experience; or (c) a Bachelor's of Architecture with one year of graduate study in Historic Preservation or a closely related field plus 2 years full-time professional experience;

9) Historic Landscape Architecture: (a) a State Government-recognized license to practice Landscape Architecture plus 2 years full-time professional experience; or (b) a Masters degree in

Landscape Architecture with course work in Historic Preservation or a closely related field, plus 2 years full-time professional experience; or (c) a four or five year Bachelor's degree in Landscape Architecture plus 3 years full-time professional experience;

10) Historic Preservation Planning: (a) State Government-recognized certification or license in Land Use Planning, plus 2 years full-time professional experience; or (b) a graduate degree in Planning with course work in Historic Preservation or a closely related field, plus 2 years full-time professional experience; or (c) an undergraduate degree in Planning with course work in Historic Preservation or a closely related field, plus 4 years full-time professional experience;

11) Historic Preservation: (a) Graduate degree in Historic Preservation or a closely related field, plus 2 years full-time professional experience; or (b) an undergraduate degree in Historic Preservation or a closely related field, plus 4 years full-time professional experience; or

12) History: (a) Graduate degree in History or a closely related field, plus 2 years full-time professional experience; or (b) an undergraduate degree in History or a closely related field, plus 4 years full-time professional experience.

b) To the extent that they are available in the community and fulfill at least one of the Primary Attributes outlined in "2" above, at least one member from each established Historic District. These Historic District representatives must be property owners and residents of the Historic District that they represent;

c) To the extent that they are available in the community and fulfill at least one of the Primary Attributes outlined in "2" above, at least one member that is a representative of Oregon State University. If an Oregon State University Historic District is eventually established, this member requirement will no longer be needed, as an OSU representative would already exist through "b" above; and

d) To the extent that they fulfill at least one of the Primary Attributes outlined in "2" above, additional members representing the general public, as needed, to fill the Commission's nine positions.

4) The Commission shall be a quasi-judicial decision-maker for matters that include the following:

a) District Change decisions regarding the application or removal of a Historic Preservation Overlay in cases where a public hearing is required by Land Development Code Chapter 2.2 - Development District Changes;

b) HRC-level Historic Preservation Permit decisions; and

c) Appeals of Director-level Historic Preservation Permit decisions.

5) The Commission shall advise and assist Council, the Planning Commission, and the Community Development Director in matters pertaining to historic and cultural resource preservation. Such matters shall include:

a) Recommendations concerning amendments to sections of the Land Development Code pertaining to historic preservation.

b) Recommendations concerning the nominations of sites or structures for the National Register of Historic Places.

c) Recommendations concerning additional inventories and/or surveys of Corvallis' historic sites and structures.

d) Coordination of public information or educational programs pertaining to historic and cultural resources.

6) Upon expiration of a term or vacancy, a public announcement of the opening will be announced in a newspaper of general circulation in the City. The notice shall contain the qualifications for appointment in subsections 2) and 3) and a list of the qualifications of existing Commissioners. After receiving applications, Council shall conduct interviews. If more than one application is submitted, Council shall hold a ballot vote conducted by the City Recorder. Any person receiving a majority vote shall be appointed to the Historic Resources Commission. If no person receives a majority vote, the two receiving the most votes shall be voted upon again. The one then receiving the majority vote shall be appointed to the Historic Resources Commission.

(Ord. 2006-15 §2, 06/05/2006)

Planning Commissioners
Occupation, and Residence Ward

Commissioner's Name	Commissioner's Occupation	Ward
Franklin Hann	physical therapist	8
Jim Ridlington	small business owner	7
Ronald Sessions	architect	3
Kenton Daniels	retired	2
Jennifer Gervais	wildlife ecologist	UGB
Jasmin Woodside	engineer	3
vacant		
vacant		
vacant		

Planning Commissioner Applicants
Occupation and Residence Ward

Applicant's Name	Applicant's Occupation	Ward or UGB
Steve Redman	Realtor	6
John Morris	interior designer	2
G. Tucker Selko	student/intern	1
Roger Lizut	retired	9

Municipal Code Section 1.16.090 Residency

Except as otherwise provided by ordinance, all members of a board or commission shall meet one of the following qualifications at their appointment and shall retain such status during their term of office: At least two-thirds of any board or commission shall be composed of persons who reside in the territorial limits of the City. The appointing authority may also appoint persons who are employed or self-employed full time in the City or who reside in the Urban Growth Boundary. (Ord. 81-99 § 9, 1981)

Section 1.16.235 Planning Commission.

1) Hereby is created a City Planning Commission for the City of Corvallis, Oregon. The Planning Commission is created pursuant to ORS 227.020.

2) The City Planning Commission shall consist of nine members to be appointed by Council. No more than two voting members of the Commission may be engaged principally in the buying, selling, or developing of real estate for profit as individuals or be members of any partnership or officers or employees of any corporation that engages principally in the buying, selling, or developing of real estate for profit. In the interest of ensuring a balanced, community-wide perspective on the Planning Commission, no more than two members shall be engaged in the same kind of occupation, business, trade, or profession.

3) Upon expiration of a term or vacancy, a public announcement of the opening will be announced in a newspaper of general circulation in the City. The notice shall contain the qualifications for appointment in subsection 2) and a list of the occupations of existing commissioners. After receiving applications Council may conduct interviews. If more than one application is submitted, Council shall hold a ballot vote conducted by the City Recorder. Any person receiving a majority vote shall be appointed to the Planning Commission. If no person receives a majority vote, the two receiving the most votes shall be voted upon again. The one then receiving the majority vote shall be appointed to the Planning Commission.

4) Five members of the City Planning Commission shall constitute a quorum. If a quorum cannot be obtained because five (5) or more members have a conflict of interest, the quorum requirement shall be reduced to three (3) for that issue only.

5) A member of the Planning Commission shall not participate in any Commission proceeding or action in which any of the following has a direct or substantial financial interest: the member or his or her spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which she or he is then serving or has served within the previous two (2) years, or any business with which she or he is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the Commission where the action is being taken. Examples of conflict of interest include:

a) The member owns property within the area entitled to receive notice of the public hearing;

b) The member has a direct private interest in the proposal; and

c) For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.

6) The Commission shall have the authority which is now or may hereafter be assigned to it by Charter, ordinances, or resolutions of the City and ORS 227.090, and other State laws.

The Planning Commission shall function primarily as a comprehensive planning body proposing policy and legislation to Council related to the coordination of the growth and development of the community. The functions of the Planning Commission shall include, but not be limited to, the following:

a) Review the Comprehensive Plan and make recommendations to Council concerning Plan amendments which it has determined are necessary based on further study or changed concepts, circumstances, or conditions.

b) Formulate and recommend legislation to implement the Comprehensive Plan.

c) Review and recommend detailed plans including functional plans which relate to public facilities and services, and subarea plans which relate to specific areas of the community to implement the Comprehensive Plan.

d) Assist in the formulation of the Capital Investment Plan [Capital Improvement Program] and submit periodic reports and recommendations relating to the integration and conformance of the plan with the Comprehensive Plan.

e) Review and make recommendations concerning any proposed annexation.

f) Conduct hearings, prepare findings of fact, and take such actions concerning specific land development proposals as required by the Land Development Code.

g) Advance cooperative and harmonious relationships with other planning commissions, public and semi-public agencies and officials, and civic and private organizations to encourage the coordination of public and private planning and development activities affecting the City and its environs.

h) Study and propose, in general, such measures regarding land development as may be advisable for promotion of the public interest, health, safety, comfort, convenience, and welfare.

(Ord. 98-45 § 3, 11/11/1998; Ord. 82-6 §§ 2, 3, 1982; Ord. 81-99 § 60, 1981)

SUMMARY REPORT
MOSAIC COLLABORATIONS PROJECT 2012/2013

PARTICIPATION

The Mosaic Collaborations Project provided 17 community participation events with an estimated 1200 participants. Participants included DCA membership, attendees and patrons of Rhapsody in the Vineyard, 2 days of Fall Festival, 2 days of the Oregon Main Street Conference, OSU students of the Corvallis International House, attendees of the Community Connections Symposium at the University of Oregon in Eugene, a Diwali Dhamaka Celebration, the Art & Culture Commission, clients, staff and volunteers from Senior Dog Rescue and West Hills Animal Hospital, Leadership Corvallis, members of the Willamette Valley Glass and Corvallis Fiber Arts Guilds, Timberhill Place Assisted Living, staff and residents of Community Outreach, a spontaneous art day near the end of a charity race, a group of visiting artists from Salem and the community at large during at Saturday morning at the Corvallis Farmer's Market.

PROGRESS & COMPLETION

The project started it's journey through the Corvallis Public Art Selection process in May of 2012 and was unanimously approved by the city council August of 2012. Community participation began in September of 2012. The 18 panels were installed June of 2013.

VOLUNTEERS

46 members of a group now known as the Downtown Mosaics Volunteer Brigade logged 152 hours preparing materials and panels for community participation events. This work was completed through a series of 2 hour 'Nip & Sip' events which were held at Sacred Shard Mosaic Studio. These events provided opportunities for continuing mosaic art education as well as community interaction.

FINANCIAL GOALS:

Income:

$430 for FEAST dinner that was held at Gathering Together Farms 5.20.12
$300 Youth Arts Grant for speaking engagement at Art Center
$1000 Donation from original designer of trash cans
$1319 Donations from Face/Face and Website donation button
$165 Materials donation from Fall Festival & Murano Millefiori
$810 Benton County Cultural Coalition Grant/OCT ($810/$90 split with Art Center)
$168 Laticrete International donation (Ballpark...This number should be verified...)
$4192

** Laticrete International of Lebanon, Oregon generously donated all of the Platinum 254 Adhesive and Spectralock epoxy grout for this entire project!!!

Total Expenses:

$50 materials per each mosaic insert
$200 labor (8 hours x $25 hour) 6 hours labor materials, laying tesserae, community facilitation, 2 hours on site installation per panel.

$250 per panel x 18 panels = $4500

The Mosaic Collaborations Project spread so much joy throughout our community. People were truly delighted with the opportunity to add to a few pieces of tesserae to a mosaic art project that will enliven the downtown area for years to come. Our youngest participant was a tiny little girl in a backpack carrier who leaned over to add a piece of glass amid a crowd of spectators who cheered for her. Folks at Timberhill Place Assisted Living are in their 90's and were equally enthusiastic to participate.

International college students were very pleased to receive an invitation to participate and shared stories about their own rich art traditions while asking questions about our culture in a way that made them feel both safe and welcome here. Some of the Community Outreach residents expressed genuine delight at being a part of something that will always be visible, a reflection perhaps on their own feelings of invisibility within our society.

The mosaic project planted a lot of seed for potential projects in other communities where people seek to build a greater sense of community. Attendees of the Oregon Main Street Conference loved that the idea was simple, transportable, accessible to everyone and relatively affordable. While the two art guilds were not a part of my original roster, they too, emerged from the experience with their own ideas for additional community based projects to get more Corvallis residents involved in art. Children know this instinctually and loved being able to work with glass alongside a parent who may have felt initially unsure but joined right in when they realized how successful they could be while working together.

I am forever grateful for the opportunity to have been of service to the Corvallis community in this way.

Respectfully submitted,
Ella Rhoades

Corvallis, Oregon 97330
541-
ella@sacredshardmosaics.com

Mosaic Collaboration Project: Community Appreciations

It is with deepest gratitude that I express my appreciation for the following people...

Tribe Rhoades You have my heart forever and for always for riding the waves of the Isabella through a sea of mosaic panels, volunteers, public events and curiosity seekers during this past year...

Karen Lee Thompson who saw the wheels turning and oiled them during our time together at the 2012 Community Built Association conference
Wendy Brewer my Arts Care associate who shared in this dream and is now beautifying Santa Barbara
Lynn Adamo for graciously responding to technical questions and offering encouragement through the years
Dianne Sonnenberg Spark person for mandalas and sacred geometry in the world of mosaics.
Laurel Skye Innovator of mosaics on concrete trash receptacles in the town square of Arcata, CA
Laurel True whose community mosaic work throughout the world inspires hope in everyone.

Those who rippled enthusiastically when I first mentioned the idea publicly during a placemaking and community art talk at the Art Center May of 2012.

Chris Neeley, Joni King, Heather Boright & Suzanne Campbell who nudged me to attend the FEAST dinner on 5.20.12. John Eveland of Gathering Together Farm who hosted the FEAST dinner in support of local art and culture. The local businesses who donated bread, salad and soup. Attendees who paid $10 each and placed an envelope with $430 into my hand at the end of the evening.

Hester Coucke of The Art Center for giving me solid ground on which to walk into the city's Public Art Selection process. Bill & Sue Shumway of Pegasus Gallery for introducing me to their friend, David Livingston.

Joan Wessell of the Downtown Corvallis Association, and David Livingston, original designer and fabricator of the trash receptacles. Enthusiastic supporters of the Mosaic Collaborations Project from the beginning. Cynthia Spencer, public arts advocate extraordinaire, who came on board as my third representative during the PASC process and mentored me with both kindness and truth.

City staff and volunteers who make projects like this possible with their time and energy. Steve DeGhetto & Linda Hart of P&R. Jim Patterson, City Manager. Our mayor, Julie Manning. Human Services Committee. City Council. Public Art Selection Committee. Art & Culture Commission.

Benton County Cultural Coalition who channels about $11,500 annually from the Oregon Cultural Trust into art, culture and heritage events throughout Benton County. This project received a $900 grant and The Art Center served as my umbrella non-profit. Thank you David Huff.

Eric Adams and members of Collaboration Corvallis who motivate and support groups of people working together for common good.

The Corvallis Police Dept for extra eyes on the project during installation.

The employees of Republic Sanitation Services for the work they do to keep Corvallis beautiful.
Larry Schrock of Laticrete International who generously donated all of the Laticrete 254 Platinum

adhesive and Spectralock epoxy grout for the MCP project! I also got a tour of their factory and superb operation in Lebanon, OR. This company also provides materials for the Mosaic Marathon at the annual Society of Americal Mosaic Artists conference. Phenomenal people offering a phenomenal product.

Bert Schoenfeld, Luke & Anna at Mid Valley Tile in whom all things are visionary and possible.

Kelly Wildman of Network Enterprises for her expertise in web design and on-line donation systems. This project was financially viable for Kelly's efforts to make on-line donations both easy and secure.

Mike McInally, Canda Fuqua, Andy Cripe & Amanda Cowen of the Gazette Times for their media coverage. The joy of participation and installation amp considerably when people arrive with a basic understanding of what's already in motion. I appreciate your coverage of uplifting stories and community involvement.

Mike Berrey of State Farm Insurance for your excellent advice and customer service.

To all of the people who contributed financially to the project. It was important for me to demonstrate that artists make viable contributions in communities and further fuel neighborhoods with compensation for their efforts. Thank you to everyone who advocates on behalf of public art! I have been both humbled and delighted by the response.

And especially...most especially...gratitude to EVERYONE who joined the fun as a member of the Downtown Mosaic Volunteer Brigade. The project came to life through the 152 hours that you logged at Nip & Sips generating tesserae and preparing panels for community participation events.

To my mosaic students. You inspire me and I love your enthusiasm for the art form!

My best estimate is that about 1200 community members participated in the creation of the mosaic panels during the Mosaic Collaborations Project. Stretch that community to include OSU students from all over the world living at Corvallis iHouse, attendees of the Community Connections Symposium held at Schnitzer Museum of Art in Eugene, attendees of the Oregon Main Street Conference who came to downtown Corvallis to garner ideas for strengthening their own downtown neighborhoods throughout Oregon, visiting artists from Salem, and a whole lot of Corvallis enthusiasts who enjoy spontaneous art opportunities and will consistently dive right in.

The Mosaic Collaborations Project is one example of a person pondering how their skill set could be used to enhance community. My hope is that others will ask this same question of themselves and take one small action step to bring something positive and innovative into being.

With deepest gratitude for this opportunity and appreciation for all that is Corvallis ~
ella

Dedicated to my Mom who immediately sent a check for $250 to sponsor one of the mosaics before she died in February of 2013 and to Ray, the gentleman whose favorite color is canary yellow.

To my Dear friends...thanks for listening, supporting and cheering me on. Moving onward...
Oh, the possibilities...

Public Art Selection Committee

All public art projects being proposed for installation on city owned land need to go through PASC.

Information for Artists Entering The Process:

Month 1:
Make initial contact with chairperson of PASC Committee during first two weeks of month. Request proposal appointment for the PASC which meets as needed at 4pm on the last Thursday of every month in the conference room of the P&R office in Avery Park.

Provide copies of your proposal for each person on the committee. Plan 10 -15 minutes for your initial proposal with PASC followed by Q & A.

Month 2: PASC will meet again the following month to discuss the proposal. The artist does not attend this second meeting but is permitted to send up to 3 representatives to advocate for the proposal.

Month 3: PASC may approve/deny your proposal or they may request to meet with you again the following month to negotiate any concerns. If/when your project is approved, it is then sent to the Human Services Committee/HSC which consists of 3 members of the City Council. This group meets monthly or as needed in the conference room of the Madison Ave. complex.

Be prepared to provide specific answers when responding to questions about materials and longevity, impact to general public. When your project receives the Human Services Committee stamp of approval, it is then sent to a City Council meeting. City Council meets the first and third Monday of every month at the Downtown Fire Station at 400 NW Harrison.

Month 4:
HSC will inform City Council of proposal prior to meeting. You may or may not be asked to provide testimony during the discussion of your proposal. City Council will approve/decline or they may ask for additional submissions. Once approved, you are free to move about the cabin and work toward project completion.

The time frame for navigating the PASC process can be greatly enhanced with advance preparation, professional courtesy and immediate follow through. Focus on the positive, have your ducks in a row and demonstrate knowledge/enthusiasm.

Tips for Artists:
Prior to entering PASC, make initial contact with all parties that may be impacted by your proposed artwork. Generate enthusiasm. Have letters of support in hand if they will be helpful/required.

Carry professional business/studio insurance if your project will be installed in a public right of way or if it involves community participation.

Have a thorough understanding of the technical aspects of your medium and be able to provide documentation to support public safety, longevity of materials used in exterior weather conditions. Know this as fact not as theory.

Be willing to work outside of normal business hours during installation to maximize public safety and out of respect for others who routinely utilize your proposed location.

Create a maquette showing your specific use of colors and materials.

Prepare a written proposal for your initial meeting with PASC that includes your contact information, intent, community impact, time line, budget/funding and materials.

Secure three representatives who are willing to mentor your project and to act as your representatives during the PASC process.

Installation Tips
Consider working outside of routinely populated times in your installation location. If your process includes a window of vulnerability, choose to work Sunday through Thursday to minimize community impact.

Notify non emergency dispatch for the Corvallis Police Department to let them know who you are and when you expect to be on site working. Verify that you are PASC approved.

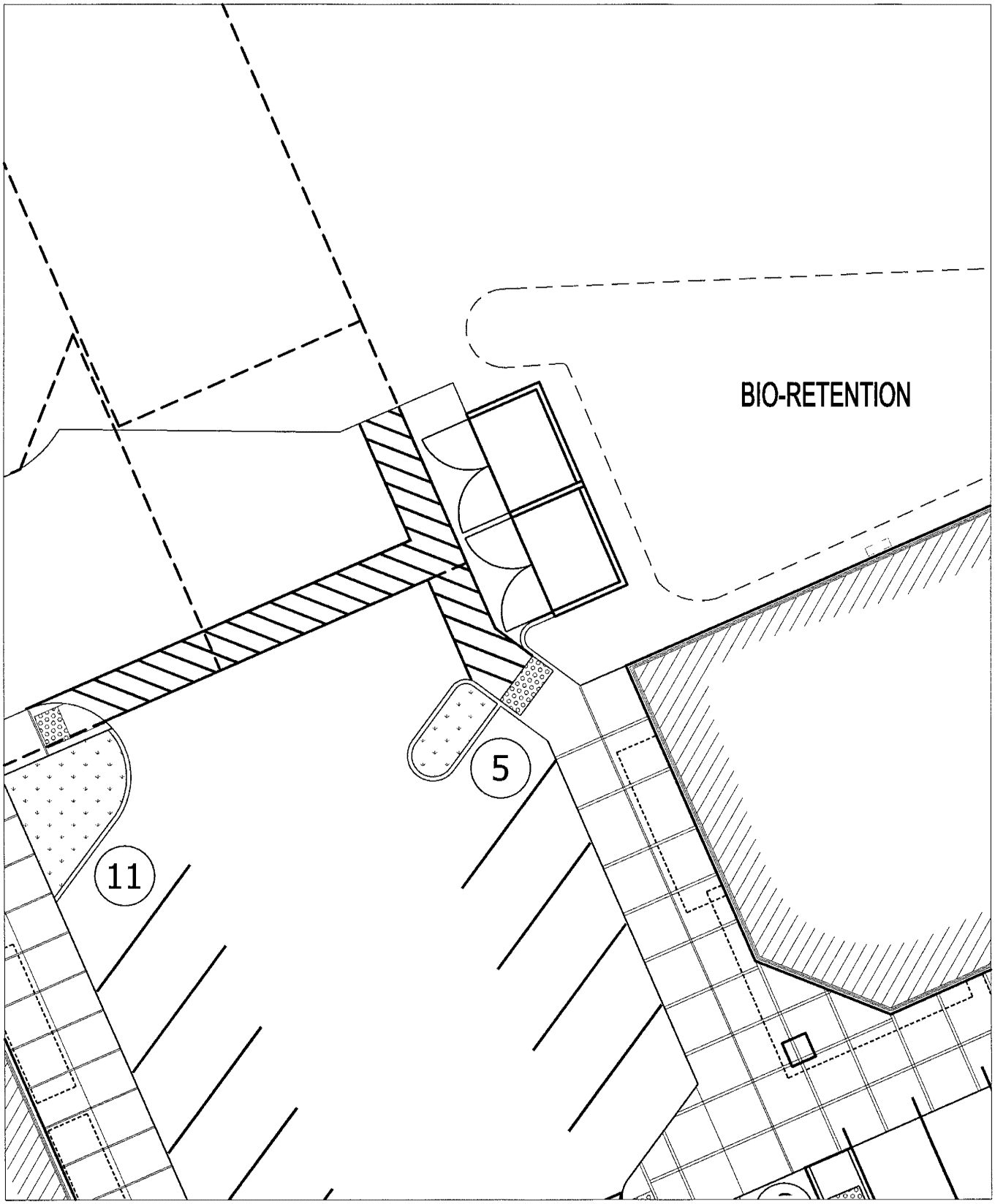
Prior to your install, provide neighbors and area businesses with a visual handout including your time line and contact information. Generate support and enthusiasm. Assimilate into the local culture of the site. Utilize your ability to make a good first impression.

Define your work area with a tarp and orange safety cones. Have extra handouts on site for curiosity seekers. Anticipate questions and provide polite answers.

Near the completion of your installation, provide one or two prime time sessions in which you intentionally work at a slower pace, make contact with the community during peak time. Spark people with the idea that public art and placemaking are positive experiences that enhance communities.

Provide the opportunity for neighborhood/volunteer celebration at project completion.

Publicly express your appreciation for everyone who was involved, funded or helped to bring your vision to life.



CREEKSIDE CENTER
CORVALLIS

Project Location:

INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

THOMASFOX
PROPERTIES, LLC

515 WEST PICKETT CIRCLE - SUITE 400
SALTLAKE CITY, UTAH 84115
PHONE: 801-596-7711 FAX: 801-596-7161

OREGON
ARCHITECTURE INC.

221 West Tenth Street
Medford, Oregon 97501
Phone: 541.772.4372 Fax: 541.499.6329

PLOT DATE:
ISSUE DATE:
DRAWN BY:
JOB NO.:
ATTACHMENT:

1 SITE/ AERIAL OVERLAY

NTS

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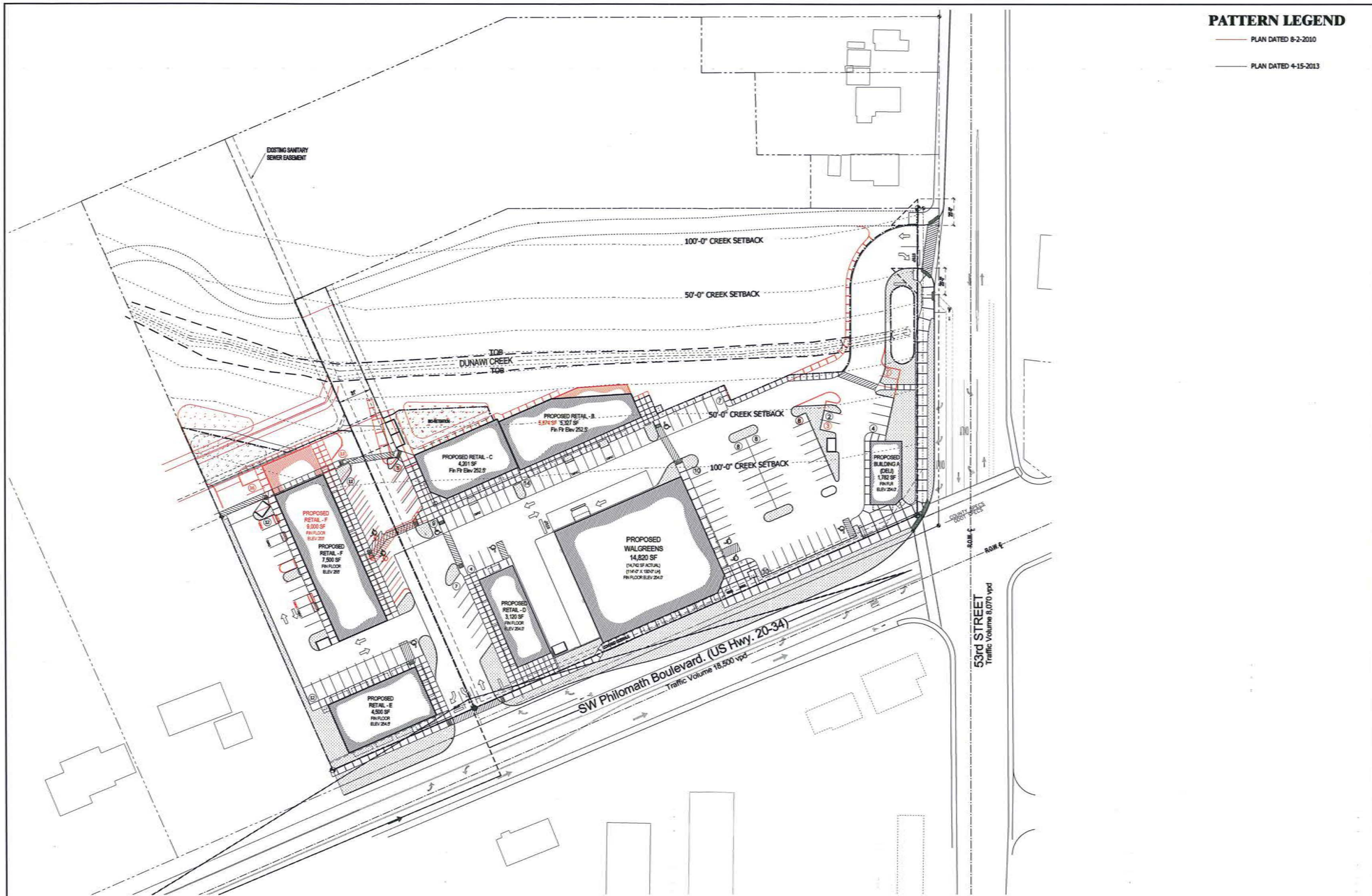
CREEKSIDE CENTER CORVALLIS

Project Location:

INTERSECTION OF HWY 20-34 AND 53rd STREET
CORVALLIS, OREGON

Approved for the Owner By:	Date:
REVISIONS	BY
PLOT DATE:	6/14/2013
ISSUE DATE:	
DRAWN BY:	
JOB NO.:	
SHEET	



SITE COMPARISON

SCALE: 1" = 40'-0"

TO VERIFY SCALES 0" 1" ORIGINAL BAR SET MEASURE ONE INCH BY ONE SIXTEENTH INCH

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CREEKSIDE CENTER CORVALLIS

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CORVALLIS, OREGON

Approved for the Owner By: Date:

REVISIONS	BY
-	-
-	-
-	-
-	-

PLOT DATE: 6/14/2013
ISSUE DATE: -
DRAWN BY: T.WHITNEY
JOB NO.: -

SHEET
OVERLAY